UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(D) OF
THE SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported): **November 2, 2017**

SELECT ENERGY SERVICES, INC.

(Exact name of registrant as specified in its charter)

Delaware	**001-38066**	**81-4561945**
(State or Other Jurisdiction of Incorporation)	(Commission File Number)	(IRS Employer Identification No.)

1400 Post Oak Blvd., Suite 400
Houston, Texas 77056
(Address of Principal Executive Offices)

(940) 668-0259
(Registrant's Telephone Number, Including Area Code)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

o Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

o Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

o Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

o Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company x

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. o

Introductory Note

On November 1, 2017, Select Energy Services, Inc., a Delaware corporation (the "Company" or "Select"), completed its previously announced merger with Rockwater Energy Solutions, Inc., a Delaware corporation ("Rockwater"), pursuant to the closing (the "Closing") of the transactions contemplated by the Agreement and Plan of Merger (the "Merger Agreement"), dated July 18, 2017, among the Company, Rockwater, Rockwater Energy Solutions, LLC, a Delaware limited liability company and a subsidiary of Rockwater ("RES Holdings"), SES Holdings, LLC, a Delaware limited liability company and a subsidiary of Select ("SES Holdings"), Raptor Merger Sub, Inc., a Delaware corporation and a wholly owned subsidiary of Select ("Corporate Merger Sub"), and Raptor Merger Sub, LLC, a Delaware limited liability company and an indirect wholly owned subsidiary of SES Holdings ("LLC Merger Sub").

Item 1.01 Entry into a Material Definitive Agreement.

Credit Agreement

On November 1, 2017, in connection with the Closing, SES Holdings and Select Energy Services, LLC, a wholly owned subsidiary of SES Holdings (the "Borrower"), entered into a $300.0 million senior secured revolving credit facility (the "Credit Agreement"), by and among SES Holdings, as parent, the Borrower, certain of SES Holdings's

subsidiaries, as guarantors, each of the lenders party thereto and Wells Fargo Bank, N.A., as administrative agent, issuing lender and swingline lender (the "Administrative Agent"). The Credit Agreement also has a sublimit of $40.0 million for letters of credit and a sublimit of $30.0 million for swingline loans. Subject to obtaining commitments from existing or new lenders, Select has the option to increase the maximum amount under the senior secured credit facility by $150.0 million during the first three years following the Closing.

The Credit Agreement permits extensions of credit up to the lesser of $300.0 million and a borrowing base that is determined by calculating the amount equal to the sum of (i) 85% of the Eligible Billed Receivables (as defined in the Credit Agreement), plus (ii) 75% of Eligible Unbilled Receivables (as defined in the Credit Agreement), provided that this amount will not equal more than 35% of the borrowing base, plus (iii) the lesser of (A) the product of 70% multiplied by the value of Eligible Inventory (as defined in the Credit Agreement) at such time and (B) the product of 85% multiplied by the Net Recovery Percentage (as defined in the Credit Agreement) identified in the most recent Acceptable Appraisal of Inventory (as defined in the Credit Agreement), multiplied by the value of Eligible Inventory at such time, provided that this amount will not equal more than 30% of the borrowing base, minus (iv) the aggregate amount of Reserves (as defined in the Credit Agreement), if any, established by the Administrative Agent from time to time, including, if any, the amount of the Dilution Reserve (as defined in the Credit Agreement). The borrowing base is calculated on a monthly basis pursuant to a borrowing base certificate delivered by the Borrower to the Administrative Agent.

Borrowings under the Credit Agreement bear interest, at the Borrower's election, at either the (a) one-, two-, three- or six-month London Interbank Offered Rate ("Eurocurrency Rate") or (b) the greatest of (i) the federal funds rate plus ½%, (ii) the one-month Eurocurrency Rate plus 1% and (iii) the Administrative Agent's prime rate (the "Base Rate"), in each case plus an applicable margin, and interest shall be payable monthly in arrears. The applicable margin for Eurocurrency Rate loans ranges from 1.50% to 2.00% and the applicable margin for Base Rate loans ranges from 0.50% to 1.00%, in each case, depending on the Borrower's average excess availability under the Credit Agreement. The applicable margin for Eurocurrency Rate loans will be 1.75% and the applicable margin for Base Rate loans will be 0.75% until June 30, 2018. During the continuance of a bankruptcy event of default, automatically and during the continuance of any other default, upon the Administrative Agent's or the required lenders' election, all outstanding amounts under the Credit Agreement will bear interest at 2.00% plus the otherwise applicable interest rate. The Credit Agreement is scheduled to mature on the fifth anniversary of the Closing.

The obligations under the Credit Agreement are guaranteed by SES Holdings and certain of the subsidiaries of SES Holdings and the Borrower and secured by a security interest in substantially all of the personal property assets of SES Holdings, the Borrower and their domestic subsidiaries.

The Credit Agreement contains certain customary representations and warranties, affirmative and negative covenants and events of default. If an event of default occurs and is continuing, the lenders may declare all amounts outstanding under the Credit Agreement to be immediately due and payable.

In addition, the Credit Agreement restricts SES Holdings's and the Borrower's ability to make distributions on, or redeem or repurchase, its equity interests, except for certain distributions, including distributions of cash so long as, both at the time of the distribution and after giving effect to the distribution, no default exists under the Credit Agreement and either (a) excess availability at all times during the preceding 30 consecutive days, on a pro forma basis and after giving effect to such distribution, is not less than the greater of (1) 25% of the lesser of (A) the maximum revolver amount and (B) the then-effective borrowing base and (2) $37.5 million or (b) if SES Holdings's fixed charge coverage ratio is at least 1.0 to 1.0 on a pro forma basis, and excess availability at all times during the preceding 30 consecutive days, on a pro forma basis and after giving effect to such distribution, is not less than the greater of (1) 20% of the lesser of (A) the maximum revolver amount and (B) the then-effective borrowing base and (2) $30.0 million. Additionally, the Credit Agreement generally permits the Borrower to make distributions required under its existing tax receivable agreements.

The Credit Agreement also requires SES Holdings to maintain a fixed charge coverage ratio of at least 1.0 to 1.0 at any time availability under the Credit Agreement is less than the greater of (i) 10% of the lesser of (A) the maximum revolver amount and (B) the then-effective borrowing base and (ii) $15.0 million and continuing through and including the first day after such time that availability under the Credit Agreement has equaled or exceeded the greater of (i) 10% of the lesser of (A) the maximum revolver amount and (B) the then-effective borrowing base and (ii) $15.0 million for 60 consecutive calendar days.

Certain lenders party to the Credit Agreement and their respective affiliates have from time to time performed, and may in the future perform, various financial advisory, commercial banking and investment banking services for the Company and its affiliates in the ordinary course of business for which they have received and would receive customary compensation. In addition, in the ordinary course of their various business activities, such parties and their respective affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers, and such investments and securities activities may involve the Company's securities and/or instruments.

The foregoing description is qualified in its entirety by reference to the full text of the Credit Agreement, which is attached as Exhibit 10.1 to this Current Report on Form 8-K and incorporated into this Item 1.01 by reference.

Registration Rights Agreement with FBR

In connection with the Closing, pursuant to that certain Assignment and Assumption Agreement (the "Assignment and Assumption Agreement"), dated as of November 1, 2017, by and between Rockwater and Select, Rockwater assigned, and Select assumed, Rockwater's rights and obligations under that certain Registration Rights Agreement made and entered into as of February 16, 2017, between Rockwater and FBR Capital Markets & Co. (as assumed by Select pursuant to the Assignment and Assumption Agreement, the "FBR Registration Rights Agreement"). Under the FBR Registration Rights Agreement, Select has agreed, at its expense, to file with the SEC a shelf registration statement registering for resale shares of Class A common stock into which the outstanding shares of the Company's Class A-2 Common Stock are convertible, and to cause such registration statement to be declared effective by the U.S. Securities and Exchange Commission (the "SEC") as soon as practicable but in any event within 180 days after the initial filing of such registration statement. Pursuant to the Company's Third Amended and Restated Certificate of Incorporation, which became effective at the Corporate Merger Effective Time (as defined below), all shares of Select Class A-2 Common Stock will automatically convert to Select Class A Common Stock on a one-for-one basis upon the effectiveness of the aforementioned registration statement.

The foregoing description is qualified in its entirety by reference to the full text of the Assignment and Assumption Agreement and the FBR Registration Rights Agreement, which are attached as Exhibits 4.1 and 4.2, respectively, to this Current Report on Form 8-K and incorporated into this Item 1.01 by reference.

Observer Agreement

In connection with the Closing, pursuant to the Merger Agreement, the Company entered into that certain Board Observation Rights Agreement (the "White Deer Observer Agreement"), dated as of November 1, 2017, with White Deer Energy L.P. ("White Deer"). Pursuant to the White Deer Observer Agreement, White Deer will have the right to, among other things, appoint a single representative as a board observer with respect to the Select board of directors (the "Board") for so long as White Deer's beneficial ownership in the Company remains above a pre-determined threshold.

The foregoing description is qualified in its entirety by reference to the full text of the White Deer Observer Agreement, which is attached as Exhibit 10.2 to this Current Report on Form 8-K and incorporated into this Item 1.01 by reference.

Item 1.02 Termination of a Material Definitive Agreement.

In connection with the entry into the Credit Agreement, the obligations of SES Holdings and the Borrower under the Amended and Restated Credit Agreement, dated as of May 3, 2011, among SES Holdings, the Borrower, the Administrative Agent, and the various lenders party thereto (the "Previous Credit Facility") have been repaid in full and the Previous Credit Facility has been terminated.

Certain lenders party to the Previous Credit Facility and their respective affiliates have from time to time performed, and may in the future perform, various financial advisory, commercial banking and investment banking services for the Company and its affiliates in the ordinary course of business for which they have received and would receive customary compensation. In addition, in the ordinary course of their various business activities, such parties and their respective affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers, and such investments and securities activities may involve the Company's securities and/or instruments.

In addition, certain lenders party to the Previous Credit Facility are lenders under the Credit Agreement.

The foregoing description is qualified in its entirety by reference to the full text of the Previous Credit Facility, which is attached as Exhibit 10.2 to the Company's Registration Statement on Form S-1, dated March 2, 2017 (Registration No. 333-216404) and incorporated into this Item 1.01 by reference.

Item 2.01 Completion of Acquisition or Disposition of Assets.

On November 1, 2017, the Company completed its previously announced merger with Rockwater. Pursuant to the Merger Agreement, Corporate Merger Sub merged with and into Rockwater, with Rockwater continuing as the surviving entity as a wholly owned subsidiary of Select (the "Corporate Merger"), and LLC Merger Sub merged with and into RES Holdings, with RES Holdings continuing as the surviving entity as an indirect wholly owned subsidiary of SES Holdings (the "LLC Merger").

At the effective time of the Corporate Merger (the "Corporate Merger Effective Time"), subject to certain exceptions, (x) each share of Rockwater's Class A Common Stock, $0.01 par value per share ("Rockwater Class A Common Stock"), then outstanding was converted into the right to receive a number of shares of Select's Class A Common Stock, $0.01 par value per share ("Select Class A Common Stock"), equal to 0.7652 per each such share (the "Exchange Ratio"), (y) each share of Rockwater's Class A-1 Common Stock, $0.01 par value per share, then outstanding was converted into the right to receive a number of shares of Select's Class A-2 Common Stock equal to the Exchange Ratio, and (z) each share of Rockwater's Class B Common Stock, $0.01 par value per share, then outstanding was converted into the right to receive a number of shares of Select's Class B Common Stock, $0.01 par value per share ("Select Class B Common Stock"), equal to the Exchange Ratio (such issuance of common stock, the "Stock Issuance"). At the effective time of the LLC Merger, subject to certain exceptions, each unit of RES Holdings (each, an "RES Holdings Unit") then outstanding (including RES Holdings Units held by Rockwater) was converted into the right to receive a number of units in SES Holdings equal to the Exchange Ratio. The original exchange ratio of 0.7777 set forth in the Merger Agreement was adjusted downwards to 0.7652 in accordance with the terms of the Merger Agreement.

Shares of Select common stock outstanding immediately prior to the Corporate Merger Effective Time remain outstanding and have not been exchanged, converted or otherwise changed in the Corporate Merger. Based on the number of shares of Rockwater common stock issued and outstanding immediately prior to the Corporate Merger Effective Time, a total of approximately 25.9 million shares of Select Class A Common Stock, 6.7 million shares of Select Class A-2 Common Stock and 4.4 million shares of Select Class B Common Stock (excluding the issuance of equity awards, which are described in the following paragraph), were issued to the former holders of Rockwater common stock pursuant to the Merger Agreement. In the aggregate (including the issuance of equity awards), Select issued approximately 37.3 million shares of common stock. Units in SES Holdings outstanding immediately prior to the effective time of the LLC Merger (the "LLC Merger Effective Time") remain outstanding and have not been exchanged, converted or otherwise changed in the LLC Merger. Based on the number of RES Holdings Units issued and outstanding immediately prior to the LLC Merger Effective Time, a total of approximately 37.3 million units in SES Holdings were issued to the former holders of RES Holdings Units pursuant to the Merger Agreement.

At the Corporate Merger Effective Time, each outstanding option to purchase shares of Rockwater Class A Common Stock (each, a "Rockwater Stock Option") was converted into an option to acquire, on the same terms and conditions as were applicable to such Rockwater Stock Option immediately prior to the Corporate Merger Effective Time, the number of shares of Select Class A Common Stock determined by multiplying the number of shares of Rockwater Class A Common Stock subject to such Rockwater Stock Option as of immediately prior to the Corporate Merger Effective Time by the Exchange Ratio, at an exercise price per share of Select Class A Common Stock equal to the exercise price per share of Rockwater Class A Common Stock under such Rockwater Stock Option divided by the Exchange Ratio (such conversions, collectively, the "Option Conversion"). Additionally, at the Corporate Merger Effective Time, each share of restricted Rockwater Class A Common Stock (each, a "Rockwater Restricted Stock Award") that was outstanding immediately prior to the Corporate Merger Effective Time ceased to represent Rockwater Class A Common Stock and was converted into a new award of restricted shares, subject to the same terms and conditions as were applicable to such Rockwater Restricted Stock Award prior to the Corporate Merger Effective Time, equal to the number of shares of Select Class A Common Stock determined by multiplying the number of shares of Rockwater Class A Common Stock subject to such Rockwater Restricted Stock Award as of immediately prior to the Corporate Merger Effective Time by the Exchange Ratio (such conversions, collectively, the "Restricted Stock Conversion"). Subject to certain New York Stock Exchange restrictions, the shares available under the Rockwater Energy Solutions, Inc. Amended and Restated 2017 Long Term Incentive Plan (the "Rockwater Equity Plan") as of the Corporate Merger Effective Time (as appropriately adjusted to reflect the Exchange Ratio) may be used for post-transaction grants under the Select Energy Services, Inc. 2016 Equity Incentive Plan (as amended from time to time, the "Select Equity Plan"). The Option Conversion, Restricted Stock Conversion and assumption of shares available under the Rockwater Equity Plan described in the preceding sentences are collectively referred to as the "Equity Award Actions." The First Amendment to the Select Equity Plan (the "First Amendment"), which was previously adopted to effectuate the Equity Award Actions, became effective on November 1, 2017 at the Corporate Merger Effective Time. The First Amendment is qualified in its entirety by reference to the full text of the First Amendment, which is attached as Exhibit 4.3 to this Current Report on Form 8-K and incorporated into this Item 2.01 by reference.

The summary of the Merger Agreement in this Current Report on Form 8-K does not purport to be complete and is qualified in its entirety by reference to the full text of the Merger Agreement, which is filed as Exhibit 2.1 to the Company's Current Report on Form 8-K filed with the SEC on July 19, 2017, and incorporated herein by reference.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information provided in Item 1.01 of this Current Report on Form 8-K is incorporated herein by reference.

Item 3.02 Unregistered Sales of Equity Securities.

The Stock Issuance will not be registered under the Securities Act of 1933, as amended (the "Securities Act"), in reliance upon the exemption from registration provided by Section 4(a)(2) of the Securities Act and Rule 506 of Regulation D promulgated thereunder. The Company will rely on representations from each former Rockwater stockholder to support such exemption, including with respect to each former Rockwater stockholder's status as an "accredited investor" (as that term is defined in Rule 501(a) of Regulation D promulgated under Section 4(a)(2) of the Securities Act). If any Rockwater stockholder is not an Accredited Investor (as defined in the Merger Agreement), pursuant to the Merger Agreement, instead of receiving shares of Select common stock, such Rockwater stockholder will receive a cash payment based upon the number of shares of Select common stock that such Rockwater stockholder would otherwise be entitled to receive and the volume weighted average price of Select Class A Common Stock for the five consecutive trading days ending on the date immediately prior to the Closing.

The information provided in Item 2.01 of this Current Report on Form 8-K is incorporated herein by reference.

Item 5.02 Departure of Directors or Principal Officers; Election of Directors; Appointment of Principal Officers.

In each case in connection with the Closing, the Board authorized certain governance changes described in this Item 5.02.

Officer Appointments

Pursuant to and in accordance with the terms of the Merger Agreement, on November 1, 2017, John Schmitz, age 57, who was the Chairman and Chief Executive Officer of Select prior to the Closing, was appointed Executive Chairman of the Board, and Holli C. Ladhani, age 47, who was President, Chief Executive Officer and Chairman of the board of directors of Rockwater (the "Rockwater Board") prior to the Closing, was appointed President and Chief Executive Officer of the Company. In connection with Ms. Ladhani's appointment as President and Chief Executive Officer of the Company, Cody Ortowski, the former President of the Company, transitioned into a new role as Executive Vice President, Business Strategy of the Company.

Ms. Ladhani served as the President and Chief Executive Officer of Rockwater and a member of the Rockwater Board from May 6, 2015 until the Closing. She served as Chairman of the Rockwater Board from January 2017 until the Closing. Ms. Ladhani held various positions at Rockwater since its formation in 2011 including Executive Vice President—Chemical Technologies and Chief Financial Officer. Prior to joining Rockwater, Ms. Ladhani served as Executive Vice President and Chief Financial Officer of Dynegy Inc., a position she held from November 2005 until she joined Rockwater in 2011. She previously held various finance positions with Dynegy, including Senior Vice President, Treasurer and Controller from 2000 to 2005. Prior thereto, Ms. Ladhani was employed by PricewaterhouseCoopers, LLP from 1992 to 2000 and held positions with varied levels of responsibility up to Senior Manager in the audit practice, where she focused on the energy sector, including exploration and production, chemicals and refining. A certified public accountant, she received her Bachelor of Business Administration in Accounting from Baylor University and her M.B.A. (Jones Scholar) from Rice University. Ms. Ladhani serves on the Board of Atlantic Power Corporation, a North American independent power producer, and previously served on the Board of Rosetta Resources Inc.

Further, in connection with the Closing, on November 1, 2017, two former Rockwater officers were named as officers of the Company. David Nightingale was named Executive Vice President, Wellsite Services, and Paul Pistono was named Executive Vice President, Oilfield Chemicals. In addition, on November 1, 2017, Michael Skarke was named Executive Vice President, Water Solutions of the Company.

Mr. Nightingale, age 59, served as the Executive Vice President and Chief Operating Officer for Rockwater from June 2015 until the Closing. Mr. Nightingale served as the Senior Vice President—Fluids Management and Executive Vice President—Water Management for Rockwater from April 2012 until the Closing. Prior to joining Rockwater, Mr. Nightingale served as the President of I.E. Miller, a former subsidiary of Complete Production Services, in Houston, Texas. Mr. Nightingale worked at Complete Production Services for seven years in a variety of leadership roles, including running their rig and heavy equipment moving division and one of their well servicing companies in the Rockies. Prior to that, he spent over 25 years in a number of engineering and operating management roles at several energy and midstream companies. Mr. Nightingale obtained his B.S. in Civil Engineering from Bradley University in Peoria, Illinois, and his MBA from the University of Houston.

Mr. Pistono, age 48, served as the Senior Vice President—Sales and Marketing for Rockwater from September 2012 until the Closing. Prior to joining Rockwater, he spent over ten years at Waste Management, Inc., where he served in a variety of sales, marketing, and pricing roles of increasing responsibility, including Vice President—Public Sector Solutions and Vice President—Sales & Marketing of the Western Group. Mr. Pistono has led the sales, marketing, and pricing strategy for business segments generating over $3.5 billion in annual revenue, and has led sales teams of over 250 people. Prior to joining Waste Management, Mr. Pistono held sales and marketing roles with other companies in the waste and environmental services industry. Mr. Pistono obtained his B.S. in Marketing from the University of Wyoming.

Mr. Skarke, age 36, joined the Company in 2009 and has held several operational and financial positions, including serving as Vice President of Water Solutions from 2013 to 2017 and Treasurer from 2012 to 2013. Prior to joining the Company, Mr. Skarke served as Assistant Vice President at Amegy Bank, where he provided strategic debt financing solutions and general banking support for public and private oilfield service companies. Mr. Skarke received a B.B.A. in Finance from the University of Texas.

Board Size Increase; Director Appointments

Pursuant to and in accordance with the terms of the Merger Agreement, on November 1, 2017, the authorized size of the Board was increased from five directors to nine directors, and Ms. Ladhani, David C. Baldwin, Keith O. Rattie and David A. Trice, each of whom were members of the Rockwater Board prior to the Closing, were appointed to fill the four vacancies on the Board as a result of the increase in board size. Messrs. Baldwin, Rattie and Trice are the three directors who were former members of the Rockwater Board that Rockwater was entitled to designate to the Board pursuant to the Merger Agreement.

Mr. Baldwin, age 54, served as a member of the Rockwater Board from Rockwater's formation in June 2011 until the Closing. He is currently the Co-President of SCF Partners, Inc. and previously served as a Managing Director since 1998 and various other positions since 1991 and is responsible for overseeing U.S.-based investments and creating investment platforms around emerging energy trends. Mr. Baldwin began his career as a Drilling and Production Engineer with Union Pacific Resources. He later went on to start an energy consulting business and worked for General Atlantic Partners, a global venture capital firm and early investor of SCF Partners. Mr. Baldwin received his MBA from the University of Texas as well as a Bachelor of Science in Petroleum Engineering. He currently serves on the Board of Directors of Forum Energy Technologies, Nine Energy Service, Inc., and The Oil Patch Group. Additionally, he is a Trustee of The Center, The Center Foundation, The Baylor College of Medicine, and Baylor St. Luke's Medical Center Hospital.

Mr. Rattie, age 63, served as a member of the Rockwater Board from September 2011 until the Closing. He currently serves on the Board of Directors of Ensco Plc and EP Energy Corporation. Mr. Rattie also served as a director for Questar Corporation from 2001 to 2014, as Chairman of the Board from 2003 to 2012 and as President and Chief Executive Officer from 2002 to 2010. He served as Chairman of the Board for QEP Resources, Inc. from 2010 to 2012 and as a director from 2010 to 2014. He previously

served as a director of Zions First National Bank from 2002 to 2015 and as a director of the National Petroleum Council and the Gas Technology Institute. Mr. Rattie is a former Chairman at the Interstate Natural Gas Association of America.

Mr. Trice, age 69, served as a member of the Rockwater Board from July 2012 until the Closing. He served as the Chief Executive Officer of Newfield Exploration Co. ("Newfield") from 2000 until his retirement in 2009, and as the President of Newfield from 1999 to 2009. He also served as Chairman of the board of directors of Newfield from 2004 until 2010. From 1999 to 2000, he served as Chief Operating Officer of Newfield and as its Vice President of Finance and International from 1997 to 1999. Prior to rejoining Newfield, Mr. Trice served as President, CEO and a Director of Huffco Group, Inc. from 1991 to 1997. He was one of the original founders of Newfield and served as its Vice President, Chief Financial Officer and a Director from 1989 to 1991. Prior to that, he served as an officer for several companies owned by Roy M. Huffington, Inc. after beginning his career as an attorney in private practice in Atlanta. Mr. Trice received a B.A. in Managerial Science from Duke University and graduated from Columbia University's School of Law in 1973. He is a former Chairman at the American Exploration & Production Council and America's Natural Gas Alliance. He serves on the board of directors of QEP Resources, Inc., New Jersey Resources Corp. and McDermott International Inc.

Board Committee Matters

On November 1, 2017, a Nominating and Governance Committee of the Board was established, with Mr. Rattie appointed as chairman of the committee and Douglas J. Wall and Adam J. Klein as members. In addition, Mr. Baldwin was appointed as a member of the Compensation Committee of the Board to join the current members, Robert Delaney, the chairman of the Compensation Committee, and Mr. Wall. Further, Messrs. Rattie and Trice were appointed as members of the Audit Committee of the Board, and Richard Burnett will continue to serve as chairman of the Audit Committee.

Indemnification Agreements

On November 1, 2017, the Company, with the approval of the Board, entered into an indemnification agreement with each of Ms. Ladhani and Messrs. Baldwin, Nightingale, Pistono, Rattie, Skarke and Trice (the "Indemnification Agreements") in connection with their roles as members of the Board and officers of the Company, as applicable. The Indemnification Agreements require the Company to indemnify Ms. Ladhani and Messrs. Baldwin, Nightingale, Pistono, Rattie, Skarke and Trice to the fullest extent permitted by applicable law against liability that may arise by reason of their service to the Company and to advance expenses incurred as a result of any proceeding against them as to which they could be indemnified. The Indemnification Agreements are in substantially the form referenced as Exhibit 10.3 to this Current Report on Form 8-K. The foregoing description is qualified in its entirety by reference to the full text of the form of Indemnification Agreement, which is attached as Exhibit 10.3 to this Current Report on Form 8-K and incorporated into this Item 5.02 by reference.

Except as otherwise set forth in this Item 5.02, there are no other understandings or arrangements between any of Ms. Ladhani or Messrs. Baldwin, Rattie or Trice and any other person pursuant to which such persons were selected to serve as a director of the Board. There are no relationships between any of Ms. Ladhani or Messrs. Baldwin, Rattie or Trice and the Company or any of its subsidiaries that would require disclosure pursuant to Item 404(a) of Regulation S-K of the Securities Exchange Act of 1934, as amended.

The information provided in Item 2.01 of this Current Report on Form 8-K regarding the First Amendment to the Select Equity Plan is incorporated herein by reference.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

Pursuant to the Merger Agreement, on November 1, 2017, and in connection with the Closing, the Company filed with the Secretary of State of the State of Delaware the Third Amended and Restated Certificate of Incorporation of the Company (the "Amended and Restated Certificate") which, among other things, makes certain changes with respect to the terms of Select's previously outstanding shares of Class A-1 Common Stock, par value $0.01 per share, in order to permit the issuance of shares of "Class A-2 Common Stock" to the former holders of Rockwater Class A-1 Common Stock. The former holders of Rockwater Class A-1 Common Stock will be entitled to the benefits of the registration rights agreement entered into in connection with their purchase of Rockwater Class A-1 Common Stock as a result of the Assignment and Assumption Agreement.

The Amended and Restated Certificate also makes changes to the provisions governing the "Class A-2 Common Stock" to reflect the fact that no shares of Select Class A-1 Common Stock are currently outstanding and conform certain changes applicable to the "Class A-2 Common Stock" to the corresponding provisions of the former Rockwater certificate of incorporation in respect of the Rockwater Class A-1 Common Stock and the Rockwater registration rights agreement. In addition, the Amended and Restated Certificate increases the authorized number of shares of Class A common stock from 250,000,000 shares to 350,000,000 shares.

As a result of the Amended and Restated Certificate, directors will be elected annually, regardless of whether certain Select legacy stockholders own less than 50% of the outstanding Select Class A Common Stock. In addition, for so long as certain holders of Select Class A Common Stock (including Crestview Partners and certain entities affiliated with Mr. Schmitz) own more than 35% of the outstanding shares of Select's common stock, stockholders may act by written consent in lieu of a meeting of stockholders.

The information provided in Item 2.01 of this Current Report on Form 8-K is incorporated herein by reference. The foregoing description is qualified in its entirety by reference to the full text of the Amended and Restated Certificate, which is attached as Exhibit 3.1 to this Current Report on Form 8-K and incorporated into this Item 5.03 by reference.

Item 9.01 Financial Statements and Exhibits.

(a) Financial Statements of Business Acquired.

Financial statements of the acquired business are not included in this Current Report on Form 8-K. Such financial statements will be filed within 71 calendar days after the date of filing of this Current Report on Form 8-K.

(b) Financial Statements of Business Acquired.

Pro forma financial information relative to the acquired business is not included in this Current Report on Form 8-K. Such pro forma financial information will be filed within 71 calendar days after the date of filing of this Current Report on Form 8-K.

(d) Exhibits.

Exhibit No.	Description
3.1	Third Amended and Restated Certificate of Incorporation of the Company (incorporated by reference herein to Exhibit 4.1 to Select Energy Services, Inc.'s Registration Statement on Form S-8, dated November 1, 2017 (File No. 333-221282)).
4.1	Assignment and Assumption Agreement by and between Select Energy Services, Inc. and Rockwater Energy Solutions, Inc., dated November 1, 2017.
4.2	Registration Rights Agreement by and between FBR Capital Markets & Co. and Rockwater Energy Solutions, Inc., dated February 16, 2017.
4.3	First Amendment to the Select Energy Services, Inc. 2016 Equity Incentive Plan (incorporated by reference herein to Exhibit 4.4 to Select Energy Services, Inc.'s Registration Statement on Form S-8, dated November 1, 2017 (File No. 333-221282)).
10.1	Credit Agreement, dated November 1, 2017, among Select Energy Services, LLC, SES Holdings, LLC, Wells Fargo Bank, N.A., as administrative agent, and the lenders named therein.
10.2	Board Observation Rights Agreement by and between Select Energy Services, Inc. and White Deer Energy L.P., dated November 1, 2017.
10.3	Form of Indemnification Agreement (incorporated by reference herein to Exhibit 10.4 to Select Energy Services, Inc.'s Registration Statement on Form S-1, dated March 2, 2017 (Registration No. 333-216404)).

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Dated: November 2, 2017

SELECT ENERGY SERVICES, INC.

By: /s/ Gary Gillette
Gary Gillette
Chief Financial Officer and Senior Vice President

Exhibit 4.1

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Agreement") is made as of November 1, 2017, by and between Rockwater Energy Solutions, Inc., a Delaware corporation ("Assignor"), and Select Energy Services, Inc., a Delaware corporation ("Assignee").

WITNESSETH:

WHEREAS, Assignor has entered into that certain Registration Rights Agreement (the "Assigned Agreement"), dated February 16, 2017, between Assignor and FBR Capital Markets & Co., a Delaware corporation;

WHEREAS, Assignor and Assignee have entered into that certain Agreement and Plan of Merger, dated July 18, 2017 (the "Merger Agreement"), by and among Assignor, Assignee, Raptor Merger Sub, Inc., a Delaware corporation and a wholly owned subsidiary of the Assignee, SES Holdings, LLC, a Delaware limited liability company and a subsidiary of Assignee, Raptor Merger Sub, LLC, a Delaware limited liability company and an indirect wholly owned subsidiary of SES Holdings, LLC, and Rockwater Energy Solutions, LLC, a Delaware limited liability company and a subsidiary of Assignor; and

WHEREAS, pursuant to Section 5.17 of the Merger Agreement, Assignor has agreed to assign and Assignee has agreed to assume at the Closing (as defined in the Merger Agreement), Assignor's rights and obligations under the Assigned Agreement, including any obligation to file with the United States Securities and Exchange Commission (the "Commission") a shelf registration statement on Form S-1, or such other form under the Securities Act of 1933, as amended (the "Securities Act"), available to Assignee, as necessary, providing for the resale of the Class A Common Stock of Assignee to be issued upon conversion of the Registrable Shares (as defined in the Assigned Agreement) pursuant to Rule 415 of the Securities Act, from time to time, by the holders thereof.

NOW, THEREFORE, for good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, and intending to be legally bound hereby, the parties hereto agree and covenant as follows, to be effective as of the Closing:

1. Assignor hereby irrevocably and unconditionally assigns and transfers to Assignee all of Assignor's rights and obligations under the Assigned Agreement, including any obligation to file with the Commission a shelf registration statement on Form S-1, or such other form under the Securities Act, available to Assignee, as necessary, providing for the resale of the Class A Common Stock of Assignee to be issued upon conversion of the Registrable Securities pursuant to Rule 415 of the Securities Act, from time to time, by the holders thereof, and Assignee hereby assumes the same.

2. On the other party's request, each party shall execute and deliver, or cause to be executed and delivered, or to do or make, or cause to be done or made, any and all instruments, documents, acts or things, for the purpose of more fully implementing and effecting the terms set forth herein.

3. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.

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4. No amendment to this Agreement is effective unless it is in writing, identified as an amendment to this Agreement and signed by an authorized representative of each party to this Agreement.

5. This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

6. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, as applied to contracts made and performed within the State of New York, without regard to principles of conflicts of law. Each of the parties hereto hereby irrevocably submits to the jurisdiction of any state court in the State of New York or any federal court sitting in New York in respect of any suit, action or proceeding arising out of or relating to this Agreement, and irrevocably accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. Each of the parties hereto irrevocably waives, to the fullest extent it may effectively do so under applicable law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding brought in any such court and any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. The parties waive the right to a trial by jury in any dispute in connection with this Agreement.

[Signature page follows.]

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

ASSIGNOR:

ROCKWATER ENERGY SOLUTIONS, INC.

By: /s/ Holli C. Ladhani
Name: Holli C. Ladhani
Title: Chief Executive Officer

ASSIGNEE:

SELECT ENERGY SERVICES, INC.

By: /s/ Gary Gillette
Name: Gary Gillette
Title: Senior Vice President and Chief Financial Officer

Exhibit 4.2

REGISTRATION RIGHTS AGREEMENT

This REGISTRATION RIGHTS AGREEMENT (this "**Agreement**") is made and entered into as of February 16, 2017, between Rockwater Energy Solutions, Inc., a Delaware corporation (together with any successor entity thereto, the "**Company**"), and FBR Capital Markets & Co., a Delaware corporation, as the initial purchaser/placement agent ("**FBR**"), for the benefit of FBR, the purchasers ("**Participants**") of the Company's Class A-1 common stock, $0.01 par value per share ("**Class A-1 Shares**"), in the private offering by the Company of the Class A-1 Shares, and the direct and indirect transferees of FBR and each of the Participants.

This Agreement is made pursuant to the Purchase/Placement Agreement (the "**Purchase/Placement Agreement**"), dated as of February 9, 2017, between the Company and FBR in connection with the purchase and sale or placement of an aggregate of 9,250,000 Class A-1 Shares (plus up to an additional 1,387,500 Class A-1 Shares that FBR has the option to purchase or place to cover additional allotments, if any). In order to induce FBR to enter into the Purchase/Placement Agreement, the Company has agreed to provide the registration rights provided for in this Agreement to FBR, the Participants and their respective direct and indirect transferees. The execution of this Agreement is a condition to the closing of the transactions contemplated by the Purchase/Placement Agreement. Pursuant to the Company's amended and restated certificate of incorporation (the "**Company Charter**"), the Class A-1 Shares are convertible into an equivalent number of shares of Class A common stock, $0.01 par value per share (the "**Class A Shares**"), of the Company upon certain events.

The parties hereto hereby agree as follows:

1. **Definitions**

As used in this Agreement, the following terms shall have the following meanings:

Accredited Investor Shares: The Shares initially sold by the Company to "accredited investors" (within the meaning of Rule 501(a) promulgated under the Securities Act) as Participants.

Affiliate: As to any specified Person, as defined in Rule 12b-2 under the Exchange Act.

Agreement: As defined in the preamble.

Board of Directors: As defined in Section 2(b) hereof.

Business Day: With respect to any act to be performed hereunder, each Monday, Tuesday, Wednesday, Thursday and Friday that is not a day on which banking institutions in New York, New York or other applicable places where such act is to occur are authorized or obligated by applicable law, regulation or executive order to close.

Bylaws: The Bylaws of the Company, adopted as of the date hereof, as amended from time to time.

Class A Shares: As defined in the preamble.

Class A-1 Shares: As defined in the preamble.

Closing Date: February 16, 2017 or such other time or such other date as FBR and the Company may agree.

Commission: The Securities and Exchange Commission.

Common Stock: The Class A-1 Shares and the Class A Shares.

Company: As defined in the preamble.

Company Charter: As defined in the preamble.

Controlling Person: As defined in Section 7(a) hereof.

End of Suspension Notice: As defined in Section 6(b) hereof.

Exchange Act: The Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated by the Commission pursuant thereto.

Exchange Act Registration Statement: As defined in Section 2(c) hereof.

Existing Shares: Registrable Securities as defined in the Stockholders Agreement.

FBR: As defined in the preamble.

FINRA: The Financial Industry Regulatory Authority.

Holder: Each record owner of any Registrable Shares from time to time, including FBR and its Affiliates to the extent FBR or any such Affiliate holds any Registrable Shares.

Indemnified Party: As defined in Section 7(c) hereof.

Indemnifying Party: As defined in Section 7(c) hereof.

IPO: As defined in Section 2(b)(ii) hereof.

IPO Registration Statement: As defined in Section 2(b) hereof.

Issuer Free Writing Prospectus: As defined in Section 2(d) hereof.

JOBS Act: The Jumpstart Our Business Startups Act of 2012, as amended, and the rules and regulations promulgated by the Commission thereunder.

Lead Underwriter: As defined in Section 2(b)(ii) hereof.

Legacy Holder: Each "Stockholder" as such term is defined in the Stockholders Agreement.

Liabilities: As defined in Section 7(a) hereof.

Participants: As defined in the preamble.

Person: An individual, partnership, corporation, limited liability company, trust, unincorporated organization, government or agency or political subdivision thereof, or any other legal entity.

Proceeding: An action (including a class action), claim, suit or proceeding (including without limitation, an investigation or partial proceeding, such as a deposition), whether commenced or, to the knowledge of the Person subject thereto, threatened.

Prospectus: The prospectus included in any Registration Statement, including any preliminary prospectus at the "time of sale" within the meaning of Rule 159 under the Securities Act and all other amendments and supplements to any such prospectus, including post-effective amendments, and all material incorporated by reference or deemed to be incorporated by reference, if any, in such prospectus.

Purchase/Placement Agreement: As defined in the preamble.

Purchaser Indemnitee: As defined in Section 7(a) hereof.

Registrable Shares: The Rule 144A Shares, the Accredited Investor Shares and the Regulation S Shares, upon original issuance thereof, and at all times subsequent thereto, including upon the transfer thereof by the original holder or any subsequent holder and any shares or other securities issued in respect of such Registrable Shares by reason of or in connection with any stock dividend, stock distribution, stock split, purchase in any rights offering or in connection with any exchange, conversion or replacement of such Registrable Shares (including any conversions of the Shares into Class A Shares) or any combination of shares, recapitalization, merger or consolidation, or any other equity securities issued pursuant to any other pro rata distribution with respect to the Common Stock, until, in the case of any such securities, the earliest to occur of (a) the date on which the resale of such security has been registered pursuant to the Securities Act and it has been disposed of in accordance with the Registration Statement relating to it, (b) the date on which such securities either have been transferred pursuant to Rule 144 (or any similar provision then in effect) or are freely saleable, without condition pursuant to Rule 144, including any current public information requirements, and are listed for trading on the New York Stock Exchange, the Nasdaq Global Market or a similar national securities exchange or (c) the date on which such securities are sold to the Company.

Registration Expenses: Any and all fees and expenses incident to the performance of or compliance with this Agreement, including, without limitation: (a) all Commission, securities exchange, FINRA or other registration, listing, inclusion and filing fees; (b) all fees and expenses incurred in connection with compliance with international, federal or state securities or blue sky laws (including, without limitation, any registration, listing and filing fees and fees and disbursements of counsel in connection with blue sky qualification of any of the Registrable Shares and the preparation of a blue sky memorandum and compliance with the rules of FINRA); (c) all expenses in preparing or assisting in preparing, word processing, duplicating,

printing, delivering and distributing any Registration Statement, any Prospectus, any amendments or supplements thereto, any underwriting agreements, securities sales agreements, certificates and any other documents relating to the performance under and compliance with this Agreement; (d) all fees and expenses incurred in connection with the listing or inclusion of any of the Registrable Shares on any securities exchange pursuant to Section 5(n) of this Agreement; (e) the fees and disbursements of counsel for the Company and of the independent registered public accounting firm of the Company (including, without limitation, the expenses of any special audit and "cold comfort" letters required by or incident to the performance of this Agreement); (f) reasonable fees and disbursements of Baker Botts L.L.P. or Sidley Austin LLP, or, if such firms are unable or unwilling to serve in such capacity, one such other nationally-recognized securities law counsel reasonably acceptable to the Company and FBR, with respect to a review of the Registration Statement and other offering arrangements with respect to the Holders (such counsel, "**Review Counsel**," it being understood that such Review Counsel shall not be deemed to be representing one or more Holders unless such firm and such Holder or Holders so agree in writing); provided, however, that Holders holding a majority of the Registrable Shares (or, in the case of an Underwritten Offering in which Holders elect to sell Registrable Shares, Holders holding a majority of the Registrable Shares elected to be sold in such Underwritten Offering) may object to the appointment of Baker Botts L.L.P. or Sidley Austin LLP or such other nationally-recognized securities law counsel as Review Counsel and appoint a new Review Counsel; *provided, however*, that if Holders electing to sell Registrable Shares in an Underwritten Offering object to the appointment of Baker Botts L.L.P. or Sidley Austin LLP or such other nationally-recognized securities law counsel as Review Counsel and appoint a new Review Counsel, such objection and appointment shall only be applicable to such Underwritten Offering; *provided, further*, that such legal fees shall not exceed $100,000 with respect to any Registration Statement or firm commitment underwriting; and (g) any fees and disbursements customarily paid in issues and sales of securities (including the fees and expenses of any experts retained by the Company in connection with any Registration Statement); *provided, however*, that Registration Expenses shall exclude brokers' or underwriters' discounts and commissions, if any, and all transfer taxes and transfer fees relating to the sale or disposition of Registrable Shares by a Holder.

Registration Statement: Any registration statement of the Company that covers the resale of Registrable Shares pursuant to the provisions of this Agreement, including the Prospectus, amendments and supplements to such registration statement or Prospectus, including pre- and post-effective amendments, all exhibits thereto and all material incorporated by reference or deemed to be incorporated by reference, if any, in such registration statement.

Regulation S: Regulation S (Rules 901-905) promulgated by the Commission under the Securities Act, as such rules may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission as a replacement thereto having substantially the same effect as such regulation.

Regulation S Shares: The Shares initially resold by FBR pursuant the Purchase/Placement Agreement to "non-U.S. persons" (in accordance with Regulation S) in an "offshore transaction" (in accordance with Regulation S).

Review Counsel: As defined in paragraph (d) of the definition for Registration Expenses.

Rule 144A Shares: The Shares initially resold by FBR pursuant to the Purchase/Placement Agreement to "qualified institutional buyers" (as such term is defined in Rule 144A).

Securities Act: The Securities Act of 1933, as amended, and the rules and regulations promulgated by the Commission thereunder. Any reference to a "Rule" number herein, unless otherwise specified, shall be a reference to such Rule number promulgated by the Commission pursuant to the Securities Act, as such rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission as a replacement thereto having substantially the same effect as such rule.

Shares: The Class A-1 Shares being offered and sold pursuant to the terms and conditions of the Purchase/Placement Agreement.

Shelf Registration Statement: As defined in Section 2(a) hereof.

Special Stock Dividends: As defined in Section 2(h) hereof.

Stockholders Agreement: That certain stockholders agreement between the Company and the Legacy Holders, dated as of June 1, 2011.

Suspension Event: As defined in Section 6(b) hereof.

Suspension Notice: As defined in Section 6(b) hereof.

Underwritten Offering: A sale of securities of the Company to an underwriter or underwriters for re-offering to the public.

2. **Registration Rights**

(a) **Mandatory Shelf Registration**. As set forth in Section 5 hereof and for so long as there are any Registrable Shares, subject to Section 2(c) hereof, the Company agrees to file with the Commission as soon as reasonably practicable following the date of this Agreement (but in no event later than June 30, 2017) a shelf Registration Statement on Form S-1, or such other form under the Securities Act then available to the Company, providing for the resale of any Registrable Shares pursuant to Rule 415, from time to time, by the Holders (a "**Shelf Registration Statement**"). Subject to Section 2(c) hereof, the Company shall use its commercially reasonable efforts to cause such Shelf Registration Statement to be declared effective by the Commission as soon as practicable after the initial filing thereof and to cause the Registrable Shares to be listed on the New York Stock Exchange, the Nasdaq Global Market or similar national securities exchange concurrently with the effectiveness of the Shelf Registration Statement (but in no event later than December 31, 2017). Any Shelf Registration Statement shall provide for the resale from time to time, and pursuant to any method or combination of methods legally available (including, without limitation, an Underwritten Offering, a direct sale to purchasers or a sale through brokers or agents) by the Holders of any and all Registrable Shares.

(b) **IPO Registration**. If the Company proposes to file a registration statement on Form S-1 or such other form under the Securities Act providing for the initial public offering of the Class A Shares (the "**IPO Registration Statement**"), it being understood that a public offering conducted after the Shelf Registration Statement has become effective and the Shares have been listed for trading on the New York Stock Exchange, the Nasdaq Global Market or similar national securities exchange, shall not be deemed to be an initial public offering, the Company will notify in writing each Holder of the filing before (but no earlier than ten (10) Business Days before) or within five (5) Business Days after the initial filing and afford each Holder an opportunity to include in the IPO Registration Statement all or any part of the Registrable Shares then held by such Holder. Each Holder desiring to include in the IPO Registration Statement all or part of the Registrable Shares held by such Holder shall, within twenty (20) days after receipt of the above-described notice from the Company, so notify the Company in writing, and in such notice shall inform the Company of the number of Registrable Shares such Holder wishes to include in the IPO Registration Statement. Any election by any Holder to include any Registrable Shares in the IPO Registration Statement will not affect the inclusion of such Registrable Shares in the Shelf Registration Statement until such Registrable Shares have been sold under the IPO Registration Statement.

(i) **Right to Terminate IPO Registration**. The Company shall have the right to terminate or withdraw the IPO Registration Statement initiated by it and referred to in this Section 2(b) prior to the effectiveness of such registration whether or not any Holder has elected to include Registrable Shares in such registration; *provided, however*, the Company must provide each Holder that elected to include any Registrable Shares in such IPO Registration Statement prompt written notice of such termination or withdrawal. Furthermore, in the event the IPO Registration Statement is not declared effective within one hundred twenty (120) days following the initial filing of the IPO Registration Statement, unless a road show for the Underwritten Offering pursuant to the IPO Registration Statement is actually in progress at such time or such IPO Registration Statement has been terminated or withdrawn pursuant to this Section 2(b)(i), the Company shall promptly provide a new written notice to all Holders giving them another opportunity to elect to include Registrable Shares in the pending IPO Registration Statement. Each Holder receiving such notice shall have the same election rights afforded such Holder as described above in this clause (b).

(ii) **Selection of Underwriter**. If the Company conducts an initial public offering of its equity or equity-linked securities (an "**IPO**"), FBR has the right of first refusal for a period through the closing of the IPO to serve as a lead underwriter and the lead book runner (the "**Lead Underwriter**") in connection with the IPO, unless (A) the appointment of a different Lead Underwriter is approved by the affirmative vote of the holders of at least two thirds of the Shares or (B) the Company receives a signed writing by the chief executive officer of FBR stating that FBR does not wish to serve as the Lead Underwriter in the IPO. In the event FBR is the Lead Underwriter in an IPO as contemplated by this Section 2(b)(ii), FBR shall be named on the cover of any IPO Prospectus in the upper left relative to the names of the other underwriters participating in the IPO, shall manage all of the "roadshow" logistics, share allocations and all stabilization transactions in connection with the IPO and shall perform such other customary tasks of a lead underwriter and lead bookrunner in an initial public offering.

FBR's compensation as the Lead Underwriter in connection with the IPO shall be determined by agreement between the Company and FBR on the basis of compensation customarily paid to leading investment banks acting as underwriters in similar transactions; *provided, however*, that FBR's economics in connection with the IPO shall be equal to those economics paid to the most highly compensated member of the underwriting group.

(iii) **Shelf Registration Not Impacted by IPO Registration Statement**. The Company's obligation to file the Shelf Registration Statement pursuant to Section 2(a) hereof shall not be affected by the filing or effectiveness of the IPO Registration Statement. In addition, the Company's obligation to file and use its commercially reasonable efforts to cause to become and keep effective the Shelf Registration Statement pursuant to Section 2(a) hereof shall not be affected by the

filing or effectiveness of an IPO Registration Statement; *provided, however*, if the Company files or submits to the Commission an IPO Registration Statement before the effective date of the Shelf Registration Statement and the Company has used and is using commercially reasonable efforts to pursue the completion of such initial public offering, the Company shall have the right to defer causing the Commission to declare such Shelf Registration Statement effective until up to 60 days after the closing date of its initial public offering pursuant to the IPO Registration Statement so long as such closing date occurs on or before December 31, 2017. Notwithstanding any other provision in this Agreement to the contrary, if the Company files or submits to the Commission an IPO Registration Statement before the effective date of the Shelf Registration Statement and the deadline for causing such Shelf Registration Statement to go effective is after the 60 day period beginning on the closing date of the Company's initial public offering pursuant to the IPO Registration Statement, the Company shall cause the Shelf Registration Statement to be declared effective no later than 60 days after the closing date of the Company's initial public offering pursuant to the IPO Registration Statement.

Notwithstanding any provision to the contrary in this Agreement, any amendment to this Section 2(b) shall be valid only if declared advisable by the board of directors of the Company (the "**Board of Directors**") and approved by the affirmative vote of the stockholders of at least two thirds of the outstanding Class A-1 Shares.

(c) **Interim Over-the-Counter Trading**. If the Company does not (i) meet the round-lot stockholder requirements of the New York Stock Exchange, the Nasdaq Global Market or a similar national securities exchange and (ii) intend to conduct an initial public offering of its securities by December 31, 2017, the Company shall postpone the filing or effectiveness of the Shelf Registration Statement and instead shall be required to register the securities under the Exchange Act by filing a registration statement on Form 10 (an "**Exchange Act Registration Statement**") with the Commission as soon as practicable. The Company shall use its commercially reasonable efforts in good faith to cause such Exchange Act Registration Statement to go effective or be declared effective by the Commission as soon as practicable after the initial filing thereof, but in no event later than March 31, 2018, and to cause Registrable Shares to be eligible for trading over the counter on the OTC OB or OTC QX by March 31, 2018. Immediately after the Company has satisfied the round-lot stockholder requirements of the New York Stock Exchange, the Nasdaq Global Market or a similar national securities exchange,

it shall apply to have the Registrable Shares listed on the New York Stock Exchange, the Nasdaq Global Market or a similar national securities exchange and shall use its commercially reasonable efforts to have the Registrable Shares listed and traded on such exchange as soon as possible thereafter, but in no event more than 60 days thereafter. Once the Registrable Shares are listed and trading on the New York Stock Exchange, the Nasdaq Global Market or a similar national securities exchange, the Company shall, as soon as practicable thereafter, cause the Shelf Registration Statement to become effective, but in no event more than 90 days thereafter; *provided, however*, that the Company will not be required to cause a Shelf Registration Statement to become effective pursuant to this Section 2(c) if all of the Registrable Shares are freely tradable without restriction (including, but not limited to, the volume and manner of sale restrictions and the current public information requirements) under Rule 144.

(d) **Issuer Free Writing Prospectus**. The Company represents and agrees that, unless it obtains the consent of the managing underwriter in connection with any Underwritten Offering of Registrable Shares, and each Holder represents and agrees that, unless it obtains the prior consent of the Company and any such underwriter, it will not make any offer relating to the Shares that would constitute an "issuer free writing prospectus," as defined in Rule 433 (an "**Issuer Free Writing Prospectus**"), or that would otherwise constitute a "free writing prospectus," as defined in Rule 405, required to be filed with the Commission. The Company represents that any Issuer Free Writing Prospectus will not include any information that conflicts with the information contained in any Registration Statement or the related Prospectus (other than as would not violate the rules and regulations of the Commission), and any such Issuer Free Writing Prospectus, when taken together with the information in such Registration Statement and the related Prospectus, will not include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

(e) **Underwriting**. The Company shall advise all Holders of the lead managing underwriter for the Underwritten Offering proposed under the IPO Registration Statement. The right of any such Holder's Registrable Shares to be included in the IPO Registration Statement pursuant to Section 2(b) shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Shares in the underwriting to the extent provided herein. All Holders proposing to distribute their Registrable Shares through such underwriting shall enter into an underwriting agreement in customary form with the managing underwriter(s) selected for such underwriting and complete and execute any questionnaires, powers of attorney, indemnities, custody agreements, securities escrow agreements and other documents, including opinions of counsel, reasonably required under the terms of such underwriting, and furnish to the Company such information as the Company may reasonably request in writing for inclusion in the Registration Statement; *provided, however*, that no Holder shall be required to make any representations or warranties to or agreements with the Company or the underwriters other than representations, warranties or agreements regarding such Holder and such Holder's intended method of distribution and any other representation required by law or reasonably requested by the underwriters.

(f) Notwithstanding any other provision of this Agreement, if the managing underwriter(s) determine(s) in good faith that marketing factors require a limitation on the number of shares to be included, then the managing underwriter(s) may exclude shares

(including Registrable Shares) from the IPO Registration Statement and Underwritten Offering, and any shares included in such IPO Registration Statement and Underwritten Offering shall be allocated *first*, to the Company, *second*, to each of the Holders requesting inclusion of their Registrable Shares in such IPO Registration Statement (on a *pro rata* basis based on the total number of Registrable Shares then held by each such Holder who is requesting inclusion), and *third*, to each of the Legacy Holders requesting inclusion of their Existing Shares in such IPO Registration Statement in accordance with the terms of the Stockholders Agreement; *provided, however*, that the number of Registrable Shares to be included in the IPO Registration Statement shall not be reduced unless all other securities of the Company held by (i) officers, directors, other employees of the Company and consultants and (ii) any other holders of the Company's capital stock with registration rights that are inferior (with respect to such reduction) to the registration rights of each of the Holders set forth herein are first entirely excluded from the underwriting and registration; *provided, further, however*, that (A) the Company shall be permitted to include shares comprising at least 75% of the total securities included in the Underwritten Offering proposed under the IPO Registration Statement and (B) Holders of Registrable Shares shall be permitted to include Registrable Shares comprising at least 25% of the total securities included in the Underwritten Offering proposed under the IPO Registration Statement.

By electing to include Registrable Shares in the IPO Registration Statement, the Holder of such Registrable Shares shall be deemed to have agreed not to effect any public sale or distribution of securities of the Company of the same or similar class or classes of the securities included in the IPO Registration Statement or any securities convertible into or exchangeable or exercisable for such securities, including a sale pursuant to Rule 144 or Rule 144A, during such periods as reasonably requested (but in no event for a period longer than thirty (30) days prior to and one hundred eighty (180) days following the effective date of the IPO Registration Statement) by the representatives of the underwriters, in an Underwritten Offering, or by the Company in any other registration.

If any Holder disapproves of the terms of any such underwriting, such Holder may elect to withdraw therefrom by written notice to the Company and the managing underwriter(s), delivered by the later of (i) two (2) Business Days after the IPO price range is communicated by the Company to such Holder and (ii) ten (10) Business Days prior to the effective date of the IPO Registration Statement. Any Registrable Shares excluded or withdrawn from such underwriting shall be excluded and withdrawn from the registration.

(g) **Expenses**. The Company shall pay all Registration Expenses in connection with the registration of the Registrable Shares pursuant to this Agreement. Each Holder participating in a registration pursuant to this Section 2 shall bear such Holder's proportionate share (based on the total number of Registrable Shares sold in such registration) of all discounts and commissions payable to underwriters or brokers and all transfer taxes and transfer fees in connection with a registration of Registrable Shares pursuant to this Agreement.

(h) **Penalty Provisions**.

(i) If Section 2(c) hereof is not applicable and the Company does not file a Shelf Registration Statement registering the resale of the Registrable Shares with the

Commission by the deadline set forth in Section 2(a), other than as a result of the Commission being unable to accept such filings, dividends on the Shares, payable only in additional Shares (the "**Special Stock Dividends**"), shall accrue and be payable in accordance with the Company Charter beginning on the day after the applicable date by which the Company was required to file the Shelf Registration Statement until the Shelf Registration Statement is filed;

(ii) if (A) Section 2(c) hereof is not applicable and the Shelf Registration Statement is not effective, and the Registrable Shares are not listed and trading on a national securities exchange, by the deadline set forth in Section 2(a) or (B) Section 2(c) hereof is applicable and the Exchange Act Registration Statement is not effective, and the Registrable Shares are not listed and trading on the OTC OB or OTC QX, by the deadline set forth in Section 2(c), then the Special Stock Dividends shall accrue and be payable in accordance with the Company Charter beginning on the date immediately following the applicable deadline until the date specified in the Company Charter; and

(iii) if Section 2(c) is applicable and the Class A-1 Shares are listed and trading on the OTC OB or OTC QX and the Company meets the round lot holder requirements of the New York Stock Exchange, the Nasdaq Global Market or any similar national securities exchange with respect to the Class A Shares (including the Class A-1 Shares, as converted), the Company shall pay Special Stock Dividends from the date that is 60 days after the date the Company first meets such round lot holder requirement until the Class A Shares are listed on the New York Stock Exchange, the Nasdaq Global Market or any similar national securities exchange, if applicable.

(i) **JOBS ACT Submissions**. For purposes of this Agreement, if the Company elects to confidentially submit a draft of the Shelf Registration Statement with the Commission pursuant to the JOBS Act, the date on which the Company makes such confidential submission will be deemed the initial filing date of such Shelf Registration Statement.

3. **Special Board Provisions**. If the Shelf Registration Statement has not become effective and if the Registrable Shares have not been listed on the New York Stock Exchange, the Nasdaq Global Market or any similar national securities exchange prior the Company's 2018 annual shareholder meeting (which shareholder meeting shall be held no later than May 31, 2018), then immediately after such shareholder meeting, the Board shall take all necessary action to (a) expand the size of the Board of Directors by two (2) additional members and (b) appoint two (2) independent directors selected by the Holders holding a majority of the Registrable Shares to fill the newly created vacancies.

4. **Rules 144 and 144A Reporting**

With a view to making available the benefits of certain rules and regulations of the Commission that may at any time permit the sale of the Registrable Shares to the public without registration, the Company agrees to:

(a) make and keep "current public information" available, as those terms are understood and defined in Rule 144, at all times after the effective date of the first registration

statement under the Securities Act filed by the Company for an offering of its securities to the general public;

(b) file with the Commission in a timely manner all reports and other documents required to be filed by the Company under the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements);

(c) so long as a Holder owns any Registrable Shares, if the Company is not required to file reports and other documents under the Securities Act or the Exchange Act, make available other information as required by, and so long as necessary to permit sales of Registrable Shares pursuant to, Rule 144 or Rule 144A, and in any event make available (either by mailing a copy thereof, by posting on the Company's website or by press release) to each Holder a copy of:

(i) the Company's annual consolidated financial statements (including at least balance sheets, statements of profit and loss, statements of stockholders' equity and statements of cash flows) prepared in accordance with U.S. generally accepted accounting principles in the United States, accompanied by an audit report of the Company's independent accountants, no later than ninety (90) days after the end of each fiscal year of the Company; and

(ii) the Company's unaudited quarterly consolidated financial statements (including at least balance sheets, statements of profit and loss, statements of stockholders' equity and statements of cash flows) prepared in a manner consistent with the preparation of the Company's annual financial statements, no later than forty-five (45) days after the end of each of the first three fiscal quarters of the Company;

(d) hold, a reasonable time after the availability of such financial statements and upon reasonable notice to the Holders and FBR (either by mail, by posting on the Company's website or by press release), a quarterly investor conference call to discuss such financial statements, which call will also include an opportunity for the Holders to ask questions of management with regard to such financial statements, and will also cooperate with, and make management reasonably available to, FBR personnel in connection with making Company information available to investors; and

(e) so long as a Holder owns any Registrable Shares, furnish to the Holder promptly upon request (i) a written statement by the Company as to its compliance with the reporting requirements of Rule 144 (at any time after ninety (90) days after the effective date of the first registration statement filed by the Company for an offering of its securities to the general public), and of the Securities Act and the Exchange Act (at any time after it has become subject to the reporting requirements of the Exchange Act), (ii) a copy of the most recent annual or quarterly report of the Company and (iii) such other reports and documents of the Company, and take such further actions, as a Holder may reasonably request in availing itself of any rule or regulation of the Commission allowing a Holder to sell any such Registrable Shares without registration.

5. **Registration Procedures**

In connection with the obligations of the Company with respect to any registration pursuant to this Agreement, the Company shall use its commercially reasonable efforts to effect

or cause to be effected the registration of the Registrable Shares under the Securities Act to permit the sale of such Registrable Shares by the Holder or Holders in accordance with the Holders or Holders' intended method or methods of distribution, and the Company shall:

(a) (i) notify FBR and Review Counsel, in writing, at least ten (10) Business Days prior to filing a Registration Statement, of its intention to file a Registration Statement with the Commission and, at least five (5) Business Days prior to filing, provide a copy of the Registration Statement to FBR and Review Counsel for review and comment; (ii) prepare and file with the Commission, as specified in this Agreement, a Registration Statement(s), which Registration Statement(s) shall (A) comply as to form in all material respects with the requirements of the Securities Act and the applicable form and include all financial statements required by the Commission to be filed therewith and (B) be acceptable to FBR, its counsel and Review Counsel; (iii) at least three (3) Business Days prior to filing, provide a copy of any amendment or supplement to FBR and Review Counsel for review and comment; (iv) promptly following receipt from the Commission, provide to FBR and Review Counsel copies of any comments made by the staff of the Commission relating to such Registration Statement and of the Company's responses thereto for review and comment; and (v) use its commercially reasonable efforts to cause such Registration Statement to become effective as soon as practicable after filing and to remain effective, subject to Section 6 hereof, until the earlier of (A) such time as all Registrable Shares covered thereby have been sold in accordance with the method or methods of distribution of such Registrable Shares contemplated by the Registration Statement, (B) there are no Registrable Shares outstanding or (C) the first anniversary of the effective date of such Registration Statement (subject to extension as provided in Section 6(c) hereof and the condition that the Registrable Shares have been transferred to an unrestricted CUSIP, are listed or included on the New York Stock Exchange or the Nasdaq Global Market, pursuant to Section 5(n) of this Agreement, or on an alternative trading system with the Registrable Shares qualified under the applicable state securities or "blue sky" laws of all fifty (50) states), and can be sold under Rule 144 without limitation as to manner of sale, volume or current public information; *provided, however*, that the Company shall not be required to cause the IPO Registration Statement to remain effective for any period longer than ninety (90) days following the effective date of the IPO Registration Statement (subject to extension as provided in Section 6(c) hereof); *provided, further*, that if the Company has an effective Shelf Registration Statement on Form S-1 (or other form then available to the Company) under the Securities Act and becomes eligible to use Form S-3 or such other short-form registration statement form under the Securities Act, the Company may, upon thirty (30) Business Days prior written notice to all Holders, register any Registrable Shares registered but not yet distributed under the effective Shelf Registration Statement on such a short-form Shelf Registration Statement and, once the short-form Shelf Registration Statement is declared effective, de-register such shares under the previous Registration Statement or transfer the filing fees from the previous Registration Statement (such transfer pursuant to Rule 429, if applicable) unless any Holder registered under the initial Shelf Registration Statement notifies the Company within fifteen (15) Business Days of receipt of the Company notice that such a registration under a new Registration Statement and de-registration of the initial Shelf Registration Statement would interfere with its distribution of Registrable Shares already in progress, in which case, the Company shall delay the effectiveness of the short-form Registration Statement and termination of the then-effective initial Registration Statement or any short-form Registration Statement for a

period of not less than thirty (30) days from the date that the Company receives the notice from such Holders requesting a delay;

(b) subject to Section 5(i) hereof, (i) prepare and file with the Commission such amendments and post-effective amendments to each such Registration Statement as may be necessary to keep such Registration Statement effective for the period described in Section 5(a) hereof; (ii) cause each Prospectus contained therein to be supplemented by any required Prospectus supplement, and as so supplemented to be filed pursuant to Rule 424 or any similar rule that may be adopted under the Securities Act; and (iii) comply with the provisions of the Securities Act with respect to the disposition of all securities covered by each Registration Statement during the applicable period in accordance with the intended method or methods of distribution by the selling Holders thereof;

(c) furnish to the Holders, without charge, as many copies of each Prospectus, including each preliminary Prospectus, and any amendment or supplement thereto and such other documents as such Holder may reasonably request, in order to facilitate the public sale or other disposition of the Registrable Shares, and hereby does consent to the use of such Prospectus, including each preliminary Prospectus, by the Holders, if any, in connection with the offering and sale of the Registrable Shares covered by any such Prospectus, subject to Section 6 hereof;

(d) use its commercially reasonable efforts to register or qualify, or obtain exemption from registration or qualification for, all Registrable Shares by the time the applicable Registration Statement is declared effective by the Commission under all applicable state securities or "blue sky" laws of such jurisdictions as FBR or any Holder of Registrable Shares covered by a Registration Statement shall reasonably request in writing, keep each such registration or qualification or exemption effective during the period such Registration Statement is required to be kept effective pursuant to Section 5(a) and do any and all other acts and things that may be reasonably necessary or advisable to enable such Holder to consummate the disposition in each such jurisdiction of such Registrable Shares owned by such Holder; *provided, however*, that the Company shall not be required to (i) qualify generally to do business in any jurisdiction or to register as a broker or dealer in such jurisdiction where it would not otherwise be required to qualify but for this Section 5(d) and except as may be required by the Securities Act, (ii) subject itself to taxation in any such jurisdiction or (iii) submit to the general service of process in any such jurisdiction;

(e) use its commercially reasonable efforts to cause all Registrable Shares covered by such Registration Statement to be registered and approved by such other governmental agencies or authorities as may be necessary to enable the Holders thereof to consummate the disposition of such Registrable Shares;

(f) notify FBR and each Holder promptly and, if requested by FBR or any Holder, confirm such advice in writing (i) when a Registration Statement has become effective and when any post-effective amendments and supplements thereto become effective, (ii) of the issuance by the Commission or any state securities authority of any stop order suspending the effectiveness of a Registration Statement or the initiation of any Proceeding for that purpose, (iii) of any request by the Commission or any other federal, state or foreign governmental authority for (A) amendments or supplements to a Registration Statement or related Prospectus or

(B) additional information, (iv) of the happening of any event during the period a Registration Statement is effective as a result of which such Registration Statement or the related Prospectus or any document incorporated by reference therein contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading (which information shall be accompanied by an instruction to suspend the use of the Prospectus until the

requisite changes have been made) and (v) at the request of any such Holder, promptly to furnish to such Holder a reasonable number of copies of a supplement to or an amendment of such Prospectus as may be necessary so that, as thereafter delivered to the purchaser of such securities, such Prospectus shall not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(g) use its commercially reasonable efforts to avoid the issuance of, or if issued, to obtain the withdrawal of, any order enjoining or suspending the use or effectiveness of a Registration Statement or suspending the qualification of (or exemption from qualification of) any of the Registrable Shares for sale in any jurisdiction, as promptly as practicable;

(h) upon request, promptly furnish to each requesting Holder of Registrable Shares covered by a Registration Statement, without charge, one conformed copy of such Registration Statement and any post-effective amendment or supplement thereto (without documents incorporated therein by reference or exhibits thereto, unless requested);

(i) except as provided in Section 6 hereof, upon the occurrence of any event contemplated by Section 5(f)(iv) hereof, use its commercially reasonable efforts to promptly prepare a supplement or post-effective amendment to a Registration Statement or the related Prospectus or any document incorporated therein by reference or file any other required document so that, as thereafter delivered to the purchasers of the Registrable Shares, such Prospectus will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(j) if requested by the representative of the underwriters, if any, or any Holders of Registrable Shares being sold in connection with such offering, (i) promptly incorporate in a Prospectus supplement or post-effective amendment such information as the representative of the underwriters, if any, or such Holders indicate relates to them or that they reasonably request be included therein and (ii) make all required filings of such Prospectus supplement or such post-effective amendment as soon as reasonably practicable after the Company has received notification of the matters to be incorporated in such Prospectus supplement or post-effective amendment;

(k) in the case of an Underwritten Offering, use its commercially reasonable efforts to furnish to each Holder of Registrable Shares covered by such Registration Statement and the underwriters a signed counterpart, addressed to each such Holder and the underwriters, of (i) an opinion of counsel for the Company, addressed to the underwriters, dated the date of each closing under the underwriting agreement, reasonably satisfactory to such Holder and the underwriters, and (ii) a "comfort" letter, addressed to the underwriters and the Board of

Directors, dated the effective date of such Registration Statement and the date of each closing under the underwriting agreement, signed by the independent public accountants who have certified the Company's financial statements included in such Registration Statement, covering substantially the same matters with respect to such Registration Statement (and the Prospectus included therein) and with respect to events subsequent to the date of such financial statements, as are customarily covered in accountants' letters delivered to underwriters in underwritten public offerings of securities and such other financial matters as such Holder and the underwriters may reasonably request;

(l) enter into customary agreements (including in the case of an Underwritten Offering, an underwriting agreement in customary form and reasonably satisfactory to the Company) and take all other reasonable action in connection therewith in order to expedite or facilitate the distribution of the Registrable Shares included in such Registration Statement and, in the case of an Underwritten Offering, make representations and warranties to the Holders covered by such Registration Statement and to the underwriters in such form and scope as are customarily made by issuers to underwriters in underwritten offerings and confirm the same to the extent customary if and when requested;

(m) subject to execution of such confidentiality agreements as may reasonably be requested by the Company, make available for inspection by representatives of the Holders and the representative of any underwriters participating in any disposition pursuant to a Registration Statement and any special counsel or accountants retained by such Holders or underwriters, all financial and other records, pertinent corporate documents and properties of the Company and cause the respective officers, directors and employees of the Company to supply all information reasonably requested by any such representatives, the representative of the underwriters, counsel thereto or accountants in connection with a Registration Statement; *provided, however*, that the representatives of the Holders and any underwriters will use commercially reasonable efforts, to the extent practicable, to coordinate the foregoing inspection and information gathering and not materially disrupt the Company's business operations;

(n) use its commercially reasonable efforts (including, without limitation, seeking to cure any deficiencies cited by the exchange or market in the Company's listing or inclusion application) to list or include all Registrable Shares on the New York Stock Exchange or the Nasdaq Global Market;

(o) prepare and file in a timely manner all documents and reports required by the Exchange Act and, to the extent the Company's obligation to file such reports pursuant to Section 15(d) of the Exchange Act expires prior to the expiration of the effectiveness period of the Registration Statement as required by Section 5(a) hereof, the Company shall register the Registrable Shares under the Exchange Act and shall maintain such registration through the effectiveness period required by Section 5(a) hereof;

(p) provide a CUSIP number for all Registrable Shares, not later than the effective date of the Registration Statement;

(q) (i) otherwise use its commercially reasonable efforts to comply with all applicable rules and regulations of the Commission, (ii) make generally available to its stockholders, as

soon as reasonably practicable, earnings statements covering at least twelve (12) months beginning after the effective date of the Registration Statement that satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder, but in no event later than forty-five (45) days after the end of each fiscal year of the Company, and (iii) not file any Registration Statement or Prospectus or amendment or supplement to such Registration Statement or Prospectus to which any Holder of Registrable Shares covered by any Registration Statement shall have reasonably objected on the grounds that such Registration Statement or Prospectus or amendment or supplement does not comply in all material respects with the requirements of the Securities Act, each Holder having been furnished with a copy thereof at least two (2) Business Days prior to the filing thereof;

(r) provide and cause to be maintained a registrar and transfer agent for all Registrable Shares covered by any Registration Statement from and after a date not later than the effective date of such Registration Statement;

(s) in connection with any sale or transfer of the Registrable Shares (whether or not pursuant to a Registration Statement) that will result in the securities being delivered no longer being Registrable Shares, cooperate with the Holders and the representative of the underwriters, if any, to facilitate the timely preparation and delivery of

certificates representing the Registrable Shares to be sold, which certificates shall not bear any restrictive transfer legends (other than as required by the Company's organizational documents) and to enable such Registrable Shares to be in such denominations and registered in such names as the representative of the underwriters, if any, or the Holders may request at least three (3) Business Days prior to any sale of the Registrable Shares;

(t) in connection with the initial filing of a Shelf Registration Statement and each amendment thereto with the Commission pursuant to Section 2(a) hereof, cooperate with FBR in connection with the filing with FINRA of all forms and information required or requested by FINRA in order to obtain written confirmation from FINRA that FINRA does not object to the fairness and reasonableness of the underwriting terms and arrangements (or any deemed underwriting terms and arrangements) relating to the resale of Registrable Shares pursuant to the Shelf Registration Statement, including, without limitation, information provided to FINRA through its Public Offering System, and pay all costs, fees and expenses incident to FINRA's review of the Shelf Registration Statement and the related underwriting terms and arrangements, including, without limitation, all filing fees associated with any filings or submissions to FINRA and the legal expenses, filing fees and other disbursements of FBR and any other FINRA member that is the Holder of, or is affiliated or associated with an owner of, Registrable Shares included in the Shelf Registration Statement (including in connection with any initial or subsequent member filing);

(u) in connection with the initial filing of a Shelf Registration Statement and each amendment thereto with the Commission pursuant to Section 2(a) hereof, provide to FBR and its representatives the opportunity to conduct due diligence, including, without limitation, an inquiry of the Company's financial and other records, and make available members of its management for questions regarding information which FBR may request in order to fulfill any due diligence obligation on its part and, concurrent with the initial filing of a Shelf Registration Statement with the Commission pursuant to Section 2(a) hereof;

(v) upon effectiveness of the first Registration Statement filed under this Agreement, take such actions and make such filings as are necessary to effect the registration of the Registrable Shares under the Exchange Act simultaneously with or immediately following the effectiveness of the Registration Statement; and

(w) in the case of an Underwritten Offering, use its commercially reasonable efforts to cooperate and assist in any filings required to be made with FINRA and in the performance of any due diligence investigation by any underwriter and its counsel (including any "qualified independent underwriter," if applicable) that is required to be retained in accordance with the rules and regulations of FINRA.

The Company may require the Holders to furnish (and each Holder shall furnish) to the Company such information regarding the proposed distribution by such Holder of such Registrable Shares as the Company may from time to time reasonably request in writing or as shall be required to effect the registration of the Registrable Shares, and no Holder shall be entitled to be named as a selling stockholder in any Registration Statement and no Holder shall be entitled to use the Prospectus forming a part thereof if such Holder does not provide such information to the Company. Any Holder that sells Registrable Shares pursuant to a Registration Statement or as a selling security holder pursuant to an Underwritten Offering shall be required to be named as a selling stockholder in the related Prospectus and to deliver a Prospectus to purchasers. Each Holder further agrees to furnish promptly to the Company in writing all information required from time to time to make the information previously furnished by such Holder not misleading.

Each Holder agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in Section 5(f)(iii) or 5(f)(iv) hereof, such Holder will immediately discontinue disposition of Registrable Shares pursuant to a Registration Statement until such Holder's receipt of the copies of the supplemented or amended Prospectus. If so directed by the Company, such Holder will deliver to the Company (at the expense of the Company) all copies in its possession, other than permanent file copies then in such Holder's possession, of the Prospectus covering such Registrable Shares current at the time of receipt of such notice.

6. **Black-Out Period**

(a) Subject to the provisions of this Section 6 and a good faith determination by the Company that it is in the best interests of the Company to suspend the use of the Registration Statement, following the effectiveness of a Registration Statement (and the filings with any international, federal or state securities commissions), the Company, by written notice to FBR and the Holders, may direct the Holders to suspend sales of the Registrable Shares pursuant to a Registration Statement for such times as the Company reasonably may determine is necessary and advisable (but in no event for more than an aggregate of ninety (90) days in any rolling twelve (12) month period commencing on the Closing Date or more than sixty (60) days in any rolling ninety (90) day period), if any of the following events shall occur: (i) the representative of the underwriters of an Underwritten Offering of primary shares by the Company has advised the Company that the sale of Registrable Shares pursuant to the Registration Statement would have a material adverse effect on the Company's primary Underwritten Offering; (ii) the Company shall

have determined in good faith that (A) the offer or sale of any Registrable Shares would materially impede, delay or interfere with any proposed financing, offer or sale of securities, acquisition, business combination, corporate reorganization or other significant transaction involving the Company, (B) after the advice of counsel, the sale of Registrable Shares pursuant to the Registration Statement would require disclosure of non-public material information not otherwise required to be disclosed under applicable law and (C) (1) the Company has a bona fide business purpose for preserving the confidentiality of such transaction, (2) disclosure would have a material adverse effect on the Company or the Company's ability to consummate such transaction or (3) renders the Company unable to comply with Commission requirements, in each case under circumstances that would make it impractical or inadvisable to cause the Registration Statement (or such filings) to become effective or to promptly amend or supplement the Registration Statement on a post-effective basis, as applicable; or (iii) the Company shall have determined in good faith, after the advice of counsel, that it is required by law, rule or regulation or that it is in the best interests of the Company to supplement the Registration Statement or file a post-effective amendment to the Registration Statement in order to incorporate information into the Registration Statement for the purpose of (A) including in the Registration Statement any Prospectus required under Section 10(a)(3) of the Securities Act; (B) reflecting in the Prospectus included in the Registration Statement any facts or events arising after the effective date of the Registration Statement (or of the most recent post-effective amendment) that, individually or in the aggregate, represent a fundamental change in the information set forth therein; or (C) including in the Prospectus included in the Registration Statement any material information with respect to the plan of distribution not disclosed in the Registration Statement or any material change to such information. Upon the occurrence of any such suspension, the Company shall use its best efforts to cause the Registration Statement to become effective or to promptly amend or supplement the Registration Statement on a post-effective basis or to take such action as is necessary to make resumed use of the Registration Statement compatible with the Company's best interests, as applicable, so as to permit the Holders to resume sales of the Registrable Shares as soon as possible.

(b) In the case of an event that causes the Company to suspend the use of a Registration Statement (a "**Suspension Event**"), the Company shall give written notice (a "**Suspension Notice**") to FBR and the Holders to suspend sales of the Registrable Shares and such notice shall state generally the basis for the notice and that such suspension shall continue only for so long as the Suspension Event or its effect is continuing and the Company is using its best efforts and taking all reasonable steps to terminate suspension of the use of the Registration Statement as promptly as possible. The Holders shall not effect any sales of the Registrable Shares pursuant to such Registration Statement (or such filings) at any time after it has received a Suspension Notice from the Company and prior to receipt of an End of Suspension Notice (as defined below). If so directed by the Company, each Holder will deliver to the Company (at the expense of the Company) all copies other than permanent file copies then in such Holder's possession of the Prospectus covering the Registrable Shares at the time of receipt of the Suspension Notice. The Holders may recommence effecting sales of the

Registrable Shares pursuant to the Registration Statement (or such filings) following further notice to such effect (an "**End of Suspension Notice**") from the Company, which End of Suspension Notice shall be given by the Company to the Holders and FBR in the manner described above promptly following the conclusion of any Suspension Event and its effect.

(c) Notwithstanding any provision herein to the contrary, if the Company shall give a Suspension Notice pursuant to this Section 6, the Company agrees that it shall extend the period of time during which the applicable Registration Statement shall be maintained effective pursuant to this Agreement by the number of days during the period from the date of receipt by the Holders of the Suspension Notice to and including the date of receipt by the Holders of the End of Suspension Notice and provide copies of the supplemented or amended Prospectus necessary to resume sales.

7. **Indemnification and Contribution**

(a) The Company agrees to indemnify and hold harmless (i) each Holder of Registrable Shares and any underwriter (as determined in the Securities Act) for such Holder (including, if applicable, FBR), (ii) each Person, if any, who controls (within the meaning of Section 15 of the Securities Act or Section 20(a) of the Exchange Act) any such Person described in clause (i) (any of the Persons referred to in this clause (ii) being hereinafter referred to as a "**Controlling Person**") and (iii) the respective officers, directors, partners, members, employees, representatives and agents of any such Person or any Controlling Person (any Person referred to in clause (i), (ii) or (iii) above may hereinafter be referred to as a "**Purchaser Indemnitee**"), to the fullest extent lawful, from and against any and all losses, claims, damages, judgments, actions, out-of-pocket expenses and other liabilities (the "**Liabilities**"), including without limitation and as incurred, reimbursement of all reasonable costs of investigating, preparing, pursuing or defending any claim or action, or any investigation or Proceeding by any governmental agency or body, commenced or threatened, including the reasonable fees and expenses of counsel to any Purchaser Indemnitee, joint or several, directly or indirectly related to, based upon, arising out of or in connection with, (A) with respect to any Registration Statement (or any amendment thereto), any untrue statement or alleged untrue statement of a material fact contained therein or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statement therein not misleading or (B) with respect to any Prospectus (or any amendment or supplement thereto), Issuer Free Writing Prospectus (or any amendment or supplement thereto), any preliminary Prospectus or any other document used to sell the Shares, any untrue statement or alleged untrue statement of a material fact contained therein or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except insofar as such Liabilities arise out of or are based upon any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with information relating to any Purchaser Indemnitee furnished to the Company, or any underwriter in writing by such Purchaser Indemnitee expressly for use therein. The Company shall notify the Holders promptly of the institution, threat or assertion of any claim, Proceeding (including any governmental investigation), or litigation of which it shall have become aware in connection with the matters addressed by this Agreement which involves the Company or a Purchaser Indemnitee. The indemnity provided for herein shall remain in full force and effect regardless of any investigation made by or on behalf of any Purchaser Indemnitee.

(b) In connection with any Registration Statement in which a Holder of Registrable Shares is participating, and as a condition to such participation, such Holder agrees, severally and not jointly, to indemnify and hold harmless the Company and each Person who controls the

Company within the meaning of Section 15 of the Securities Act or Section 20(a) of the Exchange Act and the respective officers, directors, partners, members, employees, representatives and agents of such Person or Controlling Person to the same extent as the foregoing indemnity from the Company to each Purchaser Indemnitee, but only with reference to untrue statements or omissions or alleged untrue statements or omissions made in reliance upon and in strict conformity with information relating to such Holder furnished to the Company in writing by such Holder expressly for use in such Registration Statement (or any amendment thereto), Prospectus (or any amendment or supplement thereto), Issuer Free Writing Prospectus (or any amendment or supplement thereto) or any preliminary Prospectus. Absent gross negligence or willful misconduct, the liability of any Holder pursuant to this paragraph shall in no event exceed the net proceeds received by such Holder from sales of Registrable Shares pursuant to such Registration Statement (or any amendment thereto), Prospectus (or any amendment or supplement thereto), Issuer Free Writing Prospectus (or any amendment or supplement thereto) or any preliminary Prospectus.

(c) If any suit, action, Proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against any Person in respect of which indemnity may be sought pursuant to paragraph (a) or (b) above, such Person (the "**Indemnified Party**") shall promptly notify the Person against whom such indemnity may be sought (the "**Indemnifying Party**") in writing of the commencement thereof (but the failure to so notify an Indemnifying Party shall not relieve it from any liability which it may have under this Section 7, except to the extent the Indemnifying Party is materially prejudiced by the failure to give notice), and the Indemnifying Party, upon request of the Indemnified Party, shall retain counsel reasonably satisfactory to the Indemnified Party to represent the Indemnified Party and any others the Indemnifying Party may reasonably designate in such Proceeding and shall pay the reasonable fees and expenses actually incurred by such counsel related to such Proceeding. Notwithstanding the foregoing, in any such Proceeding, any Indemnified Party shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party, unless (i) the Indemnifying Party and the Indemnified Party shall have mutually agreed in writing to the contrary, (ii) the Indemnifying Party failed within a reasonable time after notice of commencement of the action to assume the defense and employ counsel reasonably satisfactory to the Indemnified Party, (iii) the Indemnifying Party and its counsel do not actively and vigorously pursue the defense of such action or (iv) the named parties to any such action (including any impleaded parties) include both such Indemnified Party and Indemnifying Party, or any Affiliate of the Indemnifying Party, and such Indemnified Party shall have been reasonably advised by counsel that, either (A) there may be one or more legal defenses available to it which are different from or additional to those available to the Indemnifying Party or such Affiliate of the Indemnifying Party or (B) a conflict may exist between such Indemnified Party and the Indemnifying Party or such Affiliate of the Indemnifying Party (in which case the Indemnifying Party shall not have the right to assume nor direct the defense of such action on behalf of such Indemnified Party; it being understood, however, that the Indemnifying Party shall not, in connection with any one such action or separate but substantially similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances, be liable for the fees and expenses of more than one separate firm of attorneys (in addition to any local counsel) for all such Indemnified Parties, which firm shall be designated in writing by those Indemnified Parties who sold a majority of the Registrable Shares sold by all such Indemnified Parties and any such separate firm for the

Company, the directors, the officers and such control Persons of the Company as shall be designated in writing by the Company). The Indemnifying Party shall not be liable for any settlement of any Proceeding effected without its written consent, which consent shall not be unreasonably withheld, but if settled with such consent or if there is a final judgment for the plaintiff, the Indemnifying Party agrees to indemnify any Indemnified Party from and against any loss or liability by reason of such settlement or judgment. No Indemnifying Party shall, without the prior written consent of the Indemnified Party, effect any settlement of any pending or threatened Proceeding in respect of which any Indemnified Party is or could have been a party and indemnity could have been sought hereunder by such Indemnified Party, unless such settlement includes an unconditional

release of such Indemnified Party from all liability on claims that are the subject matter of such Proceeding and does not include a statement as to or an admission of, fault, culpability or a failure to act by or on behalf of the Indemnified Party.

(d) If the indemnification provided for in paragraphs (a) and (b) of this Section 7 is for any reason held to be unavailable to an Indemnified Party in respect of any Liabilities referred to therein (other than by reason of the exceptions provided therein) or is insufficient to hold harmless a party indemnified thereunder, then each Indemnifying Party under such paragraphs, in lieu of indemnifying such Indemnified Party thereunder, shall contribute to the amount paid or payable by such Indemnified Party as a result of such Liabilities (i) in such proportion as is appropriate to reflect the relative benefits of the Indemnified Party, on the one hand, and the Indemnifying Party(ies), on the other hand, in connection with the statements or omissions that resulted in such Liabilities or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Indemnifying Party(ies) and the Indemnified Party, as well as any other relevant equitable considerations. The relative fault of the Company on the one hand and any Purchaser Indemnitees on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or by such Purchaser Indemnitees and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(e) The parties agree that it would not be just and equitable if contribution pursuant to this Section 7 were determined by *pro rata* allocation (even if such Indemnified Parties were treated as one entity for such purpose), or by any other method of allocation that does not take account of the equitable considerations referred to in Section 7(d) above. The amount paid or payable by an Indemnified Party as a result of any Liabilities referred to in Section 7(d) above shall be deemed to include, subject to the limitations set forth above, any reasonable legal or other expenses actually incurred by such Indemnified Party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 7, in no event shall a Purchaser Indemnitee be required to contribute any amount in excess of the amount by which the net proceeds received by such Purchaser Indemnitee from sales of Registrable Shares exceeds the amount of any damages that such Purchaser Indemnitee has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. For purposes of this Section 7, each Person, if any, who controls (within the meaning of Section 15 of the Securities Act or Section 20(a) of the Exchange Act) FBR or a Holder of Registrable Shares shall have the same rights to contribution as FBR or such Holder, as the case may be, and

each Person, if any, who controls (within the meaning of Section 15 of the Securities Act or Section 20(a) of the Exchange Act) the Company, and each officer, director, partner, employee, representative, agent or manager of the Company shall have the same rights to contribution as the Company. Any party entitled to contribution will, promptly after receipt of notice of commencement of any action, suit or Proceeding against such party in respect of which a claim for contribution may be made against another party or parties, notify each party or parties from whom contribution may be sought, but the omission to so notify such party or parties shall not relieve the party or parties from whom contribution may be sought from any obligation it or they may have under this Section 7 or otherwise, except to the extent that any party is materially prejudiced by the failure to give notice. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation.

(f) The indemnity and contribution agreements contained in this Section 7 will be in addition to any liability which the Indemnifying Parties may otherwise have to the Indemnified Parties referred to above. The Purchaser Indemnitee's obligations to contribute pursuant to this Section 7 are several in proportion to the respective number of Registrable Shares sold by each of the Purchaser Indemnitees hereunder and not joint.

8. **Market Stand-off Agreement**

Each Holder hereby agrees that it shall not, to the extent requested by the Company or an underwriter of securities of the Company, directly or indirectly sell, offer to sell (including without limitation any short sale), grant any option or otherwise transfer or dispose of any Registrable Shares or other Class A Shares or any securities convertible into or exchangeable or exercisable for Class A Shares then owned by such Holder (other than to donees or partners of the Holder who agree to be similarly bound) (a) in the case of the Company and each of its officers, directors, managers and employees, in each case to the extent such person or entity acquires and holds Registrable Shares, for a period beginning on the effective date of, and continuing for one hundred eighty (180) days following the effective date of, the IPO Registration Statement; (b) in the case of all other Holders who include Registrable Shares in the IPO Registration Statement, beginning on the effective date of, and continuing for one hundred eighty (180) days following the effective date of the IPO Registration Statement of the Company; and (c) in the case of all other Holders, except FBR, who do not include Registrable Shares in the IPO Registration Statement, for a period of sixty (60) days following the effective date of an IPO Registration Statement of the Company filed under the Securities Act; *provided, further, however*, if (i) during the last seventeen (17) days of the applicable restricted period, the Company issues an earnings release or material news or a material event relating to the Company occurs or (ii) prior to the expiration of the applicable restricted period, the Company announces that it will release earnings results during the sixteen (16) day period beginning on the last day of the applicable restricted period, then, in each case, the restrictions imposed by this Agreement shall continue to apply until the expiration of the eighteen (18) day period beginning on the issuance of the earnings release or the occurrence of the material news or event, unless the managing underwriter in the Underwritten Offering waives, in writing, such extension or the Company is then an Emerging Growth Company (as defined under the Securities Act) and *provided, further, however*, that:

(a) the restrictions above shall not apply to Registrable Shares sold pursuant to the IPO Registration Statement;

(b) all executive officers and directors of the Company then holding Class A Shares or securities convertible into or exchangeable or exercisable for Class A Shares enter into agreements that are no less restrictive;

(c) the Holders shall be allowed any concession or proportionate release allowed to any officer or director that entered into agreements that are no less restrictive (with such proportion being determined by dividing the number of shares being released with respect to such officer or director by the total number of issued and outstanding shares held by such officer or director); *provided*, that nothing in this Section 8(c) shall be construed as a right to proportionate release for the executive officers and directors of the Company upon the expiration of the period applicable to all Holders other than the executive officers and directors of the Company; and

(d) this Section 8 shall not be applicable if a Shelf Registration Statement of the Company filed under the Securities Act has been declared effective prior to the filing of an IPO Registration Statement or the Registrable Securities were made eligible for trading on the OTC OB or OTC QX prior to the filing of an IPO Registration Statement.

In order to enforce the foregoing covenant, the Company shall have the right to place restrictive legends on the certificates representing the securities as subject to this Section 8 and to impose stop transfer instructions with respect to the Registrable Shares and such other securities of each Holder (and the securities of every other Person subject to the foregoing restriction) until the end of such period.

9. **Termination of the Company's Obligation**

The Company shall have no obligation pursuant to this Agreement with respect to any Registrable Shares proposed to be sold by a Holder in a registration pursuant to this Agreement if, in the opinion of counsel to the Company, (a) all such Registrable Shares proposed to be sold by a Holder may be sold in a single transaction without registration under the Securities Act pursuant to Rule 144, (b) the Company has become subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act for a period of at least ninety (90) days and is current in the filing of all such required reports and (c) the Registrable Shares have been listed for trading on a national securities exchange.

10. **Limitations on Subsequent Registration Rights**

From and after the date of this Agreement, the Company shall not, without the prior written consent of Holders beneficially owning not less than a majority of the then outstanding Registrable Shares (*provided, however*, that for purposes of this Section 10, Registrable Shares that are owned, directly or indirectly, by an Affiliate of the Company shall not be deemed to be outstanding) enter into any agreement with any holder or prospective holder of any securities of the Company that would allow such holder or prospective holder to (a) include such securities in any Registration Statement filed pursuant to the terms hereof, unless, under the terms of such agreement, such holder or prospective holder may include such securities in any such registration

only to the extent that the inclusion of its securities will not reduce the amount of Registrable Shares of the Holders that is included or (b) have its securities registered on a registration statement that could be declared effective prior to, or within one hundred eighty (180) days of, the effective date of any registration statement filed pursuant to this Agreement except for such securities that may be sold by Legacy Holders in an initial public offering pursuant to Section 2(f).

11. **Miscellaneous**

(a) **Company Charter**. The Company hereby covenants and agrees to take all necessary action to ensure that the Company Charter and Bylaws contains all provisions necessary and sufficient to give effect to the provisions of this Agreement.

(b) **Remedies**. In the event of a breach by the Company of any of its obligations under this Agreement, FBR and each Holder, in addition to being entitled to exercise all rights provided herein or, in the case of FBR, in the Purchase/Placement Agreement, or granted by law, including the rights granted in Section 2(g) hereof and recovery of damages, will be entitled to specific performance of its rights under this Agreement. Subject to Section 7, the Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of any of the provisions of this Agreement and hereby further agrees that, in the event of any action for specific performance in respect of such breach, it shall waive the defense that a remedy at law would be adequate.

(c) **Amendments and Waivers**. The provisions of this Agreement, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to or departures from the provisions hereof may not be given, without (i) the written consent of the Company and Holders beneficially owning not less than a majority of the then outstanding Registrable Shares or (ii) in the case of Section 2(f), the written consent of the Company and the Holders and Legacy Holders beneficially owning not less than a majority of the then outstanding aggregate Registrable Shares and Existing Shares; *provided, however*, that for purposes of this Section 11(c), Registrable Shares that are owned, directly or indirectly, by an Affiliate of the Company shall not be deemed to be outstanding; *provided, further, however*, that any amendments, modifications or supplements to, or any waivers or consents to departures from, the provisions of Section 8 hereof that would have the effect of extending the sixty (60) or one hundred eighty (180) day periods referenced therein shall be approved by, and shall only be applicable to, those Holders who provide written consent to such extension to the Company. No amendment shall be deemed effective unless it applies uniformly to all Holders. Notwithstanding the foregoing, a waiver or consent to or departure from the provisions hereof with respect to a matter that relates exclusively to the rights of a Holder whose securities are being sold pursuant to a Registration Statement and that does not directly or indirectly affect, impair, limit or compromise the rights of other Holders may be given by such Holder; *provided* that the provisions of this sentence may not be amended, modified or supplemented except in accordance with the provisions of the first and second sentences of this paragraph.

(d) **Notices**. All notices and other communications, provided for or permitted hereunder, shall be made in writing and delivered by facsimile (with receipt confirmed), overnight courier, registered or certified mail, return receipt requested, or by telegram:

(i) if to a Holder, at the most current address given by the transfer agent and registrar of the Shares to the Company; and

(ii) if to the Company, at the offices of the Company at 515 Post Oak Blvd., Suite 200, Houston, Texas 77027, Attention: David J. Isaac; and

(iii) if to FBR, at the offices of FBR at 1001 Nineteenth Street North, Arlington, Virginia 22209, Attention: Gavin Beske, Esq. (facsimile 703-469-1012).

(e) **Successors and Assigns**. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties hereto, including, without limitation and without the need for an express assignment or assumption, subsequent Holders. The Company agrees that the Holders shall be third party beneficiaries to the agreements made hereunder by the Participants and the Company, and each Holder shall have the right to enforce such agreements directly to the extent it deems such enforcement necessary or advisable to protect its rights hereunder.

(f) **Counterparts**. This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

(g) **Headings**. The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

(h) **Governing Law**. **THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, AS APPLIED TO CONTRACTS MADE AND PERFORMED WITHIN THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY STATE COURT IN THE STATE OF NEW YORK OR ANY FEDERAL COURT SITTING IN NEW YORK IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, AND IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS. EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES, TO THE FULLEST EXTENT IT MAY EFFECTIVELY DO SO UNDER APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT AND ANY CLAIM THAT ANY SUCH SUIT,**

ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. THE PARTIES WAIVE THE RIGHT TO A TRIAL BY JURY IN ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT.

(i) **Severability**. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the

remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties hereto that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

(j) **Entire Agreement**. This Agreement, together with the Purchase/Placement Agreement, is intended by the parties hereto as a final expression of their agreement, and is intended to be a complete and exclusive statement of the agreement and understanding of the parties hereto in respect of the subject matter contained herein and therein.

(k) **Registrable Shares Held by the Company or its Affiliates**. Whenever the consent or approval of Holders of a specified percentage of Registrable Shares is required hereunder, Registrable Shares held by the Company or its Affiliates shall not be counted in determining whether such consent or approval was given by the Holders of such required percentage.

(l) **Adjustment for Stock Splits, etc**. Wherever in this Agreement there is a reference to a specific number of shares of Common Stock, then upon the occurrence of any subdivision, combination or stock dividend of such shares, the specific number of shares so referenced in this Agreement shall automatically be proportionally adjusted to reflect the effect on the outstanding shares of Common Stock by such subdivision, combination or stock dividend.

(m) **Survival**. This Agreement is intended to survive the consummation of the transactions contemplated by the Purchase/Placement Agreement. The indemnification and contribution obligations under Section 7 of this Agreement shall survive the termination of the Company's obligations under Section 2 of this Agreement.

(n) **Attorneys' Fees**. In any action or Proceeding brought to enforce any provision of this Agreement, or where any provision hereof is validly asserted as a defense, the prevailing party, as determined by the court, shall be entitled to recover its reasonable attorneys' fees in addition to any other available remedy.

[Signature page follows]

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

ROCKWATER ENERGY SOLUTIONS, INC.

By: /s/ Holli C. Ladhani
Name: Holli C. Ladhani
Title: Chief Executive Officer

FBR CAPITAL MARKETS & CO.

By: /s/ Patrick Steel
Name: Patrick Steel
Title: Senior Managing Director & Co-Head, Capital Markets

CREDIT AGREEMENT

dated as of November 1, 2017,

among

SELECT ENERGY SERVICES, LLC,

as Borrower,

SES HOLDINGS, LLC,

as Parent,

WELLS FARGO BANK, NATIONAL ASSOCIATION,

as Administrative Agent, Issuing Lender and Swingline Lender,

WELLS FARGO BANK, NATIONAL ASSOCIATION

and

JPMORGAN CHASE BANK, N.A.,

as Joint Lead Arrangers and Joint Book Runners,

and

THE LENDERS PARTY HERETO FROM TIME TO TIME

as Lenders

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CREDIT AGREEMENT

This Credit Agreement dated as of November 1, 2017 (the "Agreement") is among **SELECT ENERGY SERVICES, LLC**, a Delaware limited liability company ("Borrower"), (b) **SES HOLDINGS, LLC**, a Delaware limited liability company ("Parent"), the Lenders (as defined below), **WELLS FARGO BANK, NATIONAL ASSOCIATION**, as Swingline Lender (as defined below), Issuing Lender (as defined below), and as Administrative Agent (as defined below) for the Lenders, and **WELLS FARGO BANK, NATIONAL ASSOCIATION** and **JPMORGAN CHASE BANK, N.A.**, as joint lead arrangers (in such capacity, together with their successors and assigns in such capacity, the "Joint Lead Arrangers") and as joint book runners (in such capacity, together with their successors and assigns in such capacity, the "Joint Book Runners").

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

ARTICLE I
DEFINITIONS AND ACCOUNTING TERMS

Section 1.1 **Certain Defined Terms**. As used in this Agreement, the defined terms set forth in the preamble above shall have the meanings set forth above and the following terms shall have the following meanings (unless otherwise indicated, such meanings to be equally applicable to both the singular and plural forms of the terms defined):

"ABL Priority Collateral" means all of each and every Credit Party's right, title, and interest in and to the following types of property of such Credit Party, wherever located and whether now owned by such Credit Party or hereafter acquired:

(a) all Receivables;

(b) all Inventory;

(c) all Deposit Accounts and Securities Accounts into which any proceeds of Receivables, Inventory and other ABL Priority Collateral are deposited (including any cash and other funds or other property held in or on deposit therein);

(d) to the extent related to, substituted or exchanged for, evidencing, supporting or arising from any of the items referred to in the preceding clauses (a) through (c), all chattel paper, all documents, letter of credit rights, instruments and rights to payment evidenced thereby, contract rights, payment intangibles, supporting obligations and books and records, including customer lists;

(e) to the extent attributed or pertaining to any ABL Priority Collateral, all commercial tort claims;

(f) business interruption insurance proceeds; and

(g) all substitutions, replacements, accessions, products, or proceeds of any of the foregoing, in any form, including insurance proceeds and all claims against third parties for loss or damage to, or destruction of, or other involuntary conversion (including claims in respect of condemnation or expropriation) of any kind or nature of any or all of the foregoing.

Notwithstanding anything to the contrary contained in this definition, ABL Priority Collateral shall not include any Excluded Property.

"Acceptable Appraisal" means, with respect to an appraisal of Inventory, the most recent current appraisal of such property received by Administrative Agent (a) from an appraisal company satisfactory to Administrative Agent, (b) the scope and methodology (including, to the extent relevant, any sampling procedure employed by such appraisal company) of which are satisfactory to Administrative Agent, and (c) the results of which are satisfactory to Administrative Agent, in each case, in Administrative Agent's Permitted Discretion.

"Acceptable Security Interest" means a security interest which (a) exists in favor of Administrative Agent for its benefit and the ratable benefit of Secured Parties, (b) is superior to all other security interests (other than as to Excluded Perfection Collateral and other than Permitted Liens; provided that, no intention to subordinate the Lien of Administrative Agent and the Secured Parties pursuant to the Security Documents is to be hereby implied or expressed by the permitted existence of such Permitted Liens), (c) secures the Secured Obligations, (d) is enforceable against the Credit Party which created such security interest and (e) except as to Excluded Perfection Collateral, is perfected.

"Account Control Agreement" means, as to any deposit account of any Credit Party held with a bank, an agreement or agreements in form and substance reasonably acceptable to Administrative Agent, among the Credit Party owning such deposit account, Administrative Agent and such other bank providing Administrative Agent with control over such deposit account for purposes of the UCC.

"Account Debtor" means an account debtor as defined in the UCC.

"Acquisition" means the purchase by any Restricted Entity of (a) any business, division or enterprise (or regional portion thereof), including the purchase of associated assets or operations of such business, division, or enterprise (or regional portion thereof) of a Person, but for the avoidance of doubt, excludes purchases of equipment with no other tangible or intangible property associated with such equipment purchase unless such purchase of equipment involves all or substantially all of the assets of the seller (or all or substantially all of the assets of a business, division, or enterprise (or regional portion thereof) of the seller), (b) a majority of the Equity Interests of any Person including by way of merger, amalgamation, or consolidation, or (c) any Equity Interests in any Subsidiary which serves to increase the Restricted Entity's equity ownership therein.

"Adjusted Base Rate" means, for any day, the fluctuating rate per annum of interest equal to the greatest of (i) the Prime Rate in effect on such day, (ii) the Federal Funds Rate in effect on such day plus ½ of 1.00% and (iii) a rate determined by Administrative Agent to be the Daily Three-Month LIBOR plus 1.00%. Any change in the Adjusted Base Rate due to a change in the

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Prime Rate, Daily Three-Month LIBOR or the Federal Funds Rate shall be effective on the effective date of such change in the Prime Rate, Daily Three-Month LIBOR or the Federal Funds Rate.

"Administrative Agent" means Wells Fargo in its capacity as agent for the Lenders and the other Secured Parties pursuant to Article VIII and any successor agent pursuant to Section 8.

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

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

"Advance" means an advance by a Lender to Borrower as a part of a Borrowing pursuant to Section 2.1(a) and refers to either a Base Rate Advance or a Eurocurrency Advance.

"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.

"Anti-Corruption Laws" means the FCPA, the U.K. Bribery Act of 2010, as amended, and all other applicable laws and regulations or ordinances concerning or relating to bribery, money laundering or corruption in any jurisdiction in which Ultimate Parent or any of its Subsidiaries or Affiliates is located or is doing business.

"Anti-Money Laundering Laws" means the applicable laws or regulations in any jurisdiction in which Ultimate Parent, any Credit Party or any of its Subsidiaries or Affiliates is located or is doing business that relates to money laundering, any predicate crime to money laundering, or any financial record keeping and reporting requirements related thereto.

"Applicable Margin" means, at any time with respect to each Type of Advance and the Letters of Credit, the percentage rate per annum which is applicable at such time with respect to such Advance or Letter of Credit as set forth in Schedule I.

"Applicable Percentage" means with respect to any Lender, (i) the ratio (expressed as a percentage) of such Lender's Commitment at such time to the aggregate Commitments of the Lenders at such time or (ii) if the Commitments have been terminated or expired, the ratio (expressed as a percentage) of such Lender's aggregate outstanding Advances at such time to the total outstanding Advances at such time.

"Applicable Unused Line Fee Percentage" means, as of any date of determination, the applicable percentage set forth in the following table that corresponds to the Average Revolver Usage of Borrower for the most recently completed calendar month as determined by Administrative Agent in its Permitted Discretion; provided, that for the period from the Effective Date through and including March 31, 2018, the Applicable Unused Line Fee Percentage shall be set at the rate in the row styled "Level II":

Level	Average Revolver Usage	Applicable Unused Line Fee Percentage
I	≥ 50% of the Commitments	0.25 percentage points
II	< 50% of the Commitments	0.375 percentage points

The Applicable Unused Line Fee Percentage shall be re-determined on the first date of each month by Administrative Agent.

"Assignment and Acceptance" means an Assignment and Acceptance executed by a Lender and an Eligible Assignee and accepted by Administrative Agent, in substantially the form set forth in Exhibit A.

"Assumed Tax Liability" has the meaning set forth in the definition of Permitted Tax Distributions.

"Available Increase Amount" means, as of any date of determination, an amount equal to the result of (a) $150,000,000, minus (b) the aggregate principal amount of Increases to the Commitments previously made pursuant to Section 2.19 of this Agreement.

"Availability" means an amount equal to (a) the Borrowing Limit in effect at such time minus (b) the Outstandings.

"Average Revolver Usage" means, with respect to any period, the sum of the Outstandings for each day in such period (calculated as of the end of each respective day) divided by the number of days in such period.

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

"Bail-In Legislation" means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

"Banking Services" means each and any of the following bank services provided to any Credit Party or any of its Wholly-Owned Subsidiaries by any Banking Services Provider: (a) commercial credit cards, (b) stored value cards, (c) treasury management services (including, without limitation, controlled disbursement, pooling and netting arrangements, automated clearinghouse transactions, electronic funds transfers, return items, overdrafts and interstate depository network services) and (d) transactions under Hedging Agreements.

"Banking Services Agreement" means those agreements entered into from time to time by any Credit Party or any of its Wholly-Owned Subsidiaries with a Banking Services Provider in connection with the obtaining of any of the Banking Services.

"Banking Services Obligations" means any and all obligations of any Credit Party or any of its Wholly-Owned Subsidiaries owing to the Banking Services Providers whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor) in connection with Banking Services, including, without limitation, (a) all obligations, liabilities, reimbursement obligations, fees, or expenses owing by each Credit Party and its Wholly-Owned Subsidiaries to any Banking Services Provider pursuant to or evidenced by a Banking Services Agreement and irrespective of whether for the payment of money, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, (b) all Swap Obligations, and (c) all amounts that Administrative Agent or any Lender is obligated to pay to a Banking Services Provider as a result of Administrative Agent or such Lender purchasing participations from, or executing guarantees or indemnities or reimbursement obligations to, a Banking Services Provider with respect to the Banking Services provided by such Banking Services Provider to a Credit Party or any of its Wholly-Owned Subsidiaries.

"Banking Services Provider" means any Lender or Affiliate of a Lender (including each of the foregoing in its capacity, if applicable, as a Swap Counterparty) that provides Banking Services to any Credit Party or any of its Wholly-Owned Subsidiaries; provided, that no such Person (other than Wells Fargo or its Affiliates) shall constitute a Banking Services Provider with respect to a Banking Service unless and until Administrative Agent receives a Banking Services Provider Agreement from such Person (a) on or prior to the Effective Date (or such later date as Agent shall agree to in writing in its sole discretion) with respect to Banking Services provided on or prior to the Effective Date, or (b) on or prior to the date that is 10 days after the provision of such Banking Service to a Credit Party or any of its Wholly-Owned Subsidiaries (or such later date as Administrative Agent shall agree to in writing in its sole discretion) with respect to Banking Services provided after the Effective Date; provided further, that if, at any time, a Lender ceases to be a Lender under this Agreement (prior to the payment in full of the Secured Obligations), then, from and after the date on which it so ceases to be a Lender thereunder, neither it nor any of its Affiliates shall constitute Banking Services Providers and the obligations with respect to Banking Services provided by such former Lender or any of its Affiliates shall no longer constitute Banking Services Obligations.

"Banking Services Provider Agreement" means an agreement substantially in the form of Exhibit H hereto, and otherwise in form and substance satisfactory to Administrative Agent, duly executed by the applicable Banking Services Provider, the applicable Credit Parties and Wholly-Owned Subsidiaries, and Administrative Agent.

"Banking Services Reserves" means, as of any date of determination, those reserves that Administrative Agent deems necessary or appropriate to establish (based upon the Banking Services Providers' determination of the liabilities and obligations of each Credit Party and its Subsidiaries in respect of Banking Services Obligations) in respect of Banking Services then provided or outstanding.

"Base Rate Advance" means an Advance that bears interest as provided in Section 2.10(a).

"Borrower" has the meaning set forth in the preamble.

"Borrowing" means a borrowing consisting of simultaneous Advances of the same Type made by the Lenders pursuant to Section 2.1(a) or converted by each Lender to Advances of a different Type pursuant to Section 2.6(b).

"Borrowing Base" means, without duplication and as of any date of determination, the result of:

(a) 85% of the amount of Eligible Billed Receivables, plus

(b) the lesser of (i) 75% of the amount of Eligible Unbilled Receivables; and (ii) an amount equal to 35% of the Borrowing Base (calculated without giving effect to this clause (b)(ii) or clause (c)(iii) below), plus

(c) the least of (i) the product of 70% multiplied by the value (calculated at the lower of cost or market on a basis consistent with Borrower's historical accounting practices) of Eligible Inventory at such time, (ii) the product of 85% multiplied by the Net Recovery Percentage identified in the most recent Acceptable Appraisal of Inventory, multiplied by the value (calculated at the lower of cost or market on a basis consistent with Borrower's historical accounting practices) of Eligible Inventory (such determination may be made as to different categories of Eligible Inventory based upon the Net Recovery Percentage applicable to such categories) at such time; and (iii) an amount equal to 30% of the Borrowing Base (calculated without giving effect to this clause (c)(iii) or clause (b)(ii) above), minus

(d) the aggregate amount of Reserves relating to Credit Parties, if any, established by Administrative Agent under Section 2.1(c) of the Agreement, including, without limitation the amount, if any, of the Dilution Reserve.

"Borrowing Base Certificate" means a certificate executed by any Responsible Officer of the Borrower in the form of the attached hereto as Exhibit G which calculates the Borrowing Base and includes the following: (a) accounts receivable and accounts payable aging reports for each Credit Party including grand totals, (b) inventory report (including aging details) for Credit Parties, and (c) all other information as reasonably requested by Administrative Agent.

"Borrowing Limit" means the lesser of the aggregate Commitments and the Borrowing Base.

"Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Legal Requirements of, or are in fact closed in, the jurisdiction where Administrative Agent's Office is located and if such day relates to any interest rate settings as to a Eurocurrency Advance denominated in Dollars, any fundings, disbursements, settlements and payments in Dollars in respect of any such Eurocurrency Advance, or any other dealings in Dollars to be carried out pursuant to this Agreement in respect of any such Eurocurrency Advance, means any such day on which dealings in deposits in Dollars are conducted by and between banks in the London interbank eurodollar market.

"Capital Expenditures" means, for any Person and period of its determination, without duplication, the aggregate of all expenditures and costs (whether paid in cash or accrued as liabilities during that period and including that portion of payments under Capital Leases that are

capitalized on the balance sheet of such Person) of such Person during such period that, in conformity with GAAP, are required to be included in or reflected as property, plant, equipment or other similar fixed asset accounts on the balance sheet of such Person, but excluding any such expenditure made to restore, replace or rebuild Property to the condition of such Property immediately prior to any damage, loss, destruction or condemnation of such Property, to the extent such expenditure is made with insurance proceeds, condemnation awards or damage recovery proceeds relating to any such damage, loss, destruction or condemnation.

"Capital Leases" means, for any Person, any lease of any Property by such Person as lessee which would, in accordance with GAAP, be required to be classified and accounted for as a capital lease on the balance sheet of such Person.

"Cash Collateral" shall have a meaning correlative to the definition of Cash Collateralize and shall include the proceeds of such cash collateral and other credit support.

"Cash Collateral Account" means a special cash collateral account pledged to Administrative Agent containing cash deposited pursuant to the terms hereof to be maintained with Administrative Agent in accordance with the terms hereof.

"Cash Collateralize" means, to pledge and deposit with or deliver to Administrative Agent, for the benefit of one or more of the Issuing Lender, Lenders or the Swingline Lender, as collateral for Secured Obligations, or the obligations of Lenders to fund participations in respect of Letter of Credit Obligations or Swingline Advances, cash or deposit account balances or, if Administrative Agent, Issuing Lender and Swingline Lender shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance reasonably satisfactory to Administrative Agent, Issuing Lender and Swingline Lender.

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, analogous state and local laws, and all rules and regulations and legally enforceable requirements promulgated thereunder, in each case as now or hereafter in effect.

"CFC" means a controlled foreign corporation (as that term is defined in the Code) in which Ultimate Parent or any Subsidiary thereof is a "United States shareholder" within the meaning of Section 951(b) of the Code.

"Change in Control" means the occurrence of any of the following events:

(a) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) other than Crestview and its Investment Affiliates, B-29 Investments, L.P., a Texas limited partnership, and its Investment Affiliates, SCF Partners, L.P., a Delaware limited partnership, and its Investment Affiliates, and John Schmitz become the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person or group shall be deemed to have "beneficial ownership" of all securities that such person or group has the right to acquire (such right, an "option right"), whether such right is exercisable immediately or only after the passage of time), directly or

indirectly, of 33% or more of the equity securities of Ultimate Parent or Parent entitled to vote for members of the board of directors or equivalent governing body of Ultimate Parent or Parent, as applicable, on a fully-diluted basis (and taking into account all such securities that such person or group has the right to acquire pursuant to any option right);

(b) during any period of 12 consecutive months, a majority of the members of the board of directors or other equivalent governing body of Ultimate Parent cease to be composed of Persons (x) who were members of that board or equivalent governing body on the first day of such period, (y) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (x) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (z) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (x) and (y) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body;

(c) Ultimate Parent ceases to (x) be the managing member of Parent or (y) have, in its capacity as managing member of Parent, the power to exercise control over and direct the management policies and decisions of Parent; or

(d) Parent ceases to own and control, directly or indirectly, 100% of the Equity Interests of each other Credit Party.

"Change in Law" means the occurrence, after the date of this Agreement (or with respect to any Lender, if later, the date on which such Lender becomes a Lender), 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, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

"Class" has the meaning set forth in Section 1.4.

"Code" means the Internal Revenue Code of 1986, as amended.

"Collateral" means all "Collateral" or similar terms used in the Security Documents. The Collateral shall not include any Excluded Properties.

"Collateral Access Agreement" means a landlord lien waiver or subordination agreement, bailee letter or any other agreement, in any case, in form and substance reasonably acceptable to Administrative Agent and executed by the parties thereto.

"Commitment" means, for each Lender, the obligation of such Lender to advance to Borrower the amount set opposite such Lender's name on Schedule I as its Commitment, or if such Lender has entered into any Assignment and Acceptance, set forth for such Lender as its Commitment in the applicable Register, as such amount (a) may be reduced from time to time pursuant to Section 2.1 or (b) increased from time to time pursuant to Section 2.19; provided that, (i) after the Maturity Date, the Commitment for each Lender shall be zero and (ii) the aggregate amount of the Commitments on the Effective Date is $300,000,000.

"Commitment Letter" means that certain Commitment Letter up to $300 Million Senior Secured Credit Facility, dated as of July 18, 2017, by and between Select Energy Services, LLC and Wells Fargo.

"Commodity Exchange Act" means the Commodity Exchange Act (7 U.S.C. Section 1 et seq.), as amended from time to time, and any successor statute.

"Compliance Certificate" means a compliance certificate executed by a Responsible Officer of Borrower or such other Person as required by this Agreement in substantially the same form as Exhibit B.

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

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership, by contract, or otherwise, and the terms "Controlled by" or "under common Control with" shall have the correlative meanings.

"Controlled Group" means all members of a controlled group of corporations and all businesses (whether or not incorporated) under common control which, together with Parent or any Subsidiary (as applicable), are treated as a single employer under Section 414 of the Code.

"Consolidated Group" means any affiliated group within the meaning of Section 1504 of the Code electing to file consolidated federal income tax returns.

"Covenant Testing Period" means a period (a) commencing on the last day of the fiscal quarter of Borrower most recently ended prior to a Covenant Trigger Event for which Borrower is required to deliver to Administrative Agent quarterly or annual financial statements pursuant to Section 5.2 of this Agreement, and (b) continuing through and including the first day after such Covenant Trigger Event that Availability has equaled or exceeded the greater of (i) 10% of the Borrowing Limit, and (ii) $15,000,000 for 60 consecutive calendar days.

"Covenant Trigger Event" means if at any time Availability is less than the greater of (i) 10% of the Borrowing Limit, and (ii) $15,000,000.

"Credit Documents" means this Agreement, the Notes, the Letter of Credit Documents, any guaranties, the Notices of Borrowing, the Notices of Conversion, the Security Documents, the Fee Letter, the Intercompany Subordination Agreement, each Borrowing Base Certificate and

each other agreement, instrument, or document executed by a Credit Party or any Subsidiary of a Credit Party at any time in connection with this Agreement.

"Credit Extension" means an Advance or a Letter of Credit Extension.

"Credit Parties" means the Borrower and the Guarantors.

"Crescent Acquisition" means that acquisition by Rockwater Energy Services, LLC of all of the issued and outstanding equity interests of Crescent Companies, LLC, a Delaware limited liability company, pursuant to that certain Contribution Agreement dated March 28, 2017, by and among Rockwater Energy Services, LLC, WDC Aggregate LLC and the other contributors party thereto, as amended, restated, supplemented or otherwise modified from time to time.

"Crestview" means Crestview Partners II, L.P., a Delaware limited partnership.

"Daily Three-Month LIBOR" means, for any day, the rate of interest equal to the Eurocurrency Rate for Dollar denominated funds then in effect for delivery for a three (3) month period.

"Debt" means, for any Person, without duplication: (a) indebtedness of such Person for borrowed money; (b) to the extent not covered under clause (a) above, obligations under letters of credit and agreements relating to the issuance of letters of credit, bankers' acceptances, bank guaranties, surety bonds and similar instruments; (c) obligations of such Person evidenced by bonds, debentures, notes or other similar instruments; (d) obligations of such Person under conditional sale or other title retention agreements relating to any Properties purchased by such Person (other than customary reservations or retentions of title under agreements with suppliers entered into in the ordinary course of business); (e) obligations of such Person to pay the deferred purchase price of property or services (including, without limitation, any earn-out obligations, contingent obligations, or other similar obligations associated with such purchase but excluding any such obligations to make payments in the form of Equity Interests of Parent or Ultimate Parent that does not otherwise constitute Debt) but excluding trade accounts payable in the ordinary course of business and, in each case, either not past due for more than 90 days after the date on which such trade account payable was created or being contested in good faith and for which adequate reserves have been made in accordance with GAAP; (f) obligations of such Person as lessee under Capital Leases and obligations of such Person in respect of synthetic leases; (g) obligations of such Person under any Hedging Arrangement; (h) all obligations of such Person to mandatorily purchase, redeem, retire, defease or otherwise make any payment in respect of any Equity Interest in such Person or any other Person on a date certain or upon the occurrence of certain events or conditions, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends (which obligations, for the avoidance of doubt, do not include any obligation to issue Equity Interests which itself does not constitute Debt), excluding the obligation to buyback Equity Interests held by any present or former employee in connection with any severance agreement with such Person; (i) the Debt of any partnership or unincorporated joint venture in which such Person is a general partner or a joint venturer, but only to the extent to which there is recourse to such Person for the payment of such Debt; (j) obligations of such Person under direct or indirect guaranties in respect of, and obligations (contingent or otherwise) of such Person to

purchase or otherwise acquire, or otherwise to assure a creditor against loss in respect of, indebtedness or obligations of others of the kinds referred to in clauses (a) through (i) above; and (k) indebtedness or obligations of others of the kinds referred to in clauses (a) through (j) secured by any Lien on or in respect of any Property of such Person, but if recourse is only to such Property, then only to the extent of the lesser of the amount of the Debt secured thereby and the fair market value of the Property subject to such Lien. The parties hereto hereby acknowledge and agree that a guaranty provided by a Person does not constitute Debt of such Person unless the underlying obligations being guaranteed by such Person constitute Debt.

"Debtor Relief Laws" means the Bankruptcy Code of the United States and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally, including corporate statutes where such statute is used by a Person to propose an arrangement involving the compromise of the claims of creditors, and any law of any jurisdiction permitting a debtor to obtain a stay or a compromise of the claims of its creditors against it.

"Default" means (a) an Event of Default or (b) any event or condition which with notice or lapse of time or both would, unless cured or waived, become an Event of Default.

"Default Rate" means a per annum rate equal to (a) in the case of principal of any Advance, 2.00% plus the rate otherwise applicable to such Advance as provided in Section 2.10(a), (b), or (c), and (b) in the case of any other Obligation, 2.00% plus the non-default rate applicable to Base Rate Advances as provided in Section 2.10(a).

"Defaulting Lender" means any Lender that (a) has failed to (i) fund all or any portion of its Advances within two Business Days of the date such Advances were required to be funded hereunder unless such Lender notifies Administrative Agent and Borrower in writing that such failure is the result of such Lender's good faith determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to Administrative Agent, Issuing Lender, Swingline Lender or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or Swingline Advances) within two Business Days of the date when due, (b) has notified Borrower, Administrative Agent or Issuing Lender or Swingline Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund an Advance hereunder and states that such position is based on such Lender's good faith determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by Administrative Agent or Borrower, to confirm in writing to Administrative Agent and Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by Administrative Agent and Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver,

custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity, or (iii) become the subject of a Bail-In Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender upon delivery of written notice of such determination to Borrower, each Issuing Lender, each Swingline Lender and each Lender under the applicable Facility.

"Deficiency" means, at any time, the excess, if any, of the Outstandings over the then Borrowing Limit.

"Deposit Account" means any deposit account (as that term is defined in the UCC).

"Dilution" means, as of any date of determination, a percentage, based upon the experience of the immediately prior twelve months, that is the result of dividing the Dollar amount of (a) bad debt write-downs, discounts, advertising allowances, credits, or other dilutive items with respect to Credit Parties' Receivables during such period, by (b) Credit Parties' billings with respect to Receivables during such period.

"Dilution Reserve" means, as of any date of determination, an amount sufficient to reduce the advance rate against Eligible Receivables by the extent to which Dilution is in excess of 5%.

"Disposition" means any sale, lease, transfer, assignment, conveyance, or other disposition of any Property; "Dispose" or similar terms shall have correlative meanings.

"Dollars" and "$" means lawful money of the United States.

"Domestic Subsidiary" means any Subsidiary that is organized under the laws of the United States or any state thereof or the District of Columbia.

"EBITDA" means, for any period, without duplication, the amount equal to:

(a) Parent's consolidated Net Income for such period plus

(b) to the extent deducted in determining such consolidated Net Income for such period, Interest Expense, Taxes (and Permitted Tax Distributions), depreciation, amortization, depletion, and other non-cash charges for such period (including any non-cash charges resulting from option or similar equity grants and including any provision for the reduction in the carrying value of assets recorded in accordance with GAAP and including non-cash charges resulting from the requirements of ASC 410, 718 and 815) for such period plus

(c) to the extent deducted in determining such consolidated Net Income for such period, any cash charges or other expenses and during the period from the Effective Date through and including November 1, 2019, non-recurring consolidation and integration costs in an aggregate amount not to exceed $10,000,000, in each case, incurred in connection with the Transactions during such period plus

(d) to the extent deducted in determining such consolidated Net Income for such period, any cash charges or other expenses incurred in connection with financing activities under the Existing Rockwater Credit Agreement and the Existing Select Credit Facility prior to the Effective Date, whether or not consummated; plus

(e) to the extent deducted in determining such consolidated Net Income for such period, any non-recurring cash charges and expenses incurred during the period from the Effective Date through and including November 1, 2019 in connection with the Crescent Acquisition or the Required Divestiture (as defined in the Effective Date Merger Agreement as in effect on the Effective Date) in an aggregate amount not to exceed $3,000,000; plus

(f) to the extent deducted in determining such consolidated Net Income for such period, any non-recurring cash charges and expenses incurred during such period in connection with Nonordinary Course Asset Sales and subject to the cap in the proviso at the end of this definition; plus

(g) to the extent deducted in determining such consolidated Net Income for such period, (i) in an aggregate amount not to exceed $3,000,000 with respect to any individual Permitted Acquisition and incurred during the 24-month period following the closing of the applicable Permitted Acquisition, reasonable non-recurring cash charges and expenses incurred in connection with Permitted Acquisitions during such period (including excess compensation of prior officers of the acquired Person) and consolidation and integration costs and (ii) transaction fees and expenses incurred in connection with Permitted Acquisitions during such period; plus

(h) to the extent deducted in determining such consolidated Net Income for such period, the non-recurring costs and expenses incurred in connection with the Rule 144A Offering and the initial public offering of Equity Interests by Ultimate Parent; plus

(i) to the extent deducted in determining such consolidated Net Income for such period, restructuring and other non-recurring expenses incurred during such period, including severance costs, costs associated with office, plant or facility openings or closings and consolidation or relocation costs and fees for such period subject to the cap in the proviso at the end of this definition; minus

(j) all non-cash items of income which were included in determining such consolidated Net Income (including non-cash income resulting from the requirements of ASC 410, 718 and 815);

provided, that (i) such EBITDA shall be subject to pro forma adjustments for Acquisitions and Nonordinary Course Asset Sales assuming that such transactions had occurred on the first day of the determination period, which adjustments shall be made in accordance with the guidelines for pro forma presentations set forth by the SEC or in a manner otherwise reasonably acceptable to

Administrative Agent; (ii) notwithstanding anything herein to the contrary, for purposes of calculating EBITDA, EBITDA attributable to any Foreign Subsidiary, Unrestricted Subsidiary or any other Person that is not a Credit Party during such period, shall be disregarded to the extent such amount exceeds 10% of EBITDA of the Credit Parties during such period, and (iii) for purposes of calculating EBITDA the aggregate amount of charges and expenses which are added back pursuant to clauses (f) and (i) above shall not exceed an amount equal to the greater of (x) $10,000,000 for such four fiscal quarter period and (y) fifteen percent (15%) of EBITDA (without giving effect to clauses (f) and (i) above) for such four fiscal quarter period; provided further that, notwithstanding the foregoing, EBITDA for each period set forth below shall be the amount set forth opposite such period:

Quarter ended	EBITDA
September 30, 2016	$ 6,741,835
December 31, 2016	$ 12,016,171
March 31, 2017	$ 17,057,695
June 30, 2017	$ 44,903,912

"EEA Financial Institution" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial

institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent; "EEA Member Country" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

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

"Effective Date" means the date of this Agreement.

"Effective Date Merger" means, collectively, the "Mergers" as such term is defined in the Effective Date Merger Agreement.

"Effective Date Merger Agreement" means that certain Agreement and Plan of Merger dated as of July 18, 2017 by and among Select Energy Services, Inc., Raptor Merger Sub, Inc., SES Holdings, LLC, Raptor Merger Sub, LLC, Rockwater Energy Solutions, Inc. and Rockwater Energy Solutions, LLC.

"Effective Date Merger Documents" means the Effective Date Merger Agreement and all other documents related thereto and executed in connection therewith.

"Eligible Assignee" means (a) a Lender (other than a Defaulting Lender); (b) an Affiliate of a Lender (other than a Defaulting Lender); and (c) any other Person approved by (i)

Administrative Agent, the Issuing Lender and the Swingline Lender and (ii) unless an Event of Default has occurred and is continuing at the time any assignment is effected, Borrower (such approval not to be unreasonably withheld) ; provided, however, that (x) neither Borrower nor an Affiliate of Borrower nor any natural person shall qualify as an Eligible Assignee, and (y) Borrower shall be deemed to have given its consent five (5) Business Days after the date written notice thereof has been delivered to Borrower by the assigning Lender (through Administrative Agent) unless such consent is expressly refused by Borrower prior to such fifth (5th) Business Day.

"Eligible Billed Receivables" means, as to Credit Parties, on a consolidated basis and without duplication, all Receivables of such Persons, in each case reflected on its books in accordance with GAAP which conform to the representations and warranties in Article IV hereof and in the Security Documents to the extent such provisions are applicable to the Receivables, and each of which meets all of the following criteria on the date of any determination:

(a) such Receivable is subject to an Acceptable Security Interest in favor of Administrative Agent;

(b) such Credit Party has good and marketable title to such Receivable;

(c) such Receivable has been billed substantially in accordance with billing practices of such Credit Party in effect on the Effective Date and such Receivable is not unpaid for more than (i) 90 days (or, with respect to Eligible Billed Receivables that do not constitute more than 10% of the Borrowing Base, 120 days) from the date of the invoice or (ii) 60 days past the due date;

(d) such Receivable was created in the ordinary course of business of any Credit Party from the performance by such Credit Party of services which have been fully and satisfactorily performed (and not a progress billing or contingent upon any further performance), rental of goods or from the absolute sale on open account (and not on consignment, on approval or on a "sale or return" basis) by such Credit Party of goods (i) in which such Credit Party had sole and complete ownership and (ii) which have been shipped or delivered to the Account Debtor;

(e) such Receivable represents a legal, valid and binding payment obligation of the Account Debtor thereof enforceable in accordance with its terms;

(f) such Receivable is not due from an Account Debtor that has more than 50% of its aggregate Receivables owed to any Credit Party more than 90 days past the invoice date;

(g) such Receivable is owed by an Account Debtor that any Credit Party deems to be creditworthy and is not owed by an Account Debtor which has (i) applied for, suffered, or consented to the appointment of any receiver, custodian, trustee, or liquidator of its assets, (ii) has had possession of all or a material part of its property taken by any receiver, custodian, trustee or liquidator, (iii) filed, or had filed against it, any request or petition for liquidation, reorganization, arrangement, adjustment of debts, adjudication as bankrupt, winding-up, or voluntary or involuntary case under any Debtor Relief Laws, (iv) has admitted in writing

its inability to, or is generally unable to, pay its debts as they become due, (v) become insolvent, or (vi) ceased operation of its business;

(h) the Account Debtor on such Receivable is not a Credit Party, an Affiliate of a Credit Party, nor a director, officer or employee of a Credit Party or of an Affiliate of Credit Party (other than with respect to a portfolio company of Crestview and its Investment Affiliates, B-29 Investments, L.P., a Texas limited partnership, and its Investment Affiliates, SCF Partners, L.P., a Delaware limited partnership, and its Investment Affiliates, in each case who owes such Receivable pursuant to a sale made between such Account Debtor and a Credit Party on an arm's-length basis, for fair market value, and in the ordinary course of business (such Account Debtors, "Affiliate Account Debtors"); provided, that in no event shall more than $2,000,000 in the aggregate of Eligible Accounts (whether Eligible Billed Receivables or Eligible Unbilled Receivables) be predicated on Receivables owed by Affiliate Account Debtors;

(i) such Receivable is evidenced by an invoice and not evidenced by any chattel paper, promissory note or other instrument;

(j) (i) such Receivable, together with all other Receivables due from the same Account Debtor (other than an Account Debtor described in clause (ii) below) does not comprise more than 25% of the aggregate Receivables of all Credit Parties with respect to all such Account Debtors or (ii) in the case of Account Debtors whose securities (or such Account Debtor's parent company's securities) are rated BBB or better by S&P or Baa3 or better by Moody's, such Receivable, together with all other Receivables due from the same Account Debtor, do not comprise more than 30% of the aggregate Receivables of all Credit Parties with respect to all such Account Debtors (provided, however, that the amount of any such Receivable excluded pursuant to this clause (j) shall only be the excess of such amount);

(k) such Receivable is not subject to any dispute, set-off, counterclaim, defense, allowance or adjustment or a claim for any such dispute, set-off, counterclaim, defense, allowance or adjustment by the Account Debtor thereof (provided, however, that the amount of any such Receivable excluded pursuant to this clause (k) shall only be the amount of such dispute, set-off, counterclaim, defense, allowance or adjustment or claimed dispute, set-off, counterclaim, defense, allowance or adjustment);

(l) such Receivable is owed in Dollars and is due from an Account Debtor organized under applicable law of the United States or any state of the United States;

(m) such Receivable is not due from the United States government, or any department, agency, public corporation, or instrumentality thereof, unless the Federal Assignment of Claims Act of 1940, as amended (31 U.S.C. § 3727 et seq. and 41 U.S.C. § 15 et seq.), and any other steps necessary to perfect the Lien of Administrative Agent in such Receivable has been complied with to Administrative Agent's satisfaction;

(n) such Receivable is not owed by an Account Debtor that is a Sanctioned Person or a Sanctioned Entity;

(o) such Receivable is not the result of (i) work-in-progress or otherwise represents the right to receive progress payments or other advance billings that are due prior to

the completion of performance of the subject contract for goods or services, (ii) finance or service charges, or (iii) payments of interest;

(p) such Receivable has not been written off the books of any Credit Party or otherwise designated as uncollectible by any Credit Party;

(q) such Receivable is not subject to any reduction thereof, other than discounts and adjustments given in the ordinary course of business and deducted from such Receivable;

(r) such Receivable is not a newly created Receivable resulting from the unpaid portion or credit balance of a partially paid Receivable;

(s) such Receivable is not subject to any third party's rights (including Permitted Liens other than Liens permitted under Section 6.2(d) for taxes that are not yet due and payable) which would be superior to the Lien of Administrative Agent created under the Credit Documents; and

(t) such Receivable is not otherwise deemed ineligible by Administrative Agent in its Permitted Discretion.

In the event that a Receivable which was previously a Eligible Billed Receivable ceases to be an Eligible Billed Receivable hereunder, Borrower shall notify Administrative Agent thereof on and at the time of submission to Administrative Agent of the next Borrowing Base Certificate. In determining the amount of an Eligible Billed Receivable, the face amount of such Receivable shall be reduced by, without duplication, to the extent not reflected in such face amount, (i) the amount of all accrued and actual discounts, claims, credits or credits pending, promotional program allowances, price adjustments, finance charges or other allowances, payables or obligations to the Account Debtor (including any amount that any Credit Party may be obligated to rebate to an Account Debtor pursuant to the terms of any agreement or understanding (written or oral)), (ii) all taxes, duties or other governmental charges included in such Receivable, and (iii) the aggregate amount of all cash received in respect of such Receivable but not yet applied by any Credit Party to reduce the amount of such Receivable.

Notwithstanding the foregoing, Administrative Agent may, from time to time, in the exercise of its Permitted Discretion, change the criteria for Eligible Billed Receivables based on either: (A) an event, condition or other circumstance arising after the Effective Date or (B) an event, condition or other circumstance existing on the Effective Date to the extent Administrative Agent has no written notice thereof from any Credit Party prior to the Effective Date or is not otherwise reflected in any appraisals, field exams, reports or other similar written information received by Administrative Agent in connection with this Agreement prior to the Effective Date, in either case under clause (A) or (B) which adversely affects (other than in *a de minimis* manner) or could reasonably be expected to adversely affect (other than in *a de minimis* manner), the Receivables as determined by Administrative Agent in its Permitted Discretion. If any Receivable is deemed ineligible solely as a result of clause (t) above or as a result of a change in criteria permitted in the previous sentence, then Administrative Agent shall notify Borrower of such ineligibility or such change in criteria.

"Eligible Inventory" means with respect to any Credit Party, Inventory that is of a type customarily held as Inventory in the respective Credit Party's business, and held for sale or Disposition in the ordinary course of such Credit Party's business, but specifically excluding Inventory which meets any of the following conditions or descriptions:

(a) Inventory in which Administrative Agent does not have an Acceptable Security Interest;

(b) Inventory with respect to which a claim exists disputing the applicable Credit Party's title to or right to possession;

(c) obsolete or slow moving Inventory for which a reserve has been booked by the applicable Credit Party in accordance with GAAP;

(d) rejected, spoiled or damaged Inventory, or otherwise not readily saleable or usable in its present state for the use for which it was processed or purchased;

(e) Inventory that has been shipped or delivered to a customer on consignment, on a sale or return basis, or on the basis of any similar understanding;

(f) Inventory which is in transit (provided that, "in transit" shall be deemed not to include any situation or circumstance where each of the following conditions are met: (i) the Inventory is "in transit" between Credit Parties and (ii) a Credit Party retains title to such Inventory);

(g) Inventory held for lease;

(h) Inventory (i) stored at locations holding less than $250,000 of the aggregate value of Inventory, (ii) which is located on premises owned or operated by the customer that is to purchase such Inventory or (iii) which is located at any Third Party Location that is not subject to a Collateral Access Agreement other than, as to any determination of the Borrowing Base, such premises described in this clause (h)(iii) which are covered under a Reserve in Administrative Agent's Permitted Discretion;

(i) Inventory that does not comply with any Legal Requirement or the standards imposed by any Governmental Authority having authority over such Inventory or such applicable Credit Party with respect to its manufacture, use, or sale;

(j) Inventory that is bill and hold goods or deferred shipment;

(k) Inventory evidenced by any negotiable document of title unless such document of title has been delivered to Administrative Agent, duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance satisfactory to Administrative Agent;

(l) Inventory produced in violation of the Fair Labor Standards Act or that is subject to the "hot goods" provisions contained in Title 29 U.S.C. §215;

(m) Inventory that is subject to any agreement which would, in any material respect, restrict Administrative Agent's ability to sell or otherwise dispose of such Inventory;

(n) Inventory that is located in a jurisdiction outside the United States, any state thereof or any territory or possession of the United States that has not adopted Article 9 of the UCC;

(o) Inventory that is subject to any third party's Lien (including Permitted Liens) which would be superior to the Lien of Administrative Agent created under the Credit Documents (other than Liens permitted under Section 6.2(b) which are covered under a Reserve in Administrative Agent's Permitted Discretion and Liens permitted under Section 6.2(d) for taxes that are not yet due and payable);

(p) Inventory that would constitute work in process (which, for the avoidance of doubt, shall not exclude as ineligible chemical substances that may be blended into solutions);

(q) Inventory that would constitute a custom or specialty blend for a specific customer which cannot be sold to any other customer without requiring additional processing in any material respect; or

(r) Inventory that is otherwise deemed ineligible by Administrative Agent in its Permitted Discretion.

Inventory which is at any time Eligible Inventory but which subsequently fails to meet any of the foregoing requirements shall forthwith cease to be Eligible Inventory at the time of submission of the next Borrowing Base Certificate until such time as the foregoing requirements are met with respect to such Inventory. Notwithstanding the foregoing, Administrative Agent may, from time to time, change the criteria for Eligible Inventory based on either: (i) an event, condition or other circumstance arising after the Effective Date, or (ii) an event, condition or other circumstance existing on the Effective Date to the extent Administrative Agent has no written notice thereof from any Credit Party prior to the Effective Date or is not otherwise reflected in any appraisals, field exams, reports or other similar written information received by Administrative Agent in connection with this Agreement prior to the Effective Date, in either case under clause (i) or (ii) which adversely affects (other than in a *de minimis* manner) or, could reasonably be expected to adversely affect (other than in a *de minimis* manner), the Inventory, as determined by Administrative Agent in its Permitted Discretion. If any Inventory is deemed ineligible solely as a result of clause (r) above or as a result of a change in criteria permitted in the previous sentence, then Administrative Agent shall notify Borrower of such ineligibility or such change in criteria.

"Eligible Receivables" means collectively Eligible Billed Receivables and Eligible Unbilled Receivables.

"Eligible Unbilled Receivables" means Receivables of a Credit Party arising from the shipment of goods or the provision of services that qualify as Eligible Billed Receivables except that such Receivables have not yet been billed to the applicable Account Debtor; provided that a Receivable shall cease to be an Eligible Unbilled Receivable upon the earlier of (i) the date such Receivable is billed to the applicable Account Debtor and (ii) 45 days after the goods giving rise

to such Receivable have been shipped to the applicable Account Debtor or the service has been performed. In determining the amount to be included, Eligible Unbilled Receivables shall be calculated net of customer deposits and unapplied cash.

"Employee Benefit Plan" means an "employee benefit plan" within the meaning of Section 3(3) of ERISA which any Credit Party establishes for the benefit of its employees or for which any Credit Party has liability to make a contribution, including by reason of being a member of a Controlled Group, other than a Multiemployer Plan.

"Environment" or "Environmental" shall have the meanings set forth in 42 U.S.C. 9601(8) (1988).

"Environmental Claim" means any third party (including any Governmental Authority) action, lawsuit, claim, demand, regulatory action or proceeding, order, decree, consent agreement or written notice of potential or actual responsibility or violation which seeks to impose liability under any Environmental Law.

"Environmental Law" means all federal, state, and local laws, rules, regulations, ordinances, orders, decisions, enforceable agreements, and other Legal Requirements, including duties imposed under common law, now or hereafter in effect and relating to, or in connection with the Environment, including without limitation CERCLA, relating to (a) pollution, contamination, injury, destruction, loss, protection, cleanup, reclamation or restoration of the air, surface water, groundwater, land surface or subsurface strata, or other natural resources; (b) solid, gaseous or liquid waste generation, treatment, processing, recycling, reclamation, cleanup, storage, disposal or transportation; (c) exposure to pollutants, contaminants, hazardous, or toxic substances, materials or wastes; or (d) the manufacture, processing, handling, transportation, distribution in commerce, use, storage or disposal of hazardous, or toxic substances, materials or wastes.

"Environmental Permit" means any permit, license, order, approval, registration or other authorization required or issued under Environmental Law.

"Equity Funded Acquisition" means any Acquisition that is fully funded solely with Equity Issuance Proceeds and were not applied in increasing EBITDA for purposes of Section 7.7.

"Equity Funded Capital Expenditure" means Capital Expenditures that are fully funded solely with Equity Issuance Proceeds and were not applied in increasing EBITDA for purposes of Section 7.7.

"Equity Interest" means with respect to any Person, any shares, interests, participation, or other equivalents (however designated) of corporate stock, membership interests or partnership interests (or any other ownership interests) of such Person.

"Equity Issuance" means any issuance of common Equity Interests by Borrower, Parent or Ultimate Parent, including any such issuance upon the exercise of warrants to purchase equity by the holders thereof.

"Equity Issuance Proceeds" means, with respect to any Equity Issuance, all cash and cash equivalent proceeds or cash equivalent investments received by Borrower from such Equity Issuance (other than from any other Credit Party but including Ultimate Parent) after payment of, or provision for, all underwriter fees and expenses, SEC and blue sky fees, printing costs, fees and expenses of accountants, lawyers and other professional advisors, brokerage commissions and other out-of-pocket fees and expenses actually incurred in connection with such Equity Issuance.

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

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

"Eurocurrency Advance" means an Advance that bears interest based upon the Eurocurrency Rate.

"Eurocurrency Rate" means,

(a) in determining Eurocurrency Rate for purposes of the "Daily Three-Month LIBOR", the rate per annum for Dollar deposits quoted by Administrative Agent for the purpose of calculating effective rates of interest for loans making reference to the "Daily Three-Month LIBOR", as the inter-bank offered rate in effect from time to time for delivery of funds for three (3) months in amounts approximately equal to the principal amount of the applicable Advances; provided that, (i) Administrative Agent may base its quotation of the inter-bank offered rate upon such offers or other market indicators of the inter-bank market as Administrative Agent in its reasonable discretion deems appropriate including, but not limited to, the rate determined under the following clause (b), and (ii) such rate per annum shall be generally applicable to all credit facilities agented by Administrative Agent which makes reference to the "Daily Three-Month LIBOR" or words of similar import; and

(b) in determining Eurocurrency Rate for all other purposes, for the Interest Period for each Eurocurrency Advance comprising the same Borrowing, the interest rate per annum (rounded upward to the nearest whole multiple of 1/100 of 1%) equal to (i) the applicable London interbank offered rate for deposits in Dollars for such Borrowing appearing on Reuters Screen LIBOR01 (or any successor or substitute page for such service or any successor or substitute for such service) as of 11:00 a.m. (London, England time) two Business Days prior to the first day of such Interest Period, and having a maturity equal to such Interest Period, and (ii) if the rate as determined under clause (i) is not available at such time for any reason, then the rate determined by Administrative Agent to be the rate at which deposits in Dollars for delivery on the first day of such Interest Period in immediately available funds in the approximate amount of the Eurocurrency Advance being made, continued or converted by Administrative Agent and with a term equivalent to such Interest Period would be offered by Administrative Agent's London Branch (or other branch or Affiliate of Administrative Agent, or in the event that Administrative Agent does not have a London branch, the London branch of a Lender chosen by Administrative Agent)) to major banks in the London or other offshore interbank market for such

currency at their request at approximately 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period;

provided that, in any event, if the applicable interest rate as determined under any of the preceding provisions of this definition is less than 0%, then "Eurocurrency Rate" shall be deemed to be equal to 0% for such determination. Each determination of the Eurocurrency Rate shall be made by Administrative Agent and shall be conclusive in the absence of manifest error.

"Event of Default" has the meaning specified in Section 7.1.

"Excess" has the meaning specified in Section 2.19.

"Excluded Perfection Collateral" shall mean, unless otherwise elected by Administrative Agent during the continuance of an Event of Default, collectively (a) deposit accounts, commodities accounts and securities accounts to the extent an Account Control Agreement is not required under this Agreement, and (b) any other type of Property (i) in which a security interest cannot be perfected by the filing of a financing statement under the UCC or a similar filing under the respective foreign jurisdiction, and (ii) with respect to which Administrative Agent has determined, in its reasonable discretion that the cost of perfecting a security interest in such Property are excessive in relation to the value of the Lien to be afforded thereby.

"Excluded Properties" means the "Excluded Collateral" as defined in the Guaranty and Security Agreement.

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

"Excluded Taxes" means, any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, any U.S. federal withholding Tax that is imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to the applicable law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an

assignment request by Borrower in Section 2.16) or (ii) such Lender changes its lending office (other than a change in lending office requested by a Credit Party pursuant to Section 2.16), except in each case to the extent that, pursuant to Section 2.15(b), amounts with respect to such Taxes were payable either to such Lender's assignor immediately

before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (c) United States Taxes attributable to such Recipient's failure or inability to comply with Section 2.15(g) or Section 2.15(h), and (d) any U.S. federal withholding Taxes that are imposed by FATCA.

"Executive Officer" means any Responsible Officer of a Restricted Subsidiary who is, as part of his/her employment with such Restricted Subsidiary, in contact with any Responsible Officer of Borrower or Parent regarding the business and operations of such Restricted Subsidiary on a regular basis.

"Existing Letters of Credit" means those letters of credit described on Schedule 1.1.

"Existing Rockwater Credit Agreement" means that certain Amended and Restated Credit Agreement, dated as of March 9, 2015, among Rockwater Energy Solutions, LLC, Rockwater Energy Solutions Canada Inc., Rockwater Production Testing Ltd., Wells Fargo Bank, National Association, as US Administrative Agent, HSBC Bank Canada as Canadian Administrative Agent, and the lenders from time to time party thereto, as the same has been amended prior to the Effective Date.

"Existing Select Credit Agreement" means that certain Amended and Restated Credit Agreement, dated as of May 3, 2011, among Select Energy Services, LLC, a Delaware limited liability company, Wells Fargo Bank, National Association, as Administrative Agent, and the lenders from time to time party thereto, as the same has been amended prior to the Effective Date.

"Facility" means, collectively, (a) the revolving credit facility described in Section 2.1(a), (b) the Swingline subfacility provided by Swingline Lender described in Section 2.4 and (c) the letter of credit subfacility provided or deemed to be provided by the Issuing Lender described in Section 2.3.

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreement entered into pursuant to Section 1471(b)(1) of the Code, any intergovernmental agreement, treaty or convention of which the United States is a party entered into in connection with the implementation of such Sections of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to such intergovernmental agreement, treaty or convention.

"FCPA" means the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder.

"Federal Funds Rate" means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal

Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate charged to Administrative Agent (in its individual capacity) on such day on such transactions as determined by Administrative Agent, and (c) in any event, the Federal Funds Rate shall not be less than zero.

"Federal Reserve Board" means the Board of Governors of the Federal Reserve System or any of its successors.

"Fee Letter" means that certain fee letter dated as of the Effective Date among Borrower and Wells Fargo.

"Fixed Charges" means, with respect to any fiscal period and with respect to the Parent and its Restricted Subsidiaries determined on a consolidated basis in accordance with GAAP, the sum, without duplication, of (a) Interest Expense required to be paid (other than interest paid-in-kind, amortization of financing fees, and other non-cash Interest Expense) during such period, (b) scheduled principal payments in respect of Debt that are required to be paid during such period, (c) all federal, state, and local income taxes required to be paid during such period, and (d) all Restricted Payments paid (whether in cash or other property, other than common Equity Interests) during such period.

"Fixed Charge Coverage Ratio" means, with respect to any fiscal period and with respect to Parent and its Restricted Subsidiaries determined on a consolidated basis in accordance with GAAP, the ratio of (a) EBITDA for such period minus Unfinanced Capital Expenditures made (to the extent not already incurred in a prior period) or incurred during such period, to (b) Fixed Charges for such period, all calculated for the period of four consecutive fiscal quarters ended on such date (or, if such date is not the last day of a fiscal quarter, ended on the last day of the fiscal quarter most recently ended prior to such date for which financial statements are available); provided that, for purposes of calculating the Fixed Charge Coverage Ratio for any period ending on or prior to March 31, 2018, Unfinanced Capital Expenditures and the components of Fixed Charges for each period set forth below shall be the amounts set forth opposite such period below:

Quarter ended	Unfinanced Capital Expenditures	Interest Expense	Scheduled Principal Payments	Taxes	Restricted Payments
December 31, 2016	$ 9,376,000	$ 5,593,000	$ 432,000	$ (941,000)	$ 0
March 31, 2017	$ 21,392,000	$ 2,193,000	$ 566,000	$ (31,000)	$ 0
June 30, 2017	$ 38,032,000	$ 1,143,000	$ 491,000	$ (892,000)	$ 0

"Foreign Lender" means any Lender that is not a US Person.

"Foreign Subsidiary" means any Subsidiary that is not a Domestic Subsidiary.

"Fronting Exposure" means, at any time there is a Defaulting Lender, (a) with respect to any Issuing Lender, such Defaulting Lender's Applicable Percentage of the outstanding Letter of Credit Obligations with respect to Letters of Credit issued by Issuing Lender other than Letter of Credit Obligations as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof, and (b) with respect to any Swingline Lender, such Defaulting Lender's Applicable Percentage of outstanding Swingline Advances made by Swingline Lender other than Swingline Advances as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders.

"FSHCO" means (a) a Domestic Subsidiary that owns (directly or through its Subsidiaries) no material assets other than the Equity Interests or Equity Interests and indebtedness of one or more CFCs and (b) EnerMAX Services Holdings, LLC and EnerMAX Services G.P. ULC.

"Funded Debt" means, as to the Parent and its consolidated Restricted Subsidiaries, without duplication:

(a) all Debt of such Restricted Entity of the type described in clauses (a), (b), (c), (d) and (f) of the definition of "Debt" but excluding any Debt permitted under Section 6.1(m);

(b) all Debt of such Restricted Entity of the type described in clause (e) of the definition of "Debt" other than (i) trade accounts payable incurred in the ordinary course of business, and (ii) contingent obligations of such Restricted Entity to pay the deferred purchase price of property to the extent, and only to the extent, (A) such obligations are contingent and (B) with respect to earn out obligations, the amount of such earn out obligations is not known and payable;

(c) all Debt of such Restricted Entity of the type described in clause (h) of the definition of "Debt";

(d) all Debt of such Restricted Entity of the type described in clause (i) of the definition of "Debt", but only to the extent such Debt is of the type included in clauses (a) through (c) above;

(e) all Debt of such Restricted Entity of the type described in clause (j) of the definition of "Debt" but only in respect of Debt of any other Person (other than a Restricted Entity) of the type included in clauses (a) through (d) above; and

(f) all Debt of others of the type included in clauses (a) through (e) above secured by any Lien on or in respect of any Property of such Restricted Entity, but if recourse is only to such Property, then only to the extent of the lesser of the amount of the Debt secured thereby and the fair market value of the Property subject to such Lien.

"GAAP" means United States generally accepted accounting principles as in effect from time to time, applied on a basis consistent with the requirements of Section 1.3.

"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).

"Guarantor" means any Person that now or hereafter guaranties all or a portion of the Secured Obligations, including (a) Parent, (b) each Restricted Subsidiary of the Parent (including those listed on Schedule 4.11) required to guaranty the Secured Obligations pursuant to Section 5.6, and (c) any Person that is a "Guarantor" under the Guaranty and Security Agreement; provided, that any Foreign Subsidiary, Subsidiary of a Foreign Subsidiary, or a FSHCO shall not be a Guarantor.

"Guaranty and Security Agreement" means the Guaranty and Security Agreement, substantially in the form of Exhibit E, among Borrower, the Guarantors, the Restricted Subsidiaries party thereto and Administrative Agent for the benefit of the Secured Parties.

"Hazardous Substance" means any substance or material identified as hazardous or extremely hazardous pursuant to CERCLA and those regulated as hazardous or toxic under any other Environmental Law, including without limitation pollutants, contaminants, petroleum, petroleum products, radionuclides, and radioactive materials.

"Hazardous Waste" means any substance or material regulated or designated as a hazardous waste pursuant to any Environmental Law.

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

"Hedging Arrangement" means a hedge, call, swap, collar, floor, cap, option, forward sale or purchase or other contract or similar arrangement (including any obligations to purchase or sell any commodity or security at a future date for a specific price) which is entered into to reduce or eliminate or otherwise protect against the risk of fluctuations in prices or rates, including interest rates, foreign exchange rates, commodity prices and securities prices.

"Increase" has the meaning specified in Section 2.19.

"Increase Date" has the meaning specified in Section 2.19.

"Increase Joinder" has the meaning specified in Section 2.19.

"Increased Reporting Event" means if at any time Availability is less than the greater of (a) 15% of the Borrowing Limit, and (b) $22,500,000.

"Increased Reporting Period" means the period commencing after an Increased Reporting Event and continuing until the first date after the Increased Reporting Event that Availability has equaled or exceeded the greater of (a) 15% of the Borrowing Limit and (b) $22,500,000 for 30 consecutive days.

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

"Indemnitees" has the meaning specified in Section 9.1.

"Intercompany Subordination Agreement" means an intercompany subordination agreement, dated as of even date with this Agreement, executed and delivered by each Credit Party and certain of its Subsidiaries, and Agent, the form and substance of which is reasonably satisfactory to Agent.

"Interest Expense" means, for any period and with respect to Borrower and its Restricted Subsidiaries, total interest expense as determined in conformity with GAAP. For the avoidance of doubt, Interest Expense shall exclude amortization of financing fees, the accretion or accrual of discounted liabilities, and all other non-cash interest.

"Interest Period" means for each Eurocurrency Advance comprising part of the same Borrowing, the period commencing on the date of such Eurocurrency Advance is made or deemed made and ending on the last day of the period selected by Borrower pursuant to the provisions below and Section 2.6, and thereafter, each subsequent period

commencing on the last day of the immediately preceding Interest Period and ending on the last day of the period selected by Borrower pursuant to the provisions below and Section 2.6. The duration of each such Interest Period shall be one, two, three, or six months, in each case as Borrower may select, provided that:

(a) whenever the last day of any Interest Period would otherwise occur on a day other than a Business Day, the last day of such Interest Period shall be extended to occur on the next succeeding Business Day, provided that if such extension would cause the last day of such Interest Period to occur in the next following calendar month, the last day of such Interest Period shall occur on the next preceding Business Day;

(b) any Interest Period which begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month in which it would have ended if there were a numerically corresponding day in such calendar month; and

(c) no Borrower may select any Interest Period for any Advance which ends after the Maturity Date.

"Inventory" of any Person means all inventory (as defined in the UCC) owned by such Person, wherever located and whether or not in transit.

"Inventory Reserves" means, as of any date of determination, (a) Landlord Reserves in respect of Inventory, and (b) those reserves that Administrative Agent deems necessary or appropriate, in its Permitted Discretion and subject to Section 2.1(c), to establish and maintain (including reserves for slow moving Inventory and Inventory shrinkage) with respect to Eligible Inventory or the Commitments, including based on the results of appraisals.

"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 capital stock or other securities of another Person, (b) a loan, advance or capital contribution to, guarantee (by guaranty or other arrangement) or assumption of Debt of, or purchase or other acquisition of any other Debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

"Investment Affiliate" means, with respect to any Person, a fund or investment vehicle that (a) is organized by such Person, for the purpose of making equity or debt investments in one or more companies and (b) is controlled by, or under common control with such Person. For purposes of this definition, "control" means the power to direct or cause the direction of management and policies of a Person, whether by contract or otherwise

"IRS" means the United States Internal Revenue Service.

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

"Issuing Lender" means Wells Fargo, in its capacity as the Lender that issues Letters of Credit pursuant to the terms of this Agreement and, solely with respect to the Existing Letter of Credit issued by ZB, N.A. DBA Amegy Bank with Liberty Mutual Insurance Company as the named beneficiary and more fully described on Schedule 1.1, ZB, N.A. DBA Amegy Bank.

"Joint Book Runners" has the meaning set forth in the preamble.

"Joint Lead Arrangers" has the meaning set forth in the preamble.

"Joint Venture" means, with respect to any Person (the "holder") at any date, any incorporated, formed or organized corporation, limited liability company, partnership, association or other entity, a less than a majority of whose outstanding Voting Securities shall at any time be owned by the holder or one or more Subsidiaries of the holder. Unless expressly provided otherwise, all references herein to any "Joint Venture" or "Joint Ventures" means a Joint Venture or Joint Ventures of a Credit Party.

"Landlord Reserve" means, as to each location at which Borrower has books and records or Inventory located and as to which a Collateral Access Agreement has not been received by Administrative Agent, a reserve in an amount equal to 3 months' rent, storage charges, fees or

other amounts under the lease or other applicable agreement relative to such location or, if greater and Administrative Agent so elects, the number of months' rent, storage charges, fees or other amounts for which the landlord, bailee, warehouseman or other property owner will have, under applicable law, a Lien on the Inventory or Receivables of Borrower to secure the payment of such amounts under the lease or other applicable agreement relative to such location.

"Legal Requirement" means any law, statute, ordinance, decree, requirement, order, judgment, rule, regulation (or official interpretation of any of the foregoing) of, and the terms of any license or permit issued by, any Governmental Authority, including, but not limited to, Regulations T, U, and X.

"Lender Parties" means Lenders, the Issuing Lenders, the Swingline Lenders and Administrative Agent.

"Lenders" means Lenders having a Commitment or if such Commitments have been terminated, Lenders that are owed Advances.

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

"Letter of Credit" means any standby or commercial letter of credit issued or deemed issued by Issuing Lender for the account of Borrower or any Guarantor pursuant to the terms of this Agreement, in such form as may be agreed by Borrower, such Guarantor and Issuing Lender. Letters of Credit include the Existing Letters of Credit set forth on Schedule 1.1.

"Letter of Credit Application" means Issuing Lender's standard form letter of credit application for standby or commercial letters of credit which has been executed by Borrower, the applicable Guarantor and accepted by Issuing Lender in connection with the issuance of a Letter of Credit.

"Letter of Credit Documents" means all Letters of Credit, Letter of Credit Applications and amendments thereof, and agreements, documents, and instruments entered into in connection therewith or relating thereto.

"Letter of Credit Exposure" means, at the date of its determination by Administrative Agent, the aggregate outstanding undrawn amount of Letters of Credit plus the aggregate unpaid amount of all of Borrower's payment obligations under drawn Letters of Credit.

"Letter of Credit Extension" means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the increase of the amount thereof.

"Letter of Credit Maximum Amount" means $40,000,000; provided that, on and after the Maturity Date, the Letter of Credit Maximum Amount shall be zero.

"Letter of Credit Obligations" means any obligations of Borrower under this Agreement in connection with the Letters of Credit.

"Letter of Credit Termination Date" means the 5th day prior to the Maturity Date.

"Leverage Ratio" means, as of any date of determination the result of (a) the amount of Funded Debt as of such date minus Qualified Cash as of such date, to (b) EBITDA for the trailing twelve month period most recently ended as of such date for which Administrative Agent has received financial statements pursuant to Section 5.1(a) or 5.1(b), as applicable.

"Lien" means any mortgage, lien, pledge, charge, deed of trust, security interest, hypothec or encumbrance to secure or provide for the payment of any obligation of any Person, whether arising by contract, operation of law, or otherwise (including the interest of a vendor or lessor under any conditional sale agreement, Capital Lease, or other title retention agreement).

"Liquid Investments" means (a) readily marketable direct full faith and credit obligations of the United States of America or obligations unconditionally guaranteed by the full faith and credit of the United States of America; (b) commercial paper issued by (i) any Lender or any Affiliate of any Lender or (ii) any commercial banking institutions or corporations rated at least P-1 by Moody's or A-1 by S&P; (c) certificates of deposit, time deposits, and bankers' acceptances issued by (i) any of the Lenders or (ii) any other commercial banking institution which is a member of the Federal Reserve System and has a combined capital and surplus and undivided profits of not less than $250,000,000.00 and rated Aa by Moody's or AA by S&P; (d) repurchase agreements which are entered into with any of the Lenders or any major money center banks included in the commercial banking institutions described in clause (c) and which are secured by readily marketable direct full faith and credit obligations of the government of the United States of America or any agency thereof; (e) investments in any money market fund which holds investments substantially of the type described in the foregoing clauses (a) through (d); and (f) other investments made through Administrative Agent or its Affiliates. All the Liquid Investments described in clauses (a) through (d) above shall have maturities of not more than 365 days from the date of issue.

"Loan Account" has the meaning specified in Section 2.14(h).

"Majority Lenders" means, at any time, Lenders having or holding more than 50% of the Maximum Exposure Amount of all Lenders; provided, that (i) at any time there are two or more Lenders (who are not Affiliates of one another or Defaulting Lenders), "Majority Lenders" must include at least two Lenders (who are not Affiliates of one another); (ii) in any event, if there are two or more Lenders, the Maximum Exposure Amount of any Defaulting Lender shall be excluded for purposes of making a determination of Majority Lenders unless all Lenders are Defaulting Lenders, and (iii) for purposes of this definition, Letter of Credit Exposure shall be deemed to be held by the Lender that is the Issuing Lender to the extent it has not been reallocated among the Lenders or cash collateralized in accordance with Section 2.18.

"Margin Stock" as defined in Regulation U of the Board of Governors as in effect from time to time.

"Material Acquisition" means any Permitted Acquisition with consideration of $25,000,000 or more.

"Material Adverse Change" means any event, development or circumstance that has had or would reasonably be expected to have a material adverse effect on (a) the business, operations, property or financial condition of Borrower and its Restricted Subsidiaries, taken as a whole; or (b) on the validity or enforceability of any Credit Document or any right or remedy of any Secured Party under any Credit Document.

"Maturity Date" means the earlier of (a) November 1, 2022, and (b) the earlier termination in whole of the Commitments pursuant to Section 2.1(b) or Article VII.

"Maximum Exposure Amount" means, at any time for each Lender, the sum of (a) the unfunded Commitment held by such Lender at such time, if any, plus (b) the Total Outstandings held by such Lender at such time (with the aggregate amount of such Lender's risk participation and funded participation in the Letter of Credit Obligations and Swingline Advances being deemed "held" by such Lender for purposes of this definition).

"Maximum Rate" means the maximum nonusurious interest rate under applicable Legal Requirement.

"Moody's" means Moody's Investors Service, Inc. and any successor thereto which is a nationally recognized statistical rating organization.

"Multiemployer Plan" means a "multiemployer plan" as defined in Section 4001(a)(3) of ERISA to which Borrower or any member of the Controlled Group is making or accruing an obligation to make contributions.

"Net Book Value" means, as to Property, the net book value of such Property as established in accordance with GAAP and as reflected on the financial statements of Borrower as of the most recently ended month end for which financial statements of Borrower have been delivered to Administrative Agent.

"Net Income" means, for any period and with respect to any Person, the net income for such period for such Person after Taxes as determined in accordance with GAAP, excluding, however, (a) extraordinary items, including (i) any net non-cash gain or loss during such period arising from the sale, exchange, retirement or other disposition of capital assets (such term to include all fixed assets and all securities) other than in the ordinary course of business, and (ii) any write-up or write-down of assets, and (b) the cumulative effect of any change in GAAP. For the avoidance of doubt, in determining net income, (x) gross interest income shall be applied to increase income or decrease interest expense but not both and (y) net income for such period attributable to any noncontrolling interest in a Subsidiary of such Person shall be excluded.

"Net Recovery Percentage" means, as of any date of determination, the percentage of the book value of Credit Parties' Inventory that is estimated to be recoverable in an orderly liquidation of such Inventory net of all associated costs and expenses of such liquidation, such percentage to be determined as to each category of Inventory and to be as specified in the most recent Acceptable Appraisal of Inventory.

"Non-Consenting Lender" means any Lender who does not agree to a consent, waiver or amendment which (a) requires the agreement of all Lenders or all affected Lenders in accordance with the terms of Section 9.2 and (b) has been agreed by the Majority Lenders.

"Non-Defaulting Lender" means any Lender that is not then a Defaulting Lender.

"Nonordinary Course Asset Sales" means, any sales, conveyances, or other transfers of Property made by any Restricted Entity (a) of any division of any Restricted Entity, (b) of the Equity Interest in any Restricted Subsidiary by Parent or any Restricted Subsidiary or (c) outside the ordinary course of business of any assets of any Restricted Entity, whether in a single transaction or related series of transactions.

"Note" means a promissory note of Borrower payable to a Lender (or its registered assigns) in the amount of such Lender's Commitment, in the form provided by Administrative Agent and acceptable to Borrower.

"Notice of Borrowing" means a notice of borrowing signed by Borrower in substantially the same form as Exhibit C or such other form as shall be reasonably approved by Administrative Agent.

"Notice of Conversion or Continuation" means a notice of continuation or conversion signed by Borrower in substantially the same form as Exhibit D.

"Obligations" means all principal, interest (including post-petition interest), fees, reimbursements, indemnifications, and other amounts now or hereafter owed by any of the Credit Parties to the Lenders, the Swingline Lender, the Issuing Lender, or Administrative Agent under this Agreement and the Credit Documents, including, the Letter of Credit Obligations, and any increases, extensions, and rearrangements of those obligations under any amendments, supplements, and other modifications of the documents and agreements creating those obligations.

"OFAC" means The Office of Foreign Assets Control of the U.S. Department of the Treasury.

"Other Connection Taxes" means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Credit Document, or sold or assigned an interest in any Advance or Credit Document).

"Other Taxes" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Credit Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment by a Lender after the date hereof under Section 9.7(a) (other than an assignment made pursuant to Section 2.16).

"Outstandings" means, as of any date of determination, the sum of (a) the aggregate outstanding amount of all Advances (including Protective Advances) plus (b) the Letter of Credit Exposure plus (c) the aggregate outstanding amount of all Swingline Advances.

"Parent" has the meaning set forth in the preamble.

"Participant" has the meaning assigned to such term in Section 9.7.

"Participant Register" has the meaning assigned to such term in Section 9.7.

"Patriot Act" means the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)).

"Payment Conditions" shall mean, at the time of determination with respect to a proposed payment to fund a Specified Transaction, that:

(a) no Default or Event of Default then exists or would arise as a result of the consummation of such Specified Transaction,

(b) either (and for avoidance of doubt, clause (ii) must be satisfied for any Specified Transaction other than a Specified Transaction consisting of a Permitted Acquisition, a Permitted Investment made pursuant to Section 6.3(o) or a Restricted Payment made pursuant to Section 6.9(g), for which either clause (i) or (ii) may be satisfied)

(i) Availability (x) at all times during the 30 consecutive days immediately preceding the date of such proposed payment and the consummation of such Specified Transaction, calculated on a pro forma basis as if such proposed payment was made, and the Specified Transaction was consummated, on the first day of such period, and (y) after giving effect to such proposed payment and Specified Transaction, in each case, is not less than (A) in the case of a Specified Transaction consisting of a Permitted Acquisition or Permitted Investment made pursuant to Section 6.3(o), the greater of (1) 20% of the Borrowing Limit, and (2) $30,000,000, and (B) in the case of a Specified Transaction consisting of a Restricted Payment made pursuant to Section 6.9(g), the greater of (1) 25% of the Borrowing Limit, and (2) $37,500,000, or

(ii) both (A) the Fixed Charge Coverage Ratio of Parent and its Restricted Subsidiaries is equal to or greater than 1.00:1.00 for the trailing 4 fiscal quarter period most recently ended for which financial statements are required to have been delivered to Administrative Agent pursuant to Section 5.2 of this Agreement (or, prior to the date on which the first of such financial statements are required to have been delivered, for the trailing 4 fiscal quarter period ended June 30, 2016) (calculated on a pro forma basis as if such proposed payment is a Fixed Charge made on the last day of such 4 fiscal quarter period (it being understood that such proposed payment shall also be a Fixed Charge made on the last day of such 4 fiscal quarter period for purposes of calculating the Fixed Charge Coverage Ratio under this clause (ii) for any subsequent proposed payment to fund a Specified Transaction in the relevant period)), and (B) Availability, (x) at all times during the 30 consecutive days immediately preceding the date of such proposed payment and the consummation of such Specified Transaction,

calculated on a pro forma basis as if such proposed payment was made, and the Specified Transaction was consummated, on the first day of such period, and (y) after giving effect to such proposed payment and Specified Transaction, in each case, is not less than (A) in the case of a Specified Transaction consisting of a Permitted Acquisition or Permitted Investment made pursuant to Section 6.3(o), the greater of (1) 15% of the Borrowing Limit, and (2) $22,500,000, and (B) in the case of a Specified Transaction consisting of a Restricted Payment made pursuant to Section 6.9(g), a designation of an Unrestricted Subsidiary made pursuant to Section 5.7(a) or a prepayment of Debt made pursuant to Section 6.20(d), the greater of (1) 20% of the Borrowing Limit, and (2) $30,000,000, and

(c) Borrower has delivered a certificate to Administrative Agent certifying that all conditions described in clauses (a) and (b) above have been satisfied.

"PBGC" means the Pension Benefit Guaranty Corporation or any entity succeeding to any or all of its functions under ERISA.

"Permitted Acquisition" means any Acquisition by any Credit Party in a transaction that satisfies each of the following requirements:

(a) such Acquisition is not a hostile acquisition;

(b) the business acquired in connection with such Acquisition (other than a de minimis amount of assets in relation to the assets being acquired) is (i) located in the U.S. or Canada, (ii) organized under applicable U.S. and state laws or Canadian laws, and (iii) not engaged, directly or indirectly, in any line of business other than the businesses in which Credit Parties are engaged on the Effective Date, any business activities substantially similar, related, or incidental thereto and any other oilfield services activities;

(c) as soon as available, but not less than five (5) Business Days prior to such Acquisition, Borrower has provided Administrative Agent (i) notice of such Acquisition, (ii) upon request by Administrative Agent, copies of the acquisition agreement and other material documents relative to the proposed Acquisition and (iii) with respect to any Material Acquisition, a due diligence package relative to the proposed Acquisition, including forecasted balance sheets, profit and loss statements, and cash flow statements of the target, all prepared on a basis consistent with such target's historical financial statements, together with appropriate supporting details and a statement of underlying assumptions for the 1 year period following the date of the proposed acquisition, on a quarter by quarter basis) and such other business and financial information reasonably requested by Administrative Agent;

(d) if the Receivables and Inventory acquired in connection with such Acquisition are proposed to be included in the determination of the Borrowing Base on or about the date of such Acquisition, Administrative Agent shall have conducted an audit and field examination of such Receivables and Inventory, the results of which shall be reasonably satisfactory to Administrative Agent; provided that, Receivables and Inventory acquired in connection with one or more Acquisitions may be temporarily included in the determination of the Borrowing Base prior to the conduct of such audit and field examination and until the next determination of the Borrowing Base is required to be delivered to Administrative Agent

pursuant to the Credit Documents so long as (i) Administrative Agent has received and is reasonably satisfied with due diligence materials and other information provided by Borrower in respect of such Receivables and (ii) the aggregate amount of all Receivables and Inventory that are temporarily included for any such Acquisition does not exceed 10% of the sum of the Borrowing Base (calculated without giving effect to such inclusion);

(e) if such Acquisition is an acquisition of the Equity Interests of a Person, such Acquisition is structured so that the acquired Person shall become a wholly-owned Subsidiary of Parent and a Credit Party pursuant to the terms of this Agreement;

(f) if such Acquisition is an acquisition of assets, such Acquisition is structured so that Borrower, another Credit Party or a Restricted Subsidiary that becomes a Credit Party shall acquire such assets;

(g) if such Acquisition is an acquisition of Equity Interests, such Acquisition will not result in any violation of Regulation U;

(h) if such Acquisition involves a merger or a consolidation involving Borrower or any other Credit Party, Borrower or such Credit Party, as applicable, shall be the surviving entity;

(i) no Credit Party shall, as a result of or in connection with any such Acquisition, assume or incur any direct or contingent liabilities not otherwise permitted by this Agreement (whether relating to environmental, tax, litigation, or other matters) that could reasonably be expected to have a Material Adverse Effect;

(j) all actions required to be taken with respect to any newly acquired or formed wholly-owned Subsidiary of Parent or a Credit Party, or the Equity Interests acquired in such Acquisition, as applicable, required under Section 5.6, Section 5.7 or the Guaranty and Security Agreement shall have been taken (subject to the grace periods set forth therein); and

(k) Borrower shall have delivered to Administrative Agent the final executed material documentation relating to such Acquisition within ten (10) Business Days following the consummation thereof.

"Permitted Debt" has the meaning set forth in Section 6.1.

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

"Permitted Investments" has the meaning set forth in Section 6.3.

"Permitted Liens" has the meaning set forth in Section 6.2; provided that, no intention to subordinate the priority of the Lien granted in favor of Administrative Agent and the Secured Parties is to be hereby implied or expressed by the permitted existence of any Permitted Liens.

"Permitted Tax Distributions" means, for any taxable period or portion thereof during which Parent is a pass-through entity (including a disregarded entity or partnership) for U.S.

federal income tax purposes, an amount sufficient to allow Parent to make distributions to the members of Parent, on or prior to each estimated tax payment date as well as each other applicable due date, on a pro rata basis such that each such member receives a distribution at least equal to an amount (such an amount for each member of Parent, such member's "Assumed Tax Liability") equal to the product of (a) the U.S. federal taxable income allocated by Parent to such member during the relevant period less the sum of any U.S. federal taxable loss allocated by Parent to such member during the relevant period and any loss carryforwards available from losses allocated to such member by Parent in prior periods to the extent not taken into account in prior periods (in both cases, subject to any applicable limitations on the use of such losses), and (b) the highest applicable combined U.S. federal, state and local income tax rate applicable to an individual or, if higher, a corporation, resident in New York, New York, determined by taking into account (A) the character of the U.S. federal taxable income or loss allocated by Parent to such member (e.g., capital gains or losses, dividends, ordinary income, etc.), (B) the deductibility of state and local income taxes in determining federal taxable income (unless after the date hereof, there is a change in law that repeals the deductibility of state and local income taxes for any taxpayer), and (C) any application of the alternative minimum tax; provided that, (x) for these purposes Ultimate Parent and any Subsidiary that is part of a Consolidated Group of which Ultimate Parent is the common parent (the "Ultimate Parent Consolidated Group") shall be accounted for as a single direct member of Parent and (y) the Assumed Tax Liability of the Ultimate Parent Consolidated Group for any taxable period or portion thereof shall in no event be less than an amount that will enable the Ultimate Parent Consolidated Group to timely satisfy all of its U.S. federal, state and local and non-U.S. tax liabilities for such taxable period or portion thereof and (i) its payments or obligations under any Tax Receivable Agreement and (ii) its payments or obligations under Article IV of the Tax Receivable Agreement so long as in the case of this clause (y)(ii) either (A) the Ultimate Parent Consolidated Group has actually received corresponding dollar for dollar income tax savings equal to such payments or obligations or (B) (1) no Default then exists or would arise as a result of the making of such payment or obligation and (2) Borrower is in compliance with Section 6.16, as if a Covenant Testing Period was in effect, for the most recent 12 month period ending prior to the making of such payment or obligation for which the Administrative Agent has received financial statements of Parent, in accordance with the terms of this Agreement, on a pro forma basis after giving effect to the making of such payment or obligation.

"Person" means any natural person, partnership, corporation (including a business trust), joint stock company, trust, limited liability company, unlimited liability company, limited liability partnership, unincorporated association, joint venture, or other entity, or Governmental Authority, or any trustee, receiver, custodian, or similar official.

"Plan" means an employee benefit plan (other than a Multiemployer Plan) maintained for employees of Borrower or any member of the Controlled Group and covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code.

"Platform" has the meaning set forth in Section 9.10(b)(i).

"Post-Increase Revolver Lenders" has the meaning set forth in Section 2.19.

"Pre-Increase Revolver Lenders" has the meaning set forth in Section 2.19.

"Prime Rate" means the per annum rate of interest established from time to time by Wells Fargo at its principal office in San Francisco as its prime rate, which rate may not be the lowest rate of interest charged by such Lender to its customers.

"Property" of any Person means any property or assets (whether real, personal, or mixed, tangible or intangible) of such Person.

"Protective Advances" has the meaning set forth in Section 2.6(g)(i).

"Qualified Cash" means, as of any date of determination, the amount of unrestricted cash and cash equivalents of the Credit Parties that is in deposit accounts or in Securities Accounts, or any combination thereof, and which such deposit account or Securities Account is the subject of an Account Control Agreement and is maintained by a branch office of the bank or securities intermediary located within the United States and (i) is not being held as cash collateral (other than as Collateral for the Facility), (ii) does not constitute escrowed funds for any purpose, and (iii) is not subject to other restrictions on withdrawal.

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

"Receivables" of any Person means, at any date of determination thereof, the unpaid portion of the obligation of a customer of such Person in respect of goods leased or sold or services rendered by such Person, including the unpaid portion of an "account" or "account receivable" as defined in the UCC, and including all credit card receivables and all amounts payable in respect of the sale, lease, assignment, license or other disposition of Inventory or services rendered or to be rendered.

"Receivables Reserves" means, as of any date of determination, those reserves that Administrative Agent deems necessary or appropriate, in its Permitted Discretion and subject to Section 2.1(c), to establish and maintain (including Landlord Reserves for books and records locations and reserves for rebates, discounts, warranty claims, and returns) with respect to the Eligible Billed Accounts, Eligible Unbilled Accounts or the Commitments.

"Recipient" means (a) Administrative Agent, (b) any Lender, (c) any Swingline Lender, or (d) any Issuing Lender, as applicable.

"Register" has the meaning set forth in Section 9.7(b).

"Regulations T, U, and X" means Regulations T, U, and X of the Federal Reserve Board, as each is from time to time in effect, and all official rulings and interpretations thereunder or thereof.

"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.

"Release" shall have the meaning set forth in CERCLA or under any other applicable Environmental Law.

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA (other than any such event not subject to the provision for 30-day notice to the PBGC under the regulations issued under such section).

"Reserves" means, as of any date of determination, Receivables Reserves, Inventory Reserves, Banking Services Reserves and, without duplication, those other reserves that Administrative Agent deems necessary or appropriate, in its Permitted Discretion and subject to Section 2.1(c), to establish and maintain (including reserves with respect to (a) sums that any Credit Party or its Subsidiaries are required to pay under any Section of this Agreement or any other Credit Document (such as taxes, assessments, insurance premiums, or, in the case of leased assets, rents or other amounts payable under such leases) and has failed to pay, and (b) amounts owing by any Credit Party or its Subsidiaries to any Person to the extent secured by a Lien on, or trust over, any of the Collateral (including Permitted Liens described in clause (ii) of Section 6.2(d) but excluding any other Permitted Lien), which Lien or trust, in the Permitted Discretion of Administrative Agent likely would have a priority superior to Administrative Agent's Liens (such as Liens or trusts in favor of landlords, warehousemen, carriers, mechanics, materialmen, laborers, or suppliers, or Liens or trusts for ad valorem, excise, sales, or other taxes where given priority under applicable law) in and to such item of the Collateral) with respect to the Borrowing Base or the Commitments. To the extent that an event, condition or matter as to any Receivable or item of Inventory is addressed pursuant to the treatment thereof within the definition of "Eligible Billed Accounts," "Eligible Unbilled Accounts" or "Eligible Inventory," Administrative Agent will not also establish a Reserve to address the same event, condition or matter.

"Response" shall have the meaning set forth in CERCLA or under any other applicable Environmental Law.

"Responsible Officer" means (a) with respect to any Person that is a corporation, such Person's chief executive officer, president, chief financial officer, chief operating officer, general counsel, director of finance, controller, or vice president, (b) with respect to any Person that is a limited liability company, if such Person has officers, then such Person's chief executive officer, president, chief financial officer, chief operating officer, general counsel, or vice president, and if such Person is managed by members, then a chief executive officer, president, chief financial officer, chief operating officer, general counsel, or vice president of such Person's managing member, and if such Person is managed by managers, then a manager (if such manager is an individual) or a chief executive officer, president, chief financial officer, chief operating officer, general counsel, or vice president of such manager (if such manager is an entity), and (c) with respect to any Person that is a general partnership, limited partnership or a limited liability partnership, the chief executive officer, president, chief financial officer, chief operating officer, general counsel, or vice president of such Person's general partner or partners.

"Restricted Entity" means (a) Parent, (b) Borrower and (c) each Restricted Subsidiary.

"Restricted Payment" means, with respect to any Person, any direct or indirect dividend or distribution (whether in cash, securities or other Property) or any direct or indirect payment of any kind or character (whether in cash, securities or other Property) in consideration for or otherwise in connection with any retirement, purchase, redemption or other acquisition of any Equity Interest of such Person, or any options, warrants or rights to purchase or acquire any such Equity Interest of such Person; provided that the term "Restricted Payment" shall not include any dividend or distribution payable solely in Equity Interests of such Person or warrants, options or other rights to purchase such Equity Interests.

"Restricted Subsidiary" means each Domestic Subsidiary of Parent that is not an Unrestricted Subsidiary.

"Rule 144A Offering" means that certain (a) offering of Class A-1 Common Stock of Ultimate Parent or Rockwater Energy Services, LLC to the initial purchaser(s) and the resale of the Class A-1 Common Stock by the initial purchaser(s) to "qualified institutional buyers" as defined in Rule 144A under the Securities Act or to certain Persons outside the United States in offshore transactions in reliance on Regulation S under the Securities Act, and (b) private placement of the Class A-1 Common Stock of Ultimate Parent or Rockwater Energy Services, LLC with a placement agent to "accredited investors," as defined in Rule 501 under Regulation D of the Securities Act, in each case, consummated on or prior to February 16, 2017.

"Same Day Funds" means immediately available funds, same day or other funds as may be determined by Administrative Agent or Issuing Lender.

"Sanctioned Entity" means (a) a country or territory or a government of a country or territory, (b) an agency of the government of a country or territory, (c) an organization directly or indirectly controlled by a country or territory or its government, or (d) a Person resident in or determined to be resident in a country or territory, in each case of clauses (a) through (d) that is a target of Sanctions, including a target of any country or territory sanctions program administered and enforced by OFAC.

"Sanctioned Person" means, at any time (a) any Person named on the list of Specially Designated Nationals and Blocked Persons maintained by OFAC, OFAC's consolidated Non-SDN list or any other Sanctions-related list maintained by any Governmental Authority, (b) a Person or legal entity that is a target of Sanctions, (c) any Person operating, organized or resident in a Sanctioned Entity, or (d) any Person directly or indirectly owned or controlled (individually or in the aggregate) by or acting on behalf of any such Person or Persons described in clauses (a) through (c) above.

"Sanctions" means individually and collectively, respectively, any and all economic sanctions, trade sanctions, financial sanctions, sectoral sanctions, secondary sanctions, trade embargoes anti-terrorism laws and other sanctions laws, regulations or embargoes, including those imposed, administered or enforced from time to time by: (a) the United States of America, including those administered by OFAC, the U.S. Department of State, the U.S. Department of Commerce, or through any existing or future executive order, (b) the United Nations Security

Council, (c) the European Union or any European Union member state, (d) Her Majesty's Treasury of the United Kingdom, or (d) any other Governmental Authority with jurisdiction over any Lender, Issuing Lender, Swingline Lender or Administrative Agent or any Credit Party or any of their respective Subsidiaries or Affiliates.

"S&P" means Standard & Poor's Ratings Service, a division of The McGraw-Hill Companies, Inc., or any successor thereof which is a nationally recognized statistical rating organization.

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

"Secured Obligations" means (a) the Obligations and (b) the Banking Services Obligations; provided that, the "Secured Obligations" of a Guarantor shall exclude any Excluded Swap Obligations with respect to such Guarantor.

"Secured Parties" means the Lender Parties, the Banking Services Providers who are owed Banking Services Obligations and Swap Counterparties who are owed any Swap Obligations.

"Securities Account" means a securities account (as that term is defined in the UCC).

"Securities Act" means the Securities Act of 1933, as amended.

"Security Documents" means the Guaranty and Security Agreement, and each other document or agreement to which Borrower, any Guarantor or any Restricted Subsidiary is a party and that purports to grant a Lien in the assets of any such Person in favor of Administrative Agent for the benefit of the Secured Parties.

"Select Energy Credit Parties" means Select Energy Services, LLC, and its Wholly-Owned Subsidiaries that are Credit Parties.

"Senior Leverage Ratio" means, as of any date of determination, the ratio of (a) the amount of Outstandings plus the aggregate principal amount of any secured Debt incurred pursuant to clause (j) of Section 6.1 hereof, as of such date, minus Qualified Cash as of such date, to (b) EBITDA for the trailing twelve month period most recently ended as of such date for which Administrative Agent has received financial statements pursuant to Section 5.1(a) or 5.1(b), as applicable.

"Solvent" means, as to any Person, on the date of any determination (a) the fair value of the Property of such Person is greater than the total amount of debts and other liabilities (including without limitation, contingent liabilities) of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts and other liabilities (including, without limitation, contingent liabilities) as they become absolute and matured, (c) such Person is able to realize upon its assets and pay its debts and other liabilities (including, without limitation, contingent liabilities) as they mature in the normal course of business, (d) such Person does not intend to, and does not believe that it will, incur debts or liabilities (including, without limitation,

contingent liabilities) beyond such Person's ability to pay as such debts and liabilities mature, (e) such Person is not engaged in, and is not about to engage in, business or a transaction for which such Person's Property would constitute unreasonably small capital, and (f) such Person has not transferred, concealed or removed any Property with intent to hinder, delay or defraud any creditor of such Person.

"Specified Transaction" means, any designation of an Unrestricted Subsidiary made pursuant to Section 5.7(a), Permitted Acquisition, Permitted Investment made pursuant to Section 6.3(o) or Restricted Payment made pursuant to Section 6.9(g), or prepayment of Debt made pursuant to Section 6.20(d).

"Subject Lender" has the meaning specified in Section 2.16.

"Subsidiary" means, with respect to any Person (the "holder") at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the holder in the holder's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity, a majority of whose outstanding Voting Securities shall at any time be owned by the holder or one more Subsidiaries of the holder. Unless expressly provided otherwise, all references herein and in any other Credit Document to any "Subsidiary" or "Subsidiaries" means a Subsidiary or Subsidiaries of Parent.

"Supermajority Lenders" means, at any time, Lenders having or holding more than 66 2/3% of the aggregate Total Outstandings; provided, that (i) the Total Outstandings of any Defaulting Lender shall be disregarded in the determination of the Supermajority Lenders, and (ii) at any time there are two or more Lenders (who are not Affiliates of one another), "Supermajority Lenders" must include at least two Lenders (who are not Affiliates of one another or Defaulting Lenders).

"Swap Counterparty" means a Lender or an Affiliate of a Lender that has entered into a Hedging Arrangement with a Credit Party; provided, that if, at any time, a Lender ceases to be a Lender under this Agreement (prior to the payment in full of the Secured Obligations), then, from and after the date on which it ceases to be a Lender thereunder, neither it nor any of its Affiliates shall constitute a Swap Counterparty and the obligations with respect to Hedging Agreements entered into with such former Lender or any of its Affiliates shall no longer constitute Swap Obligations.

"Swap Obligations" means the obligations of any Credit Party owing to any Swap Counterparty under any Hedging Arrangement; provided that (a) when any Swap Counterparty assigns or otherwise transfers any interest held by it under any Hedging Arrangement to any other Person pursuant to the terms of such agreement, the obligations thereunder shall constitute Swap Obligations only if such assignee or transferee is also then a Lender or an Affiliate of a Lender and (b) if a Swap Counterparty ceases to be a Lender or an Affiliate of a Lender hereunder, obligations owing to such Swap Counterparty shall be included as Swap Obligations only to the extent such obligations arise from transactions under such individual Hedging Arrangements (and not the master agreement between such parties) entered into prior to the time

such Swap Counterparty ceases to be a Lender or an Affiliate of a Lender hereunder, without giving effect to any extension, increases, or modifications thereof which are made after such Swap Counterparty ceases to be a Lender or an Affiliate of a Lender hereunder.

"Swingline Advance" means an advance by a Swingline Lender to Borrower as part of a Swingline Borrowing.

"Swingline Borrowing" means the Borrowing consisting of a Swingline Advance made by Swingline Lender pursuant to Section 2.4.

"Swingline Lender" means Wells Fargo or any other Lender that agrees to act as a "Swingline Lender" hereunder at the request of Borrower so long as either (a) such Lender is also then Administrative Agent or (b) such new Swingline Lender is appointed pursuant to Section 8.6(d).

"Swingline Note" means the promissory note made by Borrower payable to Swingline Lender (or its registered assigns) evidencing the indebtedness of Borrower to Swingline Lender resulting from Swingline Advances made by Swingline Lender in the form provided by Swingline Lender and acceptable to Borrower.

"Swingline Payment Date" means the earliest to occur of (i) 3 Business Days after demand is made by Swingline Lender if no Default exists, and otherwise upon demand by Swingline Lender and (ii) the Maturity Date.

"Swingline Sublimit Amount" means $30,000,000; provided that, (a) such Swingline Sublimit Amount may be adjusted as provided in Section 2.4(h) and (b) on and after the Maturity Date, the Swingline Sublimit Amount for all purposes shall be zero.

"Tangible Net Assets" means (a) the consolidated Net Book Value of all assets of Parent and its consolidated Restricted Subsidiaries minus (b) the consolidated Net Book Value of all intangible assets of Parent and its consolidated Restricted Subsidiaries.

"Tax Receivable Agreement" means the tax receivable agreements entered into by Ultimate Parent or any other member of the Ultimate Parent Consolidated Group as of the date hereof, accurate copies of which have been provided to Administrative Agent prior to the date hereof.

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

"Term Loan Priority Collateral" means any assets of the Borrower and the other Credit Parties and proceeds thereof that in each case do not constitute ABL Priority Collateral.

"Termination Event" means (a) a Reportable Event with respect to a Plan, (b) the withdrawal of Borrower or any member of the Controlled Group from a Plan during a plan year in which it was a "substantial employer" as defined in Section 4001(a)(2) of ERISA, (c) the filing of a notice of intent to terminate a Plan or the treatment of a Plan amendment as a

termination under Section 4041(c) of ERISA, (d) the institution of proceedings to terminate a Plan by the PBGC, or (e) any other event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan.

"Third Party Locations" means any location which holds, stores or otherwise maintains Collateral, including such locations that are leased locations, trailer storage or self-storage facilities, distribution centers or warehouses, and such locations that are the subject of any bailee arrangement.

"Trade Date" has the meaning assigned to such term in Section 9.7.

"Transactions" means, collectively, (a) the initial borrowings and other extensions of credit under this Agreement (including any deemed borrowings or extensions of credit on the Effective Date), (b) the Effective Date Merger, and (c) the payment of fees, commissions and expenses in connection with each of the foregoing.

"Triggering Event" has the meaning assigned to such term in the Guaranty and Security Agreement.

"Type" has the meaning set forth in Section 1.4.

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

"U.S. Tax Compliance Certificate" has the meaning specified in Section 2.15(g).

"UCC" means the Uniform Commercial Code as in effect in the State of New York from time to time.

"Ultimate Parent" means Select Energy Services, Inc., a Delaware corporation.

"Ultimate Parent Consolidated Group" has the meaning set forth in the definition of Permitted Tax Distributions.

"Unfinanced Capital Expenditures" means Capital Expenditures (a) not financed with the proceeds of any incurrence of Debt (other than the incurrence of any Advances), the proceeds of any sale or issuance of Equity Interests or equity contributions, the proceeds of any asset sale (other than the sale of Inventory in the ordinary course of business) or any insurance proceeds, and (b) that are not reimbursed by a third person (excluding any Credit Party or any of its Affiliates) in the period such expenditures are made pursuant to a written agreement.

"United States", "US" or "U.S." means the United States of America.

"Unrestricted Subsidiary" means any Subsidiary of Parent that has been designated as an Unrestricted Subsidiary in accordance with Section 5.7 and each Subsidiary of an Unrestricted Subsidiary so long as such Subsidiary could have otherwise been designated by Parent as an

Unrestricted Subsidiary in accordance with Section 5.7, in each case, to the extent that such Subsidiary has not been subsequently re-designated as a Restricted Subsidiary under Section 5.7.

"Unused Line Fee" means the fees required under Section 2.9(a).

"Voting Securities" means (a) with respect to any corporation (including any unlimited liability company), capital stock of such corporation having general voting power under ordinary circumstances to elect directors of such corporation (irrespective of whether at the time stock of any other class or classes shall have or might have special voting power or rights by reason of the happening of any contingency), (b) with respect to any partnership, any partnership interest or other ownership interest having general voting power to elect the general partner or other management of the partnership or other Person, and (c) with respect to any limited liability company, membership certificates or interests having general voting power under ordinary circumstances to elect managers of such limited liability company.

"Wells Fargo" means Wells Fargo Bank, National Association.

"Withholding Agent" means any Credit Party or Administrative Agent.

"Wholly-Owned" means, as used in reference to a Restricted Subsidiary, any Restricted Subsidiary whose Equity Interest is owned 100%, either directly or indirectly, by Parent.

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

Schedule.

Computation of Time Periods. In this Agreement in the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" each means "to but excluding".

Section 1.2 **Accounting Terms; Changes in GAAP**.

(a) All accounting terms not specifically defined in this Agreement shall be construed in accordance with GAAP and (i) until the delivery of the financial statements of Borrower for the fiscal year or such other period ending December 31, 2017, applied on a consistent basis with those applied in the preparation of the consolidated financial statements of Borrower for the fiscal year ended December 31, 2016, and (ii) from and after the delivery of the financial statements of Borrower for the fiscal year ending December 31, 2017, applied on a consistent basis with those applied in the preparation of such consolidated financial statements, but in any event, all prepared in accordance with GAAP and as delivered to Administrative Agent.

(b) Unless otherwise indicated, all financial statements of Borrower, all calculations for compliance with covenants in this Agreement, all determinations of the Applicable Margin, and all calculations of any amounts to be calculated under the definitions in Section 1.1 shall be based upon the consolidated accounts of Borrower and its Restricted Subsidiaries in accordance with GAAP and consistent with the principles of consolidation

applied in preparing Borrower financial statements referred to in Section 4.4. For the avoidance of doubt, references in this Agreement or in any other Credit Document to a Person's consolidated financial statements, financial position, financial condition, liabilities, etc. refer to the consolidated financial statements, financial position, financial condition, liabilities, etc. of such Person and its properly consolidated Restricted Subsidiaries (or subset thereof if expressly provided herein) which eliminate offsetting intercompany transactions.

(c) If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Credit Document, and either Borrower or the Majority Lenders shall so request, Administrative Agent, the Lenders and Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of Borrower and the Majority Lenders); provided that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) Borrower shall provide to Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP. Notwithstanding the foregoing, any lease that was treated as an operating lease under GAAP at the time it was entered into and that later becomes a Capital Lease (or is treated for accounting purposes substantially similar to that of a Capital Lease) as a result of the change in GAAP that occurs during the life of such lease, including any renewals, shall be treated as an operating lease for all purposes under this Agreement.

Section 1.3 **Classes and Types of Advances**. Advances are distinguished by "Class" and "Type". The "Class", when used in reference to any Advance or Borrowing, refers to whether such Advance, or the Advances comprising such Borrowing, are Advances under Section 2.1(a) or Swingline Advances. The "Type", when used in respect of any Advance or Borrowing, refers to the Rate (as defined below) by reference to which interest on such Advances or on the Advances comprising such Borrowing is determined. For purposes hereof, the term "Rate" shall include the Eurocurrency Rate and the Adjusted Base Rate.

Section 1.4 **Other Interpretive Provisions**. Article, Section, Schedule, and Exhibit references are to this Agreement, unless otherwise specified. All references to instruments, documents, contracts, and agreements (including this Agreement) are references to such instruments, documents, contracts, and agreements as the same may be amended, supplemented, and otherwise modified from time to time, unless otherwise specified and shall include all schedules and exhibits thereto unless otherwise specified. Any reference herein or in any other Credit Document to "province" or like terms shall include "territory" or like terms. Any reference herein to any law shall be construed as referring to such law as amended, modified, codified or reenacted, in whole or in part, and in effect from time to time. Any reference herein to any Person shall be construed to include such Person's successors and assigns (subject to the restrictions contained herein). The words "hereof", "herein", and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The term "including" means "including, without limitation,". Paragraph headings have been inserted in this Agreement as a matter of convenience for reference only and it is agreed that such paragraph headings are not a part of this Agreement and shall not be used in the interpretation of any provision of this Agreement:

Section 1.5 **Change of Currency**. Each provision of this Agreement also shall be subject to such reasonable changes of construction as Administrative Agent may from time to time specify to be appropriate to reflect a change in currency of any other country other than the United States and any relevant market conventions or practices relating to the change in currency.

ARTICLE II
CREDIT FACILITIES

Section 2.1 **Commitments**.

(a) Commitment. Each Lender severally agrees, on the terms and conditions set forth in this Agreement, to make Advances to Borrower from time to time on any Business Day during the period from the Effective Date until the Business Day immediately preceding the Maturity Date; provided that the amount of any Lender's Advances outstanding at any one time shall not exceed the lesser of:

(i) such Lender's Commitment, and

(ii) such Lender's Applicable Percentage of an amount equal to the lesser of:

(A) the amount equal to the Borrowing Base as of such date less the sum of (1) the Letter of Credit Exposure at such time, plus (2) the principal amount of Swingline Advances outstanding at such time, and

(B) the amount equal to (1) the aggregate Commitments less (2) the sum of (x) the Letter of Credit Exposure at such time, plus (y) the principal amount of Swingline Advances outstanding at such time.

Each Borrowing shall (A) if comprised of Base Rate Advances be in an aggregate amount not less than $500,000 and in integral multiples of $100,000 in excess thereof, (B) if comprised of Eurocurrency Advances be in an aggregate amount not less than $1,000,000 and in integral multiples of $500,000 in excess thereof, and (C) consist of Advances

of the same Type made on the same day by the Lenders ratably according to their respective Commitments. Within the limits of each Lender's Commitment and subject to the further limits set forth above, Borrower may from time to time borrow, prepay pursuant to Section 2.7, and reborrow under this Section 2.1(a).

(b) Reduction of Commitments.

(i) Commitments. Borrower shall have the right, upon at least ten Business Days' irrevocable written notice to Administrative Agent, to terminate in whole or reduce ratably in part the unused portion of the Commitments; provided that each partial reduction shall be in the aggregate amount of $1,000,000 and in integral multiples of $1,000,000 in excess thereof. Any reduction or termination of the Commitments pursuant to this Section shall be permanent, with no obligation of the Lenders to reinstate

such Commitments, and the Unused Line Fees shall thereafter be computed on the basis of the Commitments, as so reduced.

(ii) Defaulting Lender. At any time when a Lender is then a Defaulting Lender, Borrower, at its election, may elect to terminate such Defaulting Lender's Commitment hereunder; provided that (A) such termination must be of all of the Defaulting Lender's Commitments, (B) Borrower shall pay all amounts owed by it to such Defaulting Lender in such Lender's capacity as a Lender under this Agreement and under the other Credit Documents (including principal of and interest on the Advances owed to such Defaulting Lender, accrued Unused Line Fees (subject to Section 2.18(a)(iii)), and letter of credit fees (subject to Section 2.18(a)(iii) but specifically excluding any amounts owing under Section 2.12 as result of such payment of such Advances) and shall deposit with Administrative Agent into the Cash Collateral Account cash collateral in the amount equal to such Defaulting Lender's ratable share of the Dollar Equivalent of the Letter of Credit Exposure (including any such portion thereof that has been reallocated pursuant to Section 2.18), (C) a Defaulting Lender's Commitments may be terminated by Borrower under this Section 2.1(b)(ii) if and only if at such time, Borrower has elected, or is then electing, to terminate the Commitments of all then existing Defaulting Lenders, and (D) no Default has occurred and is continuing at the time of such election and termination. Upon written notice to the Defaulting Lender and Administrative Agent of Borrower's election to terminate a Defaulting Lender's Commitments pursuant to this clause (iv) and the payment and deposit of amounts required to be made by Borrower under clause (B) and (C) above, (1) such Defaulting Lender shall cease to be a "Lender" hereunder for all purposes except that such Lender's rights and obligations as a Lender under Section 2.11, 2.13, 2.15, 8.4 and 9.1 shall continue with respect to events and occurrences occurring before or concurrently with its ceasing to be a "Lender" hereunder, (2) such Defaulting Lender's Commitments shall be deemed terminated, and (3) such Defaulting Lender shall be relieved of its obligations hereunder as a "Lender" except as to its obligations under Section 8.4 and 9.1 and any other obligations that expressly survive, which obligations shall continue with respect to events and occurrences occurring before or concurrently with its ceasing to be a "Lender" hereunder, provided that, any such termination will not be deemed to be a waiver or release of any claim by Borrower, Administrative Agent, Swingline Lenders, Issuing Lenders or any Lender may have against such Defaulting Lender.

(iii) All notices for a complete termination under clauses (i) through (ii) above delivered by Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities or other events, in which case such notice may be revoked by Borrower (by notice to Administrative Agent on or prior to the specified effective date) if such condition is not satisfied.

(c) Reserves. Anything to the contrary in this Section 2.1 notwithstanding, Administrative Agent shall have the right (but not the obligation) at any time and upon at least three (3) Business Days' prior written notice to Borrower in the exercise of its Permitted Discretion, to establish and increase or decrease Reserves against the Borrowing Base or the Commitments. The amount of any Reserve established by Administrative Agent shall have a reasonable relationship to the event, condition, other circumstance, or fact that is the basis for

such reserve and shall not be duplicative of any other reserve established and currently maintained or eligibility criteria; provided that circumstances, conditions, events or contingencies existing or arising prior to the Effective Date and, in each case, disclosed in writing in the field examination or appraisal conducted by Administrative Agent in connection herewith prior to the Effective Date, shall not be the basis for any establishment of any Reserves after the Effective Date, unless such circumstances, conditions, events or contingencies shall have changed in a material respect since the Effective Date (it being understood, however, that the forgoing shall not restrict or affect changes in Reserves by Administrative Agent solely by virtue of mathematical calculations of the amount of such Reserves). During such 3 Business Day period, (x) Administrative Agent shall, if requested, discuss any such Reserve or change with Borrower, (y) Borrower may take such action as may be required so that the event, condition or matter that is the basis for such Reserve or change no longer exists or exists in a manner that would result in the establishment of a lower Reserve or result in a lesser change, in each case, in a manner and to the extent reasonably satisfactory to Administrative Agent and (z) Borrower shall not be permitted to borrow under this Agreement if such Borrowing would result in Deficiency after giving effect to the Reserve or change in question.

Section 2.2 **Evidence of Indebtedness**. The Advances made by each Lender, and the Swingline Advances made by each Swingline Lender, shall be evidenced by one or more accounts or records maintained by such Lender or Swingline Lender and by Administrative Agent in the ordinary course of business. The accounts or records maintained by Administrative Agent, the Swingline Lenders and the Lenders shall be conclusive absent manifest error of the amount of the Advances made by such Lenders and Swingline Lenders to 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 Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of Administrative Agent in respect of such matters, the Register and corresponding accounts and records of Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender to Borrower made through Administrative Agent, Borrower shall execute and deliver to such Lender (through Administrative Agent) the applicable Notes which shall evidence such Lender's Advances to Borrower in addition to such accounts or records. Upon the request of Swingline Lender to Borrower, Borrower shall execute and deliver to Swingline Lender a Swingline Note which shall evidence the Swingline Advances to Borrower in addition to such accounts or records. Each Lender and Swingline Lender may attach schedules to such Notes and record thereon the date, Type (if applicable), amount, and maturity of its Advances and payments with respect thereto. In addition to the accounts and records referred to in the immediately preceding sentences, each Lender, each Issuing Lender and Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Lender of participations in Letters of Credit. In the event of any conflict between the accounts and records maintained by Administrative Agent and the accounts and records of any Lender (other than the respective Issuing Lenders) in respect of such matters, the Register and corresponding accounts and records of Administrative Agent shall control in the absence of manifest error. In the event of any conflict among the accounts and records maintained by Administrative Agent, the accounts and records maintained by an Issuing Lender as to Letters of Credit issued by it, and the accounts and records of any other Lender in respect of such matters,

the Register and corresponding accounts and records of Issuing Lender shall control in the absence of manifest error.

Section 2.3 **Letters of Credit**.

(a) Commitment for Letters of Credit. Issuing Lender, the Lenders and Borrower agree that effective as of the Effective Date, the Existing Letters of Credit shall be deemed to have been issued and maintained under, and to be governed by the terms and conditions of, this Agreement. Subject to the terms and conditions set forth in this Agreement and in reliance upon the agreements of the other Lenders set forth in this Section, Issuing Lender agrees to, from time to time on any Business Day during the period from the Effective Date until the Business Day immediately preceding the Letter of Credit Termination Date, issue, increase or extend the expiration date of Letters of Credit denominated in Dollars for the account of Borrower or a Guarantor. In any event, no Letter of Credit will be issued, increased, or extended:

(i) if such issuance, increase, or extension would cause (w) the Letter of Credit Exposure to exceed the Letter of Credit Maximum Amount, (x) the sum of the Outstandings to exceed the aggregate Commitments, (y) any Lender's Applicable Percentage of the Outstandings to exceed such Lender's Commitment, or (z) the Outstandings to exceed the Borrowing Base then in effect;

(ii) unless such Letter of Credit has an expiration date not later than the earlier of (A) one year after the issuance or extension and (B) the Letter of Credit Termination Date (unless cash collateralized); provided that, (1) if the Commitments are terminated in whole pursuant to Section 2.1(b), Borrower shall either (A) deposit into the applicable Cash Collateral Account cash in an amount equal to 105% of the Dollar Equivalent of the applicable Letter of Credit Exposure for the Letters of Credit which have an expiry date beyond such termination date or (B) provide a replacement letter of credit (or other security) reasonably acceptable to Administrative Agent, the Issuing Lender in an amount equal to 105% of the Dollar Equivalent of such Letter of Credit Exposure and (2) any such Letter of Credit with a one-year tenor (or shorter tenor) may expressly provide for an automatic extension of additional periods up to one additional year so long as such Letter of Credit expressly allows the Issuing Lender, at each such Person's sole discretion, to elect not to provide such extension; provided that, in any event, such automatic extension may not result in an expiration date that occurs after the Letter of Credit Termination Date (unless cash collateralized);

(iii) unless such Letter of Credit is (A) a standby letter of credit, or (B) with the consent of the Issuing Lender, a commercial letter of credit;

(iv) unless such Letter of Credit is in form and substance acceptable to Issuing Lender in each such Person's sole discretion;

(v) unless Borrower has delivered to Issuing Lender a completed and executed Letter of Credit Application; provided that, if the terms of any Letter of Credit

Application conflicts with the terms of this Agreement, the terms of this Agreement shall control;

(vi) unless such Letter of Credit is governed by (A) the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600, or (B) the ISP, in either case, including any subsequent revisions thereof approved by a Congress of the International Chamber of Commerce;

(vii) if any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain Issuing Lender from issuing, increasing or extending such Letter of Credit, or any Legal Requirement applicable to Issuing Lender or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over Issuing Lender shall prohibit, or request that Issuing Lender refrain from, the issuance, increase or extension of letters of credit generally or such Letter of Credit in particular or shall impose upon Issuing Lender with respect to such Letter of Credit any restriction, reserve or capital requirement (for which Issuing Lender is not otherwise compensated hereunder) not in effect on the Effective Date, or shall impose upon Issuing Lender any unreimbursed loss, cost or expense which was not applicable on the Effective Date and which Issuing Lender in good faith deems material to it;

(viii) if the issuance, increase or extension of such Letter of Credit would violate one or more policies of Issuing Lender that are generally applicable to letters of credit;

(ix) if such Letter of Credit supports the obligations of any Person in respect of (A) a lease of real property to the extent that the face amount of such Letter of Credit exceeds the highest rent (including all rent-like charges) payable under such lease for a period of one year, or (B) an employment contract to the extent that the face amount of such Letter of Credit exceeds the highest compensation payable under such contract for a period of one year;

(x) any Lender is at such time a Defaulting Lender hereunder, unless reallocation under Section 2.18 has occurred or Issuing Lender has entered into satisfactory arrangements with Borrower or such Lender to eliminate Issuing Lender's Fronting Exposure with respect to such Lender; or

(xi) during the period starting on the first Business Day after the receipt by Issuing Lender of notice from Administrative Agent or any Lender that any condition precedent contained in Section 3.2 is not satisfied and ending on the date all such conditions are satisfied or duly waived; provided, that for the avoidance of doubt, Issuing Lender may, but shall not be required to, determine that, or take notice whether, the conditions precedent set forth in Section 3.2 have been satisfied or waived in connection with any such issuance, increase or extension;

(b) Requesting Letters of Credit. Each Letter of Credit Extension shall be made pursuant to a Letter of Credit Application, or if applicable, amendments to such Letter of Credit Applications, given by Borrower to Administrative Agent for the benefit of Issuing Lender by telecopy or in writing not later than 12:00 noon (Atlanta, Georgia time) on the third Business Day before the proposed date of the Letter of Credit Extension. Each Letter of Credit Application, or if applicable, amendments to the Letter of Credit Applications, shall be fully completed and shall specify the information required therein. Each Letter of Credit Application, or if applicable, amendments to the Letter of Credit Applications, shall be irrevocable and binding on Borrower.

(c) Reimbursements for Letters of Credit; Funding of Participations.

(i) In accordance with the related Letter of Credit Application, Borrower with respect to a Letter of Credit, agrees to pay on demand to Administrative Agent on behalf of Issuing Lender an amount equal to any amount paid by Issuing Lender under such Letter of Credit. Upon Issuing Lender's demand for payment under the terms of a Letter of Credit Application, Borrower may request that its obligations to Issuing Lender thereunder be satisfied with the proceeds of a Base Rate Advance under the Facility in the same amount with respect to any Letter of Credit, notwithstanding any minimum size or increment limitations on individual Advances. If Borrower does not make such request and does not otherwise make the payments demanded by Issuing Lender as required under this Agreement or the applicable Letter of Credit Application, then upon such notice by Issuing Lender to Administrative Agent (which notice is not required when Issuing

Lender and Administrative Agent are the same Person), Borrower shall be deemed for all purposes of this Agreement to have requested such Advance in the same amount and in the same currency and the transfer of the proceeds thereof to satisfy Borrower's obligations to Issuing Lender. Borrower hereby unconditionally and irrevocably authorizes, empowers, and directs the Lenders to make Base Rate Advances, to transfer the proceeds thereof to Issuing Lender in satisfaction of such obligations, and to record and otherwise treat such payments as a Base Rate Advance under the Facility to Borrower. Administrative Agent and each Applicable Lender may record and otherwise treat the making of such Borrowings as the making of a Borrowing to the Borrower under this Agreement as if requested by the Borrower. Nothing herein is intended to release any Borrower's obligations under any Letter of Credit Application, but only to provide an additional method of payment therefor. The making of any Borrowing under this Section 2.3(c) shall not constitute a cure or waiver of any Default or Event of Default, other than the payment Default or Event of Default which is satisfied by the application of the amounts deemed advanced hereunder, caused by Borrower's failure to comply with the provisions of this Agreement or the applicable Letter of Credit Application.

(ii) Each Lender (including each Lender acting as an Issuing Lender) shall, upon notice from Administrative Agent that Borrower has requested or is deemed to have requested an Advance pursuant to Section 2.6 and regardless of whether (A) the conditions in Section 3.2 have been met, (B) such notice complies with Section 2.6, or (C) a Default exists, make funds available in the applicable currency to Administrative Agent for the account of Issuing Lender in an amount equal to such Lender's Applicable Percentage of the amount of such Advance not later than 1:00 p.m. (Atlanta, Georgia,

time) on the Business Day specified in such notice by Administrative Agent, whereupon each Lender that so makes funds available shall be deemed to have made a Base Rate Advance under the Facility to Borrower in such amount. Administrative Agent shall remit the funds so received to Issuing Lender.

(iii) If any such Lender shall not have so made such Advance available to Administrative Agent pursuant to this Section 2.3, such Lender agrees to pay interest thereon for each day from such date until the date such amount is paid at the lesser of (A) the Federal Funds Rate for such day for the first three days and thereafter the interest rate applicable to Base Rate Advances and (B) the Maximum Rate. Whenever, at any time after Administrative Agent has received from any Lender such Lender's Advance, Administrative Agent receives any payment on account thereof, Administrative Agent will pay to such Lender its participating interest in such amount (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender's Advance was outstanding and funded), which payment shall be subject to repayment by such Lender if such payment received by Administrative Agent is required to be returned. Each Lender's obligation to make the Advances pursuant to this Section 2.3 shall be absolute and unconditional and shall not be affected by any circumstance, including (1) any set-off, counterclaim, recoupment, defense or other right which such Lender or any other Person may have against Issuing Lender, Administrative Agent or any other Person for any reason whatsoever; (2) the occurrence or continuance of a Default or the termination of the Commitments; (3) any breach of this Agreement by Borrower or any other Lender; or (4) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing.

(iv) If at any time, the Commitments shall have expired or been terminated while any Letter of Credit Exposure is outstanding, then each Lender, at the sole option of Issuing Lender, shall fund its participation in such Letters of Credit in an amount equal to such Lender's Applicable Percentage of the unpaid amount of Borrower's payment obligations under drawn Letters of Credit. Issuing Lender shall notify Administrative Agent, and in turn, Administrative Agent shall notify each such applicable Lender of the amount of such participation, and such Lender will transfer to Administrative Agent for the account of Issuing Lender on the next Business Day following such notice, in Same Day Funds, the amount of such participation. At any time after Issuing Lender has made a payment under any Letter of Credit and has received from any Lender funding of its participation in respect of such payment in accordance with this clause (iv), if Administrative Agent receives for the account of Issuing Lender any payment in respect of the related Letter of Credit Exposure or interest thereon (whether directly from Borrower or otherwise, including proceeds of cash collateral applied thereto by Administrative Agent), Administrative Agent shall distribute to such Lender its Applicable Percentage thereof in the same funds as those received by Administrative Agent.

(v) If any payment received by Administrative Agent for the account of any Issuing Lender pursuant to this Section 2.3(c) is required to be returned under any of the circumstances described in Section 9.14 (including pursuant to any settlement entered into by Issuing Lender in its discretion), each Lender shall pay to Administrative

Agent for the account of Issuing Lender its Applicable Percentage thereof on demand of Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the Federal Funds Rate in effect from time to time. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(d) Participations. Upon the date of the issuance or increase of a Letter of Credit or the deemed issuance of the Existing Letters of Credit under Section 2.3(a), Issuing Lender shall be deemed to have sold to each other Lender and each other Lender shall have been deemed to have purchased from Issuing Lender a participation in the related Letter of Credit Obligations equal to such Lender's Applicable Percentage at such date, such sale and purchase shall otherwise be in accordance with the terms of this Agreement. Issuing Lender shall promptly notify each such participant Lender by telex, telephone, or telecopy of each Letter of Credit issued or increased and the actual dollar amount of such Lender's participation in such Letter of Credit.

(e) Obligations Unconditional. The obligations of Borrower under this Agreement in respect of each Letter of Credit shall be unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, notwithstanding the following circumstances:

(i) any lack of validity or enforceability of any Letter of Credit Documents;

(ii) any amendment or waiver of or any consent to departure from any Letter of Credit Documents;

(iii) the existence of any claim, set-off, defense or other right which any Restricted Entity may have at any time against any beneficiary or transferee of such Letter of Credit (or any Persons for whom any such beneficiary or any such transferee may be acting), any Issuing Lender, any Lender or any other person or entity, whether in connection with this Agreement, the transactions contemplated in this Agreement or in any Letter of Credit Documents or any unrelated transaction;

(iv) any statement or any other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect to the extent the Issuing Lender would not be liable therefor pursuant to the following subsection (g);

(v) payment by any Issuing Lender under such Letter of Credit against presentation of a draft or certificate which does not comply with the terms of such Letter of Credit; or (vi) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing; provided, however, that nothing

contained in this subsection (e) shall be deemed to constitute a waiver of any remedies of Borrower in connection with the Letters of Credit.

(f) Prepayments of Letters of Credit. In the event that any Letter of Credit shall be outstanding or shall be drawn and not reimbursed after the Maturity Date, Borrower

shall pay to Administrative Agent an amount equal to 105% of the Letter of Credit Exposure allocable to such Letter of Credit to be held in the Cash Collateral Account and applied in accordance with subsection (h) below.

(g) Liability of Issuing Lender. Borrower assumes all risks of the acts or omissions of any beneficiary or transferee of any Letter of Credit with respect to its use of such Letter of Credit. Neither Issuing Lender nor any of its officers or directors shall be liable or responsible for: (i) the use which may be made of any Letter of Credit or any acts or omissions of any beneficiary or transferee in connection therewith; (ii) the validity, sufficiency or genuineness of documents, or of any endorsement thereon, even if such documents should prove to be in any or all respects invalid, insufficient, fraudulent or forged; (iii) payment by Issuing Lender against presentation of documents which do not comply with the terms of a Letter of Credit, including failure of any documents to bear any reference or adequate reference to the relevant Letter of Credit; or (iv) any other circumstances whatsoever in making or failing to make payment under any Letter of Credit (**INCLUDING ISSUING LENDER'S OWN NEGLIGENCE**), except that Borrower shall have a claim against Issuing Lender, and Issuing Lender shall be liable to, and shall promptly pay to, Borrower, to the extent of any direct, as opposed to consequential, damages suffered by Borrower which a court in a final, non-appealable finding rules were caused by Issuing Lender's willful misconduct or gross negligence in determining whether documents presented under a Letter of Credit comply with the terms of such Letter of Credit. In furtherance and not in limitation of the foregoing, Issuing Lender may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary.

(h) Cash Collateral - General.

(i) If Borrower is required to deposit funds in the Cash Collateral Account pursuant to the terms hereof, then Borrower and Administrative Agent shall establish the Cash Collateral Account and Borrower shall execute any documents and agreements, including Administrative Agent's standard form assignment of deposit accounts, that Administrative Agent reasonably requests in connection therewith to establish the Cash Collateral Account and grant Administrative Agent a first priority Lien (subject to Permitted Liens described in Section 6.2(h)) in such account and the funds therein. Borrower hereby pledges to Administrative Agent and grants Administrative Agent a security interest in the Cash Collateral Account, whenever established, all funds held in the Cash Collateral Account from time to time, and all proceeds thereof as security for the payment of the Secured Obligations.

(ii) If a Defaulting Lender deposits funds in a deposit account with Administrative Agent pursuant to the terms of this Section 2.3(h)(ii) and Section 2.3(i), then such Lender and Administrative Agent shall establish such Cash Collateral Account and such Lender shall execute any documents and agreements, including Administrative Agent's standard form assignment of deposit accounts, that Administrative Agent requests in connection therewith to establish such account and grant Administrative Agent a first priority security interest in such account and the funds therein. Such Defaulting Lender hereby pledges to Administrative Agent and grants Administrative Agent a security interest in such collateral account, whenever established, all funds held

in such account from time to time, and all proceeds thereof as security for the payment of the Letter of Credit Obligations of Borrower to be applied as provided in Section 2.3(i) below.

(iii) Funds held in the Cash Collateral Accounts shall be held as cash collateral for obligations with respect to Letters of Credit in the case of the Cash Collateral Account. Such funds shall be promptly applied by Administrative Agent at the request of Issuing Lender to any reimbursement or other obligations under the applicable Letters of Credit that exist or occur. To the extent that any surplus funds are held in the Cash Collateral Account above the Letter of Credit Exposure, during the existence of an Event of Default Administrative Agent may (A) hold such surplus funds in the Cash Collateral Account as cash collateral for the Secured Obligations or (B) apply such surplus funds to any Secured Obligations in any manner directed by the Majority Lenders. If no Default exists and no Deficiency exists, Administrative Agent shall release to Borrower at Borrower's written request any funds held in the Cash Collateral Account above the amounts required by Section 2.3(i), subject to the requirements of Section 2.3(i) below and Section 2.18(a)(ii).

(iv) Funds held in the Cash Collateral Account shall be invested in Liquid Investments maintained with, and under the sole dominion and control of, Administrative Agent or in another investment if mutually agreed upon by Borrower and Administrative Agent, but Administrative Agent shall have no obligation to make any other investment of the funds therein. Administrative Agent shall exercise reasonable care in the custody and preservation of any funds held in the Cash Collateral Accounts and shall be deemed to have exercised such care if such funds are accorded treatment substantially equivalent to that which Administrative Agent accords its own property, it being understood that Administrative Agent shall not have any responsibility for taking any necessary steps to preserve rights against any parties with respect to any such funds.

(i) Defaulting Lender — Cash Collateral. If at any time, a Defaulting Lender exists hereunder, then, at the request of Issuing Lender, Borrower shall fully Cash Collateralize Issuing Lender's Fronting Exposure with respect to such Defaulting Lender (determined after giving effect to any Cash Collateral provided by such Defaulting Lender). Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under this Section 2.3(i) or Section 2.18 in respect of Letters of Credit shall be applied to the satisfaction of the Defaulting Lender's obligation to fund participations in respect of Letter of Credit Obligations (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein. Cash Collateral (or the appropriate portion thereof) provided to reduce Issuing Lender's Fronting Exposure shall no longer be required to be held as Cash Collateral pursuant to this Section 2.3(i) following (a) the elimination of the applicable Fronting Exposure (including by the termination of Defaulting Lender status of the applicable Lender), or (b) the determination by Administrative Agent and Issuing Lender that there exists excess Cash Collateral; provided that, (1) the Person providing Cash Collateral and Issuing Lender may agree that Cash Collateral shall be held to support future anticipated Fronting Exposure or other obligations, (2) to the extent that such Cash Collateral was provided by Borrower, such Cash Collateral shall remain subject to the security interest

granted pursuant to the Credit Documents, and (3) to the extent that such Cash Collateral was provided by Borrower, during the existence of an Event of Default the application of such Cash Collateral shall be subject to Section 2.3(h)(iii) and (iv) above, the second sentence in this Section 2.3(i) and Section 2.18(a)(ii).

(j) Letters of Credit Issued for Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, any Restricted Subsidiary, Borrower shall be obligated to reimburse Issuing Lender hereunder for any and all drawings under such Letter of Credit issued under the Facility by Issuing Lender. Borrower hereby acknowledges that the issuance of Letters of Credit for the account of its Restricted Subsidiaries inures to the benefit of Borrower, and that Borrower's business derives substantial benefits from the businesses of such Restricted Subsidiaries.

Section 2.4 **Swingline Advances**.

(a) Facility. On the terms and conditions set forth in this Agreement, Swingline Lender agrees, from time-to-time on any Business Day during the period from the date of this Agreement until the Business Day immediately preceding the Maturity Date, to make Swingline Advances to Borrower which shall be due and payable on the Swingline Payment Date, bearing interest at the Adjusted Base Rate plus the Applicable Margin for Base Rate Advances; provided (i) that after giving effect to such Swingline Advance, (A) the aggregate outstanding principal amount of all Swingline Advances advanced by Swingline Lender shall not exceed the Swingline Sublimit Amount, (B) the Outstandings shall not exceed the aggregate Commitments, (C) no Lender's Applicable Percentage of the Outstandings shall exceed such Lender's Commitment, and (D) the Outstandings shall not exceed the Borrowing Base at such time; (ii) no Swingline Advance shall be made by Swingline Lender if the conditions set forth in Section 3.2 have not been met as of the date of such Swingline Advance, it being agreed by Borrower that the giving of the applicable Notice of Borrowing and the acceptance by Borrower of the proceeds of such Swingline Advance shall constitute a representation and warranty by Borrower that on the date of such Swingline Advance such conditions have been met; and (iii) each Swingline Advance shall be in an aggregate amount not less than $100,000.00 and in integral multiples of $50,000.00 in excess thereof. Each Lender shall have the obligation to purchase and fund risk participations in the Swingline Advances and to refinance Swingline Advances as provided below.

(b) Evidence of Indebtedness. The indebtedness of Borrower to the Swingline Lenders resulting from Swingline Advances shall be evidenced as set forth in Section 2.2.

(c) Prepayment. Within the limits expressed in this Agreement, amounts advanced pursuant to Section 2.4(a) may from time to time be borrowed, prepaid without penalty, and reborrowed. If the aggregate outstanding principal amount of the Swingline Advances advanced by Swingline Lender ever exceeds the Swingline Sublimit Amount, Borrower shall, upon receipt of written notice of such condition from Swingline Lender and to the extent of such excess, prepay to Swingline Lender outstanding principal of the Swingline Advances such that such excess is eliminated.

(d) Refinancing of Swingline Advances.

(i) With respect to the Swingline Advances and the interest, fees, and other amounts owed by Borrower to Swingline Lender in connection with the Swingline Advances, Borrower agrees to pay to Swingline Lender such amounts when due and payable to Swingline Lender under the terms of this Agreement. If Borrower does not pay to Swingline Lender any such amounts when due and payable to Swingline Lender, Swingline Lender may upon notice to Administrative Agent request the satisfaction of such obligation by the making of a Borrowing in the amount of any such amounts not paid when due and payable. Upon such request and, in any event, regardless of whether a Swingline Payment Date has occurred, on a weekly basis as determined by Administrative Agent or on a more frequent basis if so determined by Administrative Agent in its sole discretion, Borrower shall be deemed to have requested the making of a Borrowing in the amount of such obligation and the transfer of the proceeds thereof to Swingline Lender. Such Borrowing shall bear interest based upon the Adjusted Base Rate plus the Applicable Margin for Base Rate Advances. Administrative Agent shall promptly forward notice of such Borrowing to Borrower and the Lenders, and each Lender shall, regardless of whether (A) the conditions in Section 3.2 have been met, (B) such notice complies with Section 2.6, or (C) a Default exists, make available such Lender's ratable share of such Borrowing to Administrative Agent, and Administrative Agent shall promptly deliver the proceeds thereof to Swingline Lender for application to such amounts owed to Swingline Lender. Borrower hereby unconditionally and irrevocably authorizes, empowers, and directs Swingline Lender to make such requests for Borrowings on behalf of Borrower in accordance with this Section, and the Lenders to make Advances to Administrative Agent for the benefit of Swingline Lender in satisfaction of such obligations. Administrative Agent and each Lender may record and otherwise treat the making of such Borrowings as the making of a Borrowing to Borrower under this Agreement as if requested by Borrower. Nothing herein is intended to release Borrower's obligations with respect to Swingline Advances, but only to provide an additional method of payment therefor. The making of any Borrowing under this Section 2.4(d) shall not constitute a cure or waiver of any Default or Event of Default, other than the payment Default or Event of Default which is satisfied by the application of the amounts deemed advanced hereunder, or caused by Borrower's failure to comply with the provisions of this Agreement.

(ii) If at any time, the Commitments shall have expired or been terminated while any Swingline Advance is outstanding, each Lender, at the sole option of Swingline Lender, shall either (A) notwithstanding the expiration or termination of the Commitments, make an Advance as a Base Rate Advance, or (B) be deemed, without further action by any Person, to have purchased from the Swingline Lender a participation in such Swingline Advance, in either case in an amount equal to the product of such Lender's Applicable Percentage times the outstanding aggregate principal balance of the Swingline Advances made by Swingline Lender. Swingline Lender shall notify Administrative Agent, and in turn, Administrative Agent shall notify each such Lender of the amount of such Advance or participation, and such Lender will transfer to Administrative Agent for the account of Swingline Lender on the next Business Day following such notice, in Same Day Funds, the amount of such Advance or participation.

(iii) If any such Lender shall not have so made its Advance or its percentage participation available to Administrative Agent pursuant to this Section 2.4, such Lender agrees to pay interest thereon for each day from such date until the date such amount is paid at the lesser of (A) the Federal Funds Rate for such day for the first three days and thereafter the interest rate applicable to the Advance and (B) the Maximum Rate. Whenever, at any time after Administrative Agent has received from any Lender such Lender's Advance or participating interest in a Swingline Advance, Administrative Agent receives any payment on account thereof, Administrative Agent will pay to such Lender its participating interest in such amount (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender's Advance or participating interest was outstanding and funded), which payment shall be subject to repayment by such Lender if such payment received by Administrative Agent is required to be returned. Each Lender's obligation to make the Advance or purchase such participating interests pursuant to this Section 2.4 shall be absolute and unconditional and shall not be affected by any circumstance, including (1) any set-off, counterclaim, recoupment, defense or other right which such Lender or any other Person may have against Swingline Lender, Administrative Agent or any other Person for any reason whatsoever; (2) the occurrence or continuance of a Default or the termination of the Commitments; (3) any breach of this Agreement by Borrower or any other Lender; or (4) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing. Each Swingline Advance, once so participated by any Lender, shall cease to be a Swingline Advance with respect to that amount for purposes of this Agreement, but shall continue to be an Advance.

(e) Method of Borrowing. Except as provided in clause (c) above, each request for a Swingline Advance shall be made pursuant to telephone notice to Swingline Lender given no later than 1:00 p.m. (Atlanta, Georgia time) (or such later time as accepted by Swingline Lender) on the date of the proposed Swingline Advance, promptly confirmed by a completed and executed Notice of Borrowing telecopied or facsimiled to Administrative Agent and Swingline Lender. Swingline Lender will

promptly make the Swingline Advance available to Borrower at Borrower's account with Administrative Agent or as otherwise directed by Borrower with written notice to Administrative Agent.

(f) Interest for Account of Swingline Lender. Swingline Lender shall be responsible for invoicing Borrower for interest on the Swingline Advances (provided that any failure of Swingline Lender to provide such invoice shall not release Borrower from its obligation to pay such interest). Until each Lender funds its Advance or risk participation pursuant to clause (d) above, interest in respect of each Lender's Applicable Percentage of the Swingline Advances shall be solely for the account of Swingline Lender.

(g) Payments Directly to Swingline Lender. Borrower shall make all payments of principal and interest in respect of the Swingline Advances directly to Swingline Lender.

(h) Adjustments to Swingline Sublimit Amounts. If any Lender becomes a Defaulting Lender hereunder, at Borrower's option and with at least one Business Day's prior written notice to Administrative Agent and Swingline Lender, Borrower may decrease the

Swingline Sublimit Amount to such lesser amount notified to Administrative Agent and Swingline Lender. If such election is made, then in the event that Administrative Agent, Borrower and Swingline Lender agree that all existing Defaulting Lenders have adequately remedied all matters that caused such Lenders to be Defaulting Lenders, the Swingline Sublimit Amount shall automatically, without further notice or action to be taken by any party hereto, be increased back up to the Swingline Sublimit Amount that was in effect prior to Borrower's election made pursuant to this clause (h).

Section 2.5 [*Reserved*].

Section 2.6 **Borrowings; Procedures and Limitations**.

(a) Notice. Each Borrowing shall be made pursuant to a Notice of Borrowing (other than the Borrowings to be made on the Effective Date and Swingline Borrowings) and given by Borrower to Administrative Agent not later than (i) 12:00 noon (Atlanta, Georgia time) on the third Business Day before the date of the proposed Borrowing in the case of a Eurocurrency Advance; and (ii) 10:00 a.m. (Atlanta, Georgia time) on the Business Day of the proposed Borrowing in the case of a Base Rate Advance. Administrative Agent shall give each Lender prompt notice on the day of receipt of a timely Notice of Borrowing by facsimile; provided however that Administrative Agent and each of the Lenders hereby waive the requirement in this Section 2.6(a) with respect to the initial Borrowings to be made on the Effective Date. Each Notice of Borrowing shall be by telephone or facsimile, and if by telephone, confirmed promptly in writing, specifying (i) the requested date of such Borrowing (which shall be a Business Day), (ii) the requested Type of Advances comprising such Borrowing, (iii) the aggregate amount of such Borrowing, and (iv) if such Borrowing is to be comprised of Eurocurrency Advances, the Interest Period for such Advances. In the case of a proposed Borrowing comprised of Eurocurrency Advances, Administrative Agent shall promptly notify each Lender of the applicable interest rate under Section 2.10. Each Lender shall before 1:00 p.m. (Atlanta, Georgia time) on the date of the proposed Borrowing, make available for the account of its Lending Office to Administrative Agent at its address referred to in Section 9.10, or such other location as Administrative Agent may specify by notice to the applicable Lenders, in Same Day Funds, such Lender's Applicable Percentage of such Borrowing. Promptly upon Administrative Agent's receipt of such funds (but in any event not later than 3:00 p.m. (Atlanta, Georgia time) on the date of the proposed Borrowing) and provided that the applicable conditions set forth in Article VIII have been satisfied, Administrative Agent will make such funds available to the Borrower at its account with Administrative Agent.

(b) Conversions and Continuations. In order to elect to Convert or continue Advances comprising part of the same Borrowing under this Section, the Applicable Borrower shall deliver an irrevocable Notice of Conversion or Continuation to Administrative Agent at Administrative Agent's office no later than (A) 10:00 a.m. (Atlanta, Georgia time) on the Business Day of the proposed Conversion date in the case of a Conversion of such Advances to Base Rate Advances and (B) 12:00 noon (Atlanta, Georgia time) at least three Business Days in advance of the proposed Conversion or continuation date in the case of a Conversion to, or a continuation of, Eurocurrency Advances. Each such Notice of Conversion or Continuation shall be in writing or by telephone or facsimile, and if by telephone, confirmed promptly in writing, specifying (A) the requested Conversion or continuation date (which shall be a Business Day),

(B) the Borrowing amount and Type of the Advances to be Converted or continued, (C) whether a Conversion or continuation is requested, and if a Conversion, into what Type of Advances, and (D) in the case of a Conversion to, or a continuation of, Eurocurrency Advances, the requested Interest Period. Promptly after receipt of a Notice of Conversion or Continuation under this paragraph, Administrative Agent shall provide each Lender with a copy thereof and, in the case of a Conversion to or a continuation of Eurocurrency Advances, notify each Lender of the applicable interest rate under Section 2.10. For purposes other than the conditions set forth in Section 3.2, the portion of Advances comprising part of the same Borrowing that are Converted to Advances of another Type shall constitute a new Borrowing.

(c) Certain Limitations. Notwithstanding anything in paragraph (a) above:

(i) Each Borrowing shall (A) be in an aggregate amount not less than $1,000,000 and in integral multiples of $500,000 in excess thereof in case of Eurocurrency Advances and in an aggregate amount not less than $500,000 and in integral multiples of $100,000 in excess thereof in case of Base Rate Advances, (B) consist of Advances of the same Type made, Converted or continued on the same day by the Lenders according to their Applicable Percentage, and (C) denominated only in Dollars.

(ii) At no time shall there be more than six Interest Periods applicable to outstanding Eurocurrency Advances under the Facilities.

(iii) Borrower may not select Eurocurrency Advances for any Borrowing to be made, Converted or continued if an Event of Default has occurred and is continuing.

(iv) If any Lender shall, at least one Business Day prior to the requested date of any Borrowing comprised of Eurocurrency Advances, notify Administrative Agent and the Applicable Borrower that the introduction of or any change in or in the interpretation of any Legal Requirement makes it unlawful, or that any central bank or other Governmental Authority asserts that it is unlawful, for such Lender or its Lending Office to perform its obligations under this Agreement to make Eurocurrency Advances or to fund or maintain Eurocurrency Advances, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or take deposits of, Dollars in the applicable interbank market, then (A) (1) such Lender's Applicable Percentage of the amount of such Borrowing shall be made as a Base Rate Advance of such Lender, (2) such Base Rate Advance shall be considered part of the same Borrowing and interest on such Base Rate Advance shall be due and payable at the same time that interest on the Eurocurrency Advances comprising the remainder of such Borrowing shall be due and payable, and (3) any obligation of such Lender to make, continue, or Convert to, Eurocurrency Advances in the affected currency or currencies, including in connection with such requested Borrowing, shall be suspended until such Lender notifies Administrative Agent and the Applicable Borrower that the circumstances

giving rise to such determination no longer exist; and (B) such Lender agrees to use commercially reasonable efforts (consistent with its internal policies and legal and regulatory restrictions) to designate a different Lending Office if the making of

such designation (1) would eliminate the restriction on such Lender described above, and (2) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender.

(v) If Administrative Agent is unable to determine the Eurocurrency Rate for Eurocurrency Advances comprising any requested Borrowing, the right of the Borrower to select Eurocurrency Advances for such Borrowing or for any subsequent Borrowing shall be suspended until Administrative Agent shall notify Borrower and Lenders that the circumstances causing such suspension no longer exist, and each Advance comprising such Borrowing shall be made, Converted or continued as a Base Rate Advance.

(vi) If the Majority Lenders shall, at least one Business Day before the date of any requested Borrowing, notify Administrative Agent that the Eurocurrency Rate for Eurocurrency Advances comprising such Borrowing will not adequately reflect the cost to such Lenders of making or funding their respective Eurocurrency Advances, as the case may be, for such Borrowing, then Administrative Agent shall give notice thereof to the Borrower and the Lenders and the right of the Borrower to select Eurocurrency Advances for such Borrowing or for any subsequent Borrowing shall be suspended until Administrative Agent shall notify the Borrower and the Lenders that the circumstances causing such suspension no longer exist, and each Advance comprising such Borrowing shall be made as a Base Rate Advance.

(vii) If Borrower shall fail to select the continuation of any Interest Period for any Eurocurrency Advance in accordance with the provisions contained in the definition of "Interest Period" in Section 1.1 and paragraph (a) above, Administrative Agent will forthwith so notify the Borrower and the applicable Lenders and such affected Advances will be Converted into Base Rate Advances at the end of Interest Period then in effect. If Borrower shall fail to select the duration of any Interest Period for any Eurocurrency Advance in accordance with the provisions contained in the definition of "Interest Period" in Section 1.1 and paragraph (a) above, the Borrower shall be deemed to have selected an Interest Period of one month.

(viii) Swingline Advances may not be Converted or continued.

(d) Notices Irrevocable. Each Notice of Borrowing delivered by Borrower hereunder, including its deemed request for borrowing made under Section 2.3(c) or Section 2.4, shall be irrevocable and binding on Borrower.

(e) Lender Obligations Several. The failure of any Lender to make the Advance to be made by it as part of any Borrowing shall not relieve any other Lender of its obligation, if any, to make its Advance on the date of such Borrowing. No Lender shall be responsible for the failure of any other Lender to make the Advance to be made by such other Lender on the date of any Borrowing.

(f) Funding by Lenders; Administrative Agent's Reliance. Unless Administrative Agent shall have received notice from a Lender prior to the proposed date of any

Borrowing of Eurocurrency Advances, or prior to noon on the date of any Borrowing of Base Rate Advances, that such Lender will not make available to Administrative Agent such Lender's share of such Borrowing, Administrative Agent may assume that a Lender has made its share available in accordance with and at the time required in Section 2.6 and may, in reliance upon such assumption, make available to Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of Borrowing available to Administrative Agent, then such Lender and Borrower severally agree to pay to Administrative Agent forthwith on demand such corresponding amount in Same Day Funds with interest thereon, for each day from and including the date such amount is made available to Borrower to but excluding the date of payment to Administrative Agent, at (A) in the case of a payment to be made by Borrower, the Adjusted Base Rate plus the Applicable Margin, and (B) in the case of a payment to be made by such Lender, the lesser of (i) the Federal Funds Rate for such day and (ii) the Maximum Rate. If such Lender shall repay to Administrative Agent such corresponding amount and interest as provided above, such corresponding amount so repaid shall constitute such Lender's Advance as part of such Borrowing for purposes of this Agreement even though not made on the same day as the other Advances comprising such Borrowing. Any payment by Borrower shall be without prejudice to any claim Borrower may have against a Lender that shall have failed to make such payment to Administrative Agent. A notice of Administrative Agent to any Lender or Borrower with respect to any amount owing under this subsection (f) shall be conclusive, absent manifest error.

(g) Protective Advances and Optional Overadvances.

(i) Any contrary provision of this Agreement or any other Credit Document notwithstanding (but subject to Section 2.6(g)(iv)), at any time (A) after the occurrence and during the continuance of a Default or an Event of Default, or (B) that any of the other applicable conditions precedent set forth in Section 3.2 are not satisfied, Administrative Agent hereby is authorized by Borrower and the Lenders, from time to time, in Administrative Agent's sole discretion, to make Advances to, or for the benefit of Borrower, on behalf of the applicable Lenders, that Administrative Agent, in its Permitted Discretion, deems necessary or desirable (1) to preserve or protect the Collateral, or any portion thereof, or (2) to enhance the likelihood of repayment of the Obligations (other than the Banking Services Obligations) (the Advances described in this Section 2.6(g)(i) shall be referred to as "Protective Advances"). Notwithstanding the foregoing, the aggregate amount of all Protective Advances outstanding at any one time shall not exceed 10% of the Commitments (unless Majority Lenders otherwise agree to a higher amount (it being understood that Borrower's agreement to such higher amount shall not be required)). Administrative Agent's authorization to make Protective Advances may be revoked at any time by the Majority Lenders delivering written notice of such revocation to Administrative Agent. Any such revocation shall be effective prospectively upon Administrative Agent's receipt thereof.

(ii) Any contrary provision of this Agreement or any other Credit Document notwithstanding, the Lenders hereby authorize Administrative Agent or Swingline Lenders, as applicable, and Administrative Agent or Swingline Lenders, as applicable, may, but is not obligated to, knowingly and intentionally, continue to make Advances (including Swingline Advances) to Borrower (such Advances and Swingline

Advances, the "Intentional Overadvances") notwithstanding that a Deficiency exists or would be created thereby, so long as with respect to any such Advances, after giving effect to any such Advances (including Swingline Advances), the Outstandings do not exceed the Borrowing Base by more than 10% of the Commitments

(unless Majority Lenders otherwise agree to a higher amount) and do not exceed the Commitments (provided, that Administrative Agent may (but shall not be obligated to) make Intentional Overadvances in excess of the limitations set forth in this subsection (ii) if Administrative Agent believes that the failure to do so could result in imminent harm to the Collateral or its value). Administrative Agent shall provide notice of Intentional Overadvances to Lenders as promptly as practicable thereafter. In any event, if any Intentional Overadvance permitted pursuant to this Section 2.6(g)(ii), remains outstanding for more than 30 days, unless otherwise agreed to by Majority Lenders, Borrower shall immediately repay Advances in an amount sufficient to eliminate all such Intentional Overadvances. The foregoing provisions are meant for the benefit of the Lenders and Administrative Agent and are not meant for the benefit of Borrower. Administrative Agent's and Swingline Lender's authorization to make Intentional Overadvances may be revoked at any time by Majority Lenders delivering written notice of such revocation to Administrative Agent. Any such revocation shall become effective prospectively upon Administrative Agent's receipt thereof.

(iii) Each Protective Advance and each Intentional Overadvance (each, an "Extraordinary Advance") shall be deemed to be an Advance hereunder, except that no Extraordinary Advance shall be eligible to be a Eurocurrency Advance. Prior to settlement of any Extraordinary Advance, all payments with respect thereto, including interest thereon, shall be payable to Administrative Agent solely for its own account. Each Lender shall be obligated to settle with Administrative Agent for the amount of such Lender's Applicable Percentage of any Extraordinary Advance. The Extraordinary Advances shall be repayable on demand, secured by Administrative Agent's Liens, constitute Obligations hereunder, and bear interest at the rate applicable from time to time to Advances that are Base Rate Advances. The provisions of this Section 2.6(g) are for the exclusive benefit of Administrative Agent, Swingline Lenders, and the Lenders and are not intended to benefit Borrower (or any other Credit Party) in any way.

(iv) Notwithstanding anything contained in this Agreement or any other Credit Document to the contrary, except as otherwise provided in Section 2.6(g)(ii), no Extraordinary Advance may be made by Administrative Agent if such Extraordinary Advance would cause the aggregate Outstandings to exceed the Commitments or any Lender's Applicable Percentage of the Outstandings to exceed such Lender's Commitment; provided that Administrative Agent may make Extraordinary Advances in excess of the foregoing limitations so long as such Extraordinary Advances that cause the aggregate Outstandings to exceed the Commitments or a Lender's Applicable Percentage of the Outstandings to exceed such Lender's Commitment are for Administrative Agent's sole and separate account and not for the account of any Lender. No Lender shall have an obligation to settle with Administrative Agent for such Extraordinary Advances that cause the aggregate Outstandings to exceed the Commitments or a Lender's Applicable Percentage of the Outstandings to exceed such Lender's Commitment.

Section 2.7 **Prepayments**.

(a) Right to Prepay. Borrower shall not have any right to prepay any principal amount of any Advance except as provided in this Section 2.7. All notices given pursuant to this Section 2.7 shall be irrevocable and binding upon Borrower; provided that, if a notice of prepayment is given in connection with a conditional notice of termination of the Commitments as contemplated by Section 2.1(b), then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.1(b)(iii). Each payment of any Advance pursuant to this Section 2.7 shall be made in a manner such that all Advances comprising part of the same Borrowing are paid in whole or ratably in part other than Advances owing to a Defaulting Lender as provided in Section 2.18.

(b) Optional. Borrower may elect to prepay any Borrowing, in whole or in part, without penalty or premium except as set forth in Section 2.12 and after giving by 12:00 noon (Atlanta, Georgia time) (i) in the case of Eurocurrency Advances, at least three Business Days' or (ii) in case of Base Rate Advances, one Business Day's prior written notice to Administrative Agent stating the proposed date and aggregate principal amount of such prepayment. If any such notice is given, Borrower shall prepay Advances comprising part of the same Borrowing in whole or ratably in part in an aggregate principal amount equal to the amount specified in such notice, together with accrued interest to the date of such prepayment on the principal amount prepaid and amounts, if any, required to be paid pursuant to Section 2.12 as a result of such prepayment being made on such date; provided that (A) each optional prepayment of Eurocurrency Advances shall be in a minimum amount not less than $1,000,000 and in multiple integrals of $500,000 in excess thereof, (B) each optional prepayment of Base Rate Advances shall be in a minimum amount not less than $500,000 and in multiple integrals of $100,000 in excess thereof and (C) each optional prepayment of Swingline Advances shall be in a minimum amount not less than $100,000 and in multiple integrals of $50,000 in excess thereof.

(c) Mandatory. On any date that a Deficiency exists as reflected in the Borrowing Base Certificate delivered pursuant to Section 5.2(d) or as notified to Borrower by Administrative Agent (with such calculation set forth in reasonable detail which shall be conclusive absent manifest error), Borrower shall, within three Business Days, to the extent of such deficiency, *first* prepay to Swingline Lender the outstanding principal amount of the Swingline Advances, *second* prepay to the Lenders on a pro rata basis the outstanding principal amount of the Advances (other than Swingline Advances); and *third* make deposits into the Cash Collateral Account to provide cash collateral in the amount of such excess for the aggregate Letter of Credit Exposure (which deposits may be subsequently released to the extent provided in Section 2.3(h)).

(d) Interest; Costs. Each prepayment pursuant to this Section 2.7 shall be accompanied by accrued interest on the amount prepaid to the date of such prepayment and amounts, if any, required to be paid pursuant to Section 2.12 as a result of such prepayment being made on such date.

Section 2.8 **Repayment**.

(a) Advances. Borrower hereby unconditionally promises to pay to Administrative Agent for the account of and ratable benefit of each Lender the aggregate outstanding principal amount of all Advances on the Maturity Date.

(b) Swingline Advances. Borrower hereby unconditionally promises to pay to Swingline Lender (i) the aggregate outstanding principal amount of all Swingline Advances on each Swingline Payment Date, and (ii) the aggregate outstanding principal amount of all Swingline Advances outstanding on the Maturity Date.

Section 2.9 **Fees**.

(a) Unused Line Fees. Borrower agrees to pay to Administrative Agent for the account of each Lender an Unused Line Fee on the average daily amount by which such Lender's Commitment exceeds such Lender's outstanding Advances plus such Lender's Applicable Percentage of the Letter of Credit Exposure at a per annum rate equal to the Applicable Unused Line Fee Percentage for such period. The Unused Line Fee is due monthly in arrears on the first day of each month commencing on December 1, 2017, and on the Maturity Date. For purposes of this Section 2.9(a) only, amounts advanced as Swingline Advances shall not reduce the amount of the unused Commitment.

(b) [*Reserved*].

(c) Fees for Letters of Credit. Borrower agrees to pay the following: (i) to Administrative Agent for the pro rata benefit of the Lenders a per annum letter of credit fee for each Letter of Credit issued hereunder in an amount equal to the Applicable Margin for Eurocurrency Advances on the face amount of such Letter of Credit for the period such Letter of Credit is outstanding, which fee shall be due and payable monthly in arrears on the first day of each month, and on the Maturity Date; (ii) to Issuing Lender, a fronting fee for each Letter of Credit equal to the greater of (A) 0.125% per annum on the face amount of such Letter of Credit and (B) $750.00, which fee shall be due and payable monthly in arrears on the first day of each month, and on the Maturity Date; (iii) to Issuing Lender, an additional fronting fee for each commercial Letter of Credit equal to an amount agreed to between Borrower and Issuing Lender in writing, which fee shall be due and payable in advance on the date of the issuance of such Letter of Credit, and, in the case of an increase or extension only, on the date of such increase or such extension; and (iv) to Issuing Lender such other usual and customary fees associated with any transfers, amendments, drawings, negotiations or reissuances of any Letter of Credit, which fees shall be due and payable as requested by Issuing Lender in accordance with Issuing Lender's then current fee policy. Borrower shall have no right to any refund of letter of credit fees previously paid by Borrower, including any refund claimed because Borrower cancels any Letter of Credit prior to its expiration date.

(d) Other Fees. Borrower agrees to pay the fees to Administrative Agent as set forth in the Fee Letter.

Section 2.10 **Interest**.

(a) Base Rate Advances. Each Base Rate Advance shall bear interest at the Adjusted Base Rate in effect from time to time plus the Applicable Margin for Base Rate Advances for such period. Borrower shall pay to Administrative Agent for the ratable account of each Lender all accrued but unpaid interest on such Lender's Base Rate Advances on the first day of each month commencing December 1, 2017, and on the Maturity Date.

(b) Eurocurrency Advances. Each Eurocurrency Advance shall bear interest during its Interest Period equal to at all times the Eurocurrency Rate for such Interest Period plus the Applicable Margin for Eurocurrency Advances for such period. Borrower shall pay to Administrative Agent for the ratable benefit of each Lender all accrued but unpaid interest on each of such Lender's Eurocurrency Advances on the last day of the Interest Period therefor (provided that for Eurocurrency Advances with six month Interest Periods, accrued but unpaid interest shall also be due on the day three months from the first day of such Interest Period), on the date any Eurocurrency Advance is repaid in full, and on the Maturity Date.

(c) Swingline Advances. Swingline Advances shall bear interest at the Adjusted Base Rate in effect from time to time plus the Applicable Margin for Base Rate Advances. Borrower shall pay to Swingline Lender for its own account subject to Section 2.4(f) all accrued but unpaid interest on each Swingline Advance on each Swingline Payment Date, on the date any Swingline Advance is repaid (or refinanced) in full, and on the Maturity Date.

(d) Default Rate. Notwithstanding the foregoing, (i) upon the occurrence and during the continuance of an Event of Default under Section 7.1(g), all Obligations shall bear interest, after as well as before judgment, at the Default Rate and (ii) upon the occurrence and during the continuance of any Event of Default under Section 7.1(a) or 7.1(c) (as a result of a breach of Section 5.2(a), (b), (c) or (d) or Section 6.16), upon the request of Administrative Agent or the Majority Lenders, all Obligations shall bear interest, after as well as before judgment, at the Default Rate. Interest accrued pursuant to this Section 2.10(d) and all interest accrued but unpaid on or after the Maturity Date shall be due and payable on demand, and if no express demand is made, then due and payable on such other dates as required herein.

Section 2.11 **Illegality**. If any Lender shall notify a Borrower that the introduction of or any change in or in the interpretation of any law or regulation makes it unlawful, or that any central bank or other Governmental Authority asserts that it is unlawful, for such Lender or its Lending Office to perform its obligations under this Agreement to make, maintain, or fund any Eurocurrency Advances of such Lender then outstanding hereunder, (a) the Borrower shall, no later than 11:00 a.m. (Atlanta, Georgia time) (i) if not prohibited by law, on the last day of the Interest Period for each outstanding Eurocurrency Advance, or (ii) if required by such notice, on the second Business Day following its receipt of such notice, prepay all of the Eurocurrency Advances of such Lender then outstanding, together with accrued interest on the principal amount prepaid to the date of such prepayment and amounts, if any, required to be paid pursuant to Section 2.12 as a result of such prepayment being made on such date, (b) such Lender shall simultaneously make a Base Rate Advance to the Borrower on such date in an amount equal to the aggregate principal amount of the Eurocurrency Advances prepaid to such Lender, and (c) the right of the Borrower to select Eurocurrency Advances from such Lender for any subsequent

Borrowing shall be suspended until such Lender shall notify the Borrower that the circumstances causing such suspension no longer exist. Each Lender agrees to use commercially reasonable efforts (consistent with its internal policies and legal and regulatory restrictions) to designate a different Lending Office if the making of such designation would avoid the effect of this paragraph and would not, in the reasonable judgment of such Lender, be otherwise disadvantageous to such Lender.

Section 2.12 **Breakage Costs**. Within 5 Business Days of demand made by any Lender to Borrower (with a copy to Administrative Agent) from time to time, Borrower shall compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment (including any deemed payment or repayment and any reallocated repayment to Non-Defaulting Lenders provided in Section 2.18) of any Advance other than a Base Rate Advance on a day other than the last day of the Interest Period for such Advance (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

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

(c) any payment by Borrower of reimbursement drawings under any Letter of Credit in a currency other than such Letter of Credit's original currency; or

(d) any assignment of an Eurocurrency Advance on a day other than the last day of the applicable Interest Period therefor as a result of a request by such Borrower pursuant to Section 2.16;

including any loss of anticipated profits (excluding Applicable Margin), any foreign exchange losses and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Advance, from fees payable to terminate the deposits from which such funds were obtained or from the performance of any foreign exchange contract. Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing. For purposes of calculating amounts payable by Borrower to the Lenders under this Section 2.12, the requesting Lender shall be deemed to have funded such Advance at the Eurocurrency Rate by a matching deposit or other borrowing in the offshore interbank market for the applicable currency for a comparable amount and for a comparable period, whether or not such Eurocurrency Advance was in fact so funded. Any notice delivered by Administrative Agent (including on behalf of any Lender providing such notice to Administrative Agent)

setting forth in reasonable detail any amount or amounts that such Lender is entitled to receive pursuant to this Section 2.12 shall be delivered to Applicable Borrower and shall be conclusive and binding absent manifest error.

Section 2.13 **Increased Costs**.

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

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

(ii) subject any Recipient to any Tax (other than (x) Excluded Taxes, (y) Connection Income Taxes, and (z) Indemnified Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender or Issuing Lender or the London interbank market any other condition, cost or expense (in each case, other than Taxes) affecting this Agreement or Eurocurrency Advances made by such Lender, or any Letter of Credit or participation therein;

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

(b) Capital Adequacy. If any Lender or Issuing Lender determines that any Change in Law affecting such Lender or Issuing Lender or any Lending Office of such Lender or such Lender's or Issuing Lender's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or Issuing Lender's capital or on the capital of such Lender's or Issuing Lender's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Advances made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by Issuing Lender, to a level below that which such Lender or Issuing Lender or such Lender's or Issuing Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or Issuing Lender's policies and the policies of such Lender's or Issuing Lender's holding company with respect to capital adequacy and liquidity), then from time to time Borrower will pay to such Lender or Issuing Lender such additional amount or amounts as will compensate such Lender or Issuing Lender or such Lender's or Issuing Lender's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender or Issuing Lender setting forth in reasonable detail the amount or amounts necessary to compensate such Lender or Issuing Lender or its holding company, as the case may be, as specified in

subsection (a) or (b) of this Section and delivered to Borrower shall be conclusive absent manifest error. Borrower shall pay such Lender or Issuing Lender, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

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

(e) Designation of a Different Lending Office. If any Lender requests compensation under this Section 2.13 then such Lender shall use commercially reasonable efforts to designate a different Lending Office for funding or booking its Advances hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to this Section 2.13 in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

Section 2.14 **Payments and Computations**.

(a) Payments. Except as otherwise expressly provided herein, all payments to be made by Borrower under this Agreement and the other Credit Documents shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff; provided that, Borrower may setoff amounts owing to any Lender that is at such time a Defaulting Lender against Advances that such Defaulting Lender failed to the fund to Borrower under this Agreement (the "Unfunded Advances") so long as (i) Borrower shall have delivered prior written notice of such setoff to Administrative Agent and such Defaulting Lender, (ii) the Advances made by the Lenders (other than such Defaulting Lender) as part of the original Borrowing to which the Unfunded Advances applied shall still be outstanding and was made under the same Facility, (iii) if such Defaulting Lender failed to fund Advances under more than one Borrowing, such setoff shall be applied in a manner satisfactory to Administrative Agent, and (iv) upon the application of such setoff, the Unfunded Advances shall be deemed to have been made by such Defaulting Lender on the effective date of such setoff. Except as otherwise expressly provided herein, all payments by Borrower hereunder shall be made to Administrative Agent, for the account of the respective Lenders to which such payment is owed in Dollars and in Same Day Funds. Subject to Section 2.6(c), each payment of any Advance pursuant to this Section or any other provision of this Agreement shall be made in a manner such that all Advances comprising part of the same Borrowing are paid in whole or ratably in part.

(b) Payments by Borrower; Presumptions by Administrative Agent. Unless Administrative Agent shall have received notice from Borrower prior to the date on which any payment is due to Administrative Agent for the account of the applicable Lenders or the Issuing Lenders hereunder that Borrower will not make such payment, Administrative Agent may assume that Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute

to the Lenders or the Issuing Lenders, as the case may be, the amount due. In such event, if Borrower has not in fact made such payment, then each of the applicable Lenders or the Issuing Lenders, as the case may be, severally agrees to repay to Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Lender, in Same Day Funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to Administrative Agent, at the Federal Funds Rate (which interest shall not be borne by the Borrower). For the avoidance of doubt, Borrower shall continue to be obligated to pay the otherwise applicable interest on such amounts as and when due under this Agreement. A notice of Administrative Agent to any Lender or Borrower with respect to any amount owing under this subsection (b) shall be conclusive, absent manifest error.

(c) Payment Procedures. Borrower shall make each payment of any amount due and payable under this Agreement and under any other Credit Document not later than 12:00 noon (Atlanta, Georgia time) on the day when due to Administrative Agent at Administrative Agent's Office (or such other location as Administrative Agent shall designate in writing to Borrower) in Same Day Funds. Administrative Agent will promptly thereafter, and in any event prior to the close of business on the day any timely payment is made, cause to be distributed like funds relating to the payment of principal, interest or fees ratably (other than amounts payable solely to any specific Lender Party pursuant to Section 2.4, 2.11, 2.12, 2.13, 2.15, 8.4 and 9.1 but after taking into account payments effected pursuant to Section 2.14(f)) in accordance with each Lender's Applicable Percentage to the Lenders for the account of their respective Lending Offices, and like funds relating to the payment of any other amount payable to any Lender to such Lender for the account of its Lending Office, in each case to be applied in accordance with the terms of this Agreement. Upon receipt of other amounts due solely to a specific Lender Party, Administrative Agent shall distribute such amounts to the appropriate party to be applied in accordance with the terms of this Agreement.

(d) Non-Business Day Payments. Whenever any payment shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of payment of interest or fees, as the case may be; provided that if such extension would cause payment of interest on or principal of Eurocurrency Advances to be made in the next following calendar month, such payment shall be made on the immediately preceding Business Day.

(e) Computations. All computations of interest and fees shall be made by Administrative Agent on the basis of a year of 365/366 days for all Base Rate Advances based on the Adjusted Base Rate and a year of 360 days for all other interest and fees, in each case for the actual number of days (including the first day, but excluding the last day) occurring in the period for which such interest or fees are payable. Each determination by Administrative Agent of an amount of interest or fees shall be conclusive and binding for all purposes, absent manifest error. The principle of deemed reinvestment of interest shall not apply to any interest calculation

under this Agreement; all interest payments to be made hereunder shall be paid without allowance or deduction for deemed reinvestment or otherwise. The rates of interest specified in this Agreement are intended to be nominal rates and not effective rates. Interest calculated hereunder shall be calculated using the nominal rate method and not the effective rate method of calculation.

(f) Sharing of Payments, Etc. If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Advances or other obligations hereunder resulting in such Lender receiving payment of a proportion of the aggregate amount of its Advances and accrued interest thereon or other such obligations greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Advances and such other obligations of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Advances and other amounts owing them; provided that: (A) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and (B) the provisions of this paragraph shall not be construed to apply to (x) any payment made by Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Advances or participations in Letter of Credit Obligations to any assignee or participant, other than to Borrower or any Affiliate thereof (as to which the provisions of this paragraph shall apply). Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable Legal Requirement, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of Borrower in the amount of such participation.

(g) Borrower hereby authorize Administrative Agent, from time to time without prior notice to Borrower, to charge to the Loan Account (A) on the first day of each month, all interest accrued during the prior month on the Advances, (B) on the first Business Day of each month, all fees or other amounts in respect of Letters of Credit accrued or chargeable hereunder during the prior month, (C) as and when incurred or accrued, all fees and costs provided for in Section 2.9(d) or 5.12(d), (D) on the first day of each month, the Unused Line Fee accrued during the prior month pursuant to Section 2.9(a), (E) as and when due and payable, all other fees payable hereunder or under any of the other Credit Documents, (F) as and when incurred or accrued, all other amounts due under Section 9.1, and (G) as and when due and payable all other payment obligations payable under any Credit Document or any Banking Services Agreement (including any amounts due and payable to the Banking Services Providers in respect of Banking Services). All amounts (including interest, fees, costs, expenses, or other amounts payable hereunder or under any other Credit Document or under any Banking Services Agreement) charged to the Loan Account shall thereupon constitute Advances hereunder, shall constitute Obligations hereunder, and shall initially accrue interest at the rate then applicable to

Advances that are Base Rate Loans (unless and until converted into Eurodollar Rate Loans in accordance with the terms of this Agreement).

(h) Administrative Agent shall maintain an account on its books in the name of Borrower (the "Loan Account") on which Borrower will be charged with all Advances (including Extraordinary Advances and Swingline Advances) made by Administrative Agent, Swingline Lender, or the Lenders to Borrower or for Borrower's account, the Letters of Credit issued or arranged by Issuing Lender for Borrower's account, and with all other payment Obligations hereunder or under the other Credit Documents, including, accrued interest, fees and expenses of Borrower with respect thereto.

Section 2.15 **Taxes**.

(a) Defined Terms. For purposes of this Section 2.15, the term "Lender" includes any Issuing Lender and Swingline Lender and the term "applicable Legal Requirement" includes FATCA.

(b) No Deduction for Certain Taxes. Any and all payments by or on account of any obligation of any Credit Party hereunder or under any other Credit Document shall be made free and clear of and without deduction or withholding for any Taxes, except as required by applicable Legal Requirement. If any applicable Legal Requirement (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable Legal Requirement and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Credit

Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings of Indemnified Taxes applicable to additional sums payable under this Section) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(c) Other Taxes. Credit Parties shall timely pay to the relevant Governmental Authority in accordance with applicable Legal Requirements, or at the option of Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(d) Indemnification by Credit Parties. The Credit Parties shall jointly and severally indemnify each Recipient, in each case, within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient, and any reasonable out-of-pocket expenses arising therefrom or with respect thereto, including reasonable attorneys' and tax advisor fees and expenses (except such expenses resulting from gross negligence or willful misconduct of such Recipient, as determined by a court of competent jurisdiction by final and nonappealable judgment), whether or not such Indemnified 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 Borrower by a Recipient (with a copy to Administrative

Agent), or by Administrative Agent on its own behalf or on behalf of a Recipient, shall be conclusive absent manifest error. Failure or delay on the part of any Recipient to demand payment pursuant to this Section shall not constitute a waiver of such Person's right to demand such payment; provided that, no Recipient shall be indemnified for any Indemnified Taxes the demand for which is made to Borrower later than one year after the later of (i) the date on which the relevant Governmental Authority makes written demand upon the applicable Recipient for payment of such Indemnified Taxes, and (ii) the date on which such Recipient has made payment of such Indemnified Taxes; provided that if the Indemnified Taxes imposed or asserted giving rise to such claims are retroactive, then the one-year period referred to above shall be extended to include the period of retroactive effect thereof.

(e) Indemnification by the Lenders. Each Lender shall severally indemnify Administrative Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Credit Party has not already indemnified Administrative Agent for such Indemnified Taxes and without limiting the obligation of Credit Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.7(c) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by Administrative Agent in connection with any Credit Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Credit Document or otherwise payable by Administrative Agent to such Lender from any other source against any amount due to Administrative Agent under this subsection (e).

(f) Evidence of Tax Payments. As soon as practicable after any payment of Indemnified Taxes by Borrower to a Governmental Authority pursuant to this Section 2.15, Borrower shall deliver to Administrative Agent the original or a certified copy of any available receipt issued by such Governmental Authority evidencing such payment, a copy of the return (if any) reporting such payment or other evidence of such payment reasonably satisfactory to Administrative Agent.

(g) Status of Lenders.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Credit Document shall deliver to Borrower and Administrative Agent, at the time or times reasonably requested by Borrower or Administrative Agent, such properly completed and executed documentation reasonably requested by Borrower or Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by Borrower or Administrative Agent, shall deliver such other documentation prescribed by applicable Legal Requirement or reasonably requested by Borrower or Administrative Agent as will enable Borrower or Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two

sentences, the completion, execution and submission of such documentation (other than such documentation set forth in (A), (B) and (D), below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing,

(A) any Lender that is a U.S. Person shall deliver to Borrower and Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of Borrower or Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding Tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrower and Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of Borrower or Administrative Agent), whichever of the following is applicable: (i) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Credit Document, executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Credit Document, IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty; (ii) executed copies of IRS Form W-8ECI; (iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit F-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E; or (iv) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of Exhibit F-2 or Exhibit F-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit F-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrower and Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of Borrower or Administrative Agent), executed copies of any other form prescribed by an applicable Legal Requirement as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable Legal Requirement to permit Borrower or Administrative Agent to determine the withholding or deduction required to be made; and

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

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

(h) Status of Administrative Agent. On or before the date on which Wells Fargo (and any successor or replacement Administrative Agent) becomes Administrative Agent hereunder, it shall deliver to the Borrower two duly executed copies of either (i) IRS Form W-9, or (ii) IRS Form W-8ECI with respect to any payments to be received on its own behalf and IRS Form W-8IMY (certifying that it is either a "qualified intermediary" within the meaning of Treasury Regulation Section 1.1441-1(e)(5) that has assumed primary withholding obligations under the Code, including Chapters 3 and 4 of the Code, or a "U.S. branch" within the meaning of Treasury Regulation Section 1.1441-1(b)(2)(iv) that is treated as a U.S. person for purposes of withholding obligations under the Code) for the amounts Administrative Agent receives for the account of others. Administrative Agent (or, upon assignment or replacement), any assignee or successor) agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower in writing of its inability to do so.

(i) Treatment of Certain Refunds. If any party determines, in its sole discretion, exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 2.15 (including by the payment of additional amounts pursuant to this Section 2.15), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this Section 2.15(i) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 2.15(i), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 2.15(i) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(j) Survival. Each party's obligations under this Section 2.15 shall survive the resignation or replacement of Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Credit Document.

(k) Designation of a Different Lending Office. If any Lender requests compensation under Section 2.13 requires Borrower to pay any additional amount to such Lender or any Governmental Authority for the account of any Lender pursuant to this Section 2.15, then such Lender shall (at the request of Borrower) use commercially reasonable efforts to designate a different Lending Office for funding or booking its Advances hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.13 or this Section 2.15, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not would not otherwise be disadvantageous to such Lender. Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

Section 2.16 **Replacement of Lenders**. If (a) any Lender requests compensation under Section 2.13 or Borrower is required to pay additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.15, and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 2.15(k), (b) any Lender suspends its obligation to continue, or Convert Advances into, Eurocurrency Advances pursuant to Section 2.6(c)(iv) or (v) or Section 2.11, (c) any Lender is a Non-Consenting Lender, or (d) any Lender is a Defaulting Lender (any such Lender described in the preceding clauses (a) — (d), a "Subject Lender"), then (i) in the case of a Defaulting Lender, Administrative Agent may, upon notice to the Subject Lender and Borrower,

require such Defaulting Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 9.7), all of its interests, rights (other than its existing rights to payments pursuant to Section 2.13 or Section 2.15) and obligations under this Agreement and the related Credit Documents as a Lender to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment) and (ii) in the case of any Subject Lender, Borrower may, upon notice to the Subject Lender and Administrative Agent and at Borrower's sole cost and expense, require such Subject Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 9.7), all of its interests, rights (other than its existing rights to payments pursuant to Section 2.13 or Section 2.15) and obligations under this Agreement and the related Credit Documents to an Eligible Assignee that shall assume such obligations (which Eligible Assignee may be another Lender, if a Lender accepts such assignment), provided that:

(a) as to assignments required by Borrower, Borrower shall have paid to Administrative Agent the assignment fee specified in Section 9.7;

(b) such Subject Lender shall have received payment of an amount equal to the outstanding principal of its Advances and funded participations in outstanding Letter of Credit Obligations and funded participations in outstanding Swingline Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Credit Documents (including any amounts under Section 2.12 other than in the case of a Defaulting Lender) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or Borrower (in the case of all other amounts);

(c) in the case of any such assignment resulting from a claim for compensation under Section 2.13 or payments required to be made pursuant to Section 2.15, such assignment will result in a reduction in such compensation or payments thereafter;

(d) such assignment does not conflict with applicable Legal Requirements; and

(e) in the event such Subject Lender is a Non-Consenting Lender, each assignee shall consent, at the time of such assignment, to each matter in respect of which such Subject Lender was a Non-Consenting Lender.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling Borrower to require such assignment and delegation cease to apply. Solely for purposes of effecting any assignment involving a Defaulting Lender under this Section 2.16 and to the extent permitted under applicable Legal Requirements, each Lender hereby designates and appoints Administrative Agent as true and lawful agent and attorney-in-fact, with full power and authority, for and on behalf of and in the name of such Lender to execute, acknowledge and deliver the Assignment and Acceptance required hereunder if such Lender is a Defaulting Lender and such Lender shall be bound thereby as fully and effectively as if such Lender had personally executed, acknowledged and delivered the same. In lieu of Borrower or Administrative Agent replacing a

Defaulting Lender as provided in this Section 2.16, Borrower may terminate such Defaulting Lender's applicable Commitments as provided in Section 2.1(b)(ii).

Section 2.17 [*Reserved*].

Section 2.18 **Defaulting Lender Provisions**.

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

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

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VII or otherwise) or received by Administrative Agent from a Defaulting Lender pursuant to Section 7.4 shall be applied at such time or times as may be determined by Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to Administrative Agent; second, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to any Issuing Lender or any Swingline Lender hereunder; third, on a pro rata basis, to Cash Collateralize the Issuing Lenders' and Swingline Lenders' Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.3(i); fourth, as Borrower may request (so long as no Default or Event of Default exists), to the funding of any Advance in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by Administrative Agent; fifth, if so determined by Administrative Agent and Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Advances under this Agreement and (y) Cash Collateralize the Issuing Lenders' and Swingline Lenders' future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued and Swingline Advances made under this Agreement, in accordance with Section 2.3(i); sixth, to the payment of any amounts owing to the Lenders, the Issuing Lenders or Swingline Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender, the Issuing Lenders or Swingline Lenders against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; seventh, so long as no Default or Event of Default exists, to the payment of any amounts owing to Borrower as a result of any judgment of a court of competent jurisdiction obtained by Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Advances or Letter of Credit Obligations in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Advances were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 3.2

were satisfied or waived, such payment shall be applied solely to pay the Advances of, and Letter of Credit Obligations owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Advances of, or Letter of Credit Obligations owed to, such Defaulting Lender until such time as all Advances and funded and unfunded participations in Letter of Credit Obligations and Swingline Advances are held by the Lenders pro rata in accordance with the applicable Commitments under the applicable Facility without giving effect to Section 2.18(a)(iv). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.18(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees.

(A) No Defaulting Lender shall be entitled to receive any Unused Line Fee for any period during which that Lender is a Defaulting Lender (and no Borrower shall be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(B) Each Defaulting Lender shall be entitled to receive letter of credit fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Applicable Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.3(i).

(C) With respect to any letter of credit fee not required to be paid to any Defaulting Lender pursuant to clause (B) above, Borrower shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in Letter of Credit Obligations that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to each Issuing Lender the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to Issuing Lender's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) Reallocation of Participations to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in the Letter of Credit Obligations and Swingline Advances, as the case may be, shall be reallocated among the Non-Defaulting Lenders in such applicable Facility in accordance with their respective Applicable Percentages (calculated without regard to such Defaulting Lender's applicable Commitments) but only to the extent that (x) the conditions set forth in Section 3.2 are satisfied at the time of such reallocation (and, unless Borrower shall have otherwise notified Administrative Agent at such time, Borrower shall be deemed to have represented and warranted that such conditions are satisfied at such time), and (y) such reallocation does not cause the sum of (1) the aggregate amount of Advances owing to such Non-Defaulting Lender, plus (2) such Non-Defaulting Lender's participation in Swingline Advances and Letters of Credit to exceed such Non-Defaulting Lender's Commitment. No reallocation hereunder shall constitute a waiver or release of any claim

of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) Cash Collateral, Repayment of Swingline Advances. If the reallocation described in clause (iv) above cannot, or can only partially, be effected, Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, (x) first, within two Business Days, prepay Swingline Advances in an amount equal to the Swingline Lender's Fronting Exposure and (y) second, within three Business Days, Cash Collateralize the Issuing Lenders' Fronting Exposure in accordance with the procedures set forth in Section 2.3(i).

(b) Defaulting Lender Cure. If Borrower, Administrative Agent, Swingline Lender and Issuing Lender agree in writing that a Lender is no longer a Defaulting Lender, Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Advances of the other Lenders or take such other actions as Administrative Agent may determine to be necessary to cause the Advances and funded and unfunded participations in Letters of Credit and Swingline Advances to be held pro rata by the applicable Lenders in accordance with the applicable Commitments under the applicable Facility (without giving effect to Section 2.18(a)(iv), whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender having been a Defaulting Lender.

(c) New Letters of Credit. So long as any Lender is a Defaulting Lender, no Issuing Lender shall be required to issue, extend, renew or increase any Letter of Credit unless it is satisfied that it will have no Fronting Exposure after giving effect thereto.

Section 2.19 **Incremental Facilities**.

(a) At any time during the period commencing on the Effective Date and ending on the third anniversary of the Effective Date, at the option of Borrower (but subject to the conditions set forth in clause (b) below), the Commitments may be increased by an amount in the aggregate for all such increases of the Commitments not to exceed the Available Increase Amount (each such increase, an "Increase"). Administrative Agent shall invite each Lender to increase its Commitments (it being understood that no Lender shall be obligated to increase its Commitments) in connection with a proposed Increase at the interest margin proposed by Borrower, and if sufficient Lenders do not agree to increase their Commitments in connection with such proposed Increase, then Administrative Agent or Borrower may invite any prospective lender who is reasonably satisfactory to Administrative Agent and Borrower to become a "Lender" in connection with a proposed Increase, in each case at the interest margin proposed by Borrower. Any Increase shall be in an amount of at least $25,000,000. In no event may the

Commitments be increased pursuant to this Section 2.19 on more than 4 occasions in the aggregate for all such Increases. Additionally, for the avoidance of doubt, it is understood and agreed that in no event shall the aggregate amount of the Increases to the Commitments exceed $150,000,000.

(b) Each of the following shall be conditions precedent to any Increase of the Commitments in connection therewith:

(i) Administrative Agent or Borrower have obtained the commitment of one or more Lenders (or other prospective lenders) reasonably satisfactory to Administrative Agent and Borrower to provide the applicable Increase and any such Lenders (or prospective lenders), Borrower, and Administrative Agent have signed a joinder agreement to this Agreement (an "Increase Joinder"), in form and substance reasonably satisfactory to Administrative Agent, to which such Lenders (or prospective lenders), Borrower, and Administrative Agent are party,

(ii) each of the conditions precedent set forth in Section 3.2 are satisfied,

(iii) in connection with any Increase, if any Credit Party or any of its Restricted Subsidiaries owns or will acquire any Margin Stock, Borrower shall deliver to Administrative Agent an updated Form U-1 (with sufficient additional originals thereof for each Lender), duly executed and delivered by the Borrower, together with such other documentation as Administrative Agent shall reasonably request, in order to enable Administrative Agent and the Lenders to comply with any of the requirements under Regulations T, U or X of the Federal Reserve Board, and

(iv) Borrower shall have reached agreement with the Lenders (or prospective lenders) agreeing to the increased Commitments with respect to the interest margins applicable to Advances to be made pursuant to the increased Commitments (which interest margins may be higher than or equal to the interest margins applicable to Advances set forth in this Agreement immediately prior to the date of the increased Commitments (the date of the effectiveness of the increased Commitments, the "Increase Date")) and shall have communicated the amount of such interest margins to Administrative Agent. Any Increase Joinder may, with the consent of Administrative Agent, Borrower and the Lenders or prospective lenders agreeing to the proposed Increase, effect such amendments to this Agreement and the other Credit Documents as may be necessary to effectuate the provisions of this Section 2.19 (including any amendment necessary to effectuate the interest margins for the Advances to be made pursuant to the increased Commitments). Anything to the contrary contained herein notwithstanding, if the interest margins (including floors) that is to be applicable to the Advances to be made pursuant to the increased Commitments is higher than the interest margins (including floors) applicable to the Advances immediately prior to the applicable Increase Date (the amount by which such margin is higher, the "Excess"), then the interest margin applicable to the Advances immediately prior to the Increase Date shall be increased by the amount of the Excess, effective on the applicable Increase Date, and without the necessity of any action by any party hereto.

(c) Unless otherwise specifically provided herein, all references in this Agreement and any other Credit Document to Advances shall be deemed, unless the context otherwise requires, to include Advances made pursuant to the increased Commitments pursuant to this Section 2.19.

(d) Each of the Lenders having a Commitment prior to the Increase Date (the "**Pre-Increase Revolver Lenders**") shall assign to any Lender which is acquiring a new or additional Commitment on the Increase Date (the "**Post-Increase Revolver Lenders**"), and such Post-Increase Revolver Lenders shall purchase from each Pre-Increase Revolver Lender, at the principal amount thereof, such interests in the Advances and participation interests in Letters of Credit on such Increase Date as shall be necessary in order that, after giving effect to all such assignments and purchases, such Advances and participation interests in Letters of Credit will be held by Pre-Increase Revolver Lenders and Post-Increase Revolver Lenders ratably in accordance with their Applicable Percentage after giving effect to such increased Commitments.

(e) The Advances and Commitments established pursuant to this Section 2.19 shall constitute Advances and Commitments under, and shall be entitled to all the benefits afforded by, this Agreement and the other Credit Documents, and shall, without limiting the foregoing, benefit equally and ratably from any guarantees and the security interests created by the Credit Documents. Borrower shall take any actions reasonably required by Administrative Agent to ensure and demonstrate that the Liens and security interests granted by the Credit Documents continue to be perfected under the UCC or otherwise after giving effect to the establishment of any such new Commitments.

ARTICLE III
CONDITIONS PRECEDENT SECTION

Section 3.1 **Effective Date**. The effectiveness of this Agreement (including the deemed issuance of the Existing of Letters of Credit under this Agreement) is subject to the conditions precedent set forth on Annex B-I to the Commitment Letter.

Section 3.2 **Conditions Precedent to Each Credit Extension**. The obligation of each Lender to make any Credit Extension on the occasion of each Borrowing (including the initial Borrowing), the obligation of each Issuing Lender to make any Letter of Credit Extension (including the deemed issuance of Existing Letters of Credit on the Effective Date), and the obligation of each Swingline Lender to make Swingline Advances, in each case, shall be subject to the further conditions precedent that on the date of such Borrowing, such Credit Extension or such reallocation:

(a) Representations and Warranties. As of the date of the making of such Credit Extension, Borrowing or reallocation, the representations and warranties made by any Credit Party or any officer of any Credit Party contained in the Credit Documents shall be true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) on such date, except that any representation and warranty which by its terms is made as of a specified date shall be required to be true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that

already are qualified or modified by materiality in the text thereof) only as of such specified date and each request for the making of any Borrowing, Credit Extension or reallocation, and the making of such Borrowing, Credit Extension or reallocation shall be deemed to be a reaffirmation of such representations and warranties. Each of the giving of the applicable Notice of Borrowing or Letter of Credit Application, the acceptance by Borrower of the proceeds of such Borrowing, Credit Extension or reallocation, shall constitute a representation and warranty by Borrower that on the date of such Borrowing, Credit Extension or reallocation, as applicable, the foregoing condition has been met.

(b) Event of Default. As of the date of each Borrowing, Credit Extension or reallocation, no Default or Event of Default shall exist, and the making of such Borrowing, Credit Extension, or reallocation would not cause a Default or Event of Default. Each of the giving of the applicable Notice of Borrowing or Letter of Credit Application, the acceptance by Borrower of the proceeds of such Borrowing, Credit Extension or reallocation, shall constitute a representation and warranty by Borrower that on the date of such Borrowing, Credit Extension or reallocation, as applicable, the foregoing condition has been met.

Section 3.3 **Determinations Under Section 3.1 and 3.2**. For purposes of determining compliance with the conditions specified in Section 3.1 and 3.2, each Lender shall be deemed to have consented to, approved or accepted or to be satisfied with each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to the Lenders unless an officer of Administrative Agent responsible for the transactions contemplated by the Credit Documents shall have received written notice from such Lender prior to the Credit Extensions hereunder specifying its objection thereto and such Lender shall not have made available to Administrative Agent such Lender's Credit Extensions.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES

Borrower and Parent each represent and warrant as follows:

Section 4.1 **Organization**. It and each of its Restricted Subsidiaries is duly and validly organized and existing and in good standing under the laws of its jurisdiction of incorporation or formation and is authorized to do business and is in good standing in all jurisdictions in which such qualifications or authorizations are necessary except where the failure to be so qualified or authorized could not reasonably be expected to result in a Material Adverse Change. As of the Effective Date, each Credit Party's type of organization and jurisdiction of incorporation or formation are set forth on Schedule 4.1.

Section 4.2 **Authorization**. The execution, delivery, and performance by each Credit Party of each Credit Document to which such Credit Party is a party and the consummation of the transactions contemplated thereby (a) are within such Credit Party's organizational powers, (b) have been duly authorized by all necessary corporate, limited liability company or partnership action, as applicable, of such Credit Party, (c) do not contravene any articles or certificate of incorporation or bylaws, partnership or limited liability company agreement, or unanimous shareholders' agreement, as applicable, binding on or affecting such Credit Party, (d) do not contravene any law or any contractual restriction binding on or affecting such Credit Party

except for immaterial laws or contractual restrictions the noncompliance with which would not reasonably be expected to be adverse to any Secured Party, (e) do not result in or require the creation or imposition of any Lien prohibited by this Agreement, and (f) do not require any authorization or approval or other action by, or any notice or filing with, any Governmental Authority except for immaterial authorizations, approvals, other actions, notices or filings the failure to obtain of which would not reasonably be expected to be adverse to any Secured Party. At the time of each Credit Extension, such Credit Extension and the use of the proceeds of such Credit Extension are within Borrower's corporate powers, have been duly authorized by all necessary action, do not contravene (i) Borrower's certificate of incorporation, bylaws or other organizational documents, or

(ii) any Legal Requirement or any contractual restriction binding on or affecting Borrower, will not result in or require the creation or imposition of any Lien prohibited by this Agreement, and do not require any authorization or approval or other action by, or any notice or filing with, any Governmental Authority except for any immaterial contractual restrictions the noncompliance with which would not reasonably be expected to be adverse to any Secured Party.

Section 4.3 **Enforceability**. The Credit Documents have each been duly executed and delivered by each Credit Party that is a party thereto and each Credit Document constitutes the legal, valid, and binding obligation of each Credit Party that is a party thereto enforceable against such Credit Party in accordance with its terms, except as limited by applicable Debtor Relief Laws or similar laws at the time in effect affecting the rights of creditors generally and to the effect of general principles of equity whether applied by a court of law or equity.

Section 4.4 **Financial Condition**.

(a) Borrower has delivered to the Lenders the financial statements required to be delivered prior to the Effective Date pursuant to Annex B-I of the Commitment Letter and such financial statements were prepared in accordance with GAAP and fairly present, in all material respects, the consolidated financial condition of the Persons covered thereby as of the respective dates thereof for the periods covered therein, subject, in the case of unaudited financial statements, to normal year-end adjustments and the absence of footnotes. As of the date of the aforementioned financial statements, there were no material contingent obligations, unusual forward or long-term commitments, or unrealized or anticipated losses of the applicable Persons, except as disclosed therein and adequate reserves for such items have been made in accordance with GAAP.

(b) Since the Effective Date, after giving pro forma effect to the Transactions, no event or condition has occurred that could reasonably be expected to result in Material Adverse Change.

Section 4.5 **Ownership and Liens; Real Property**. Each Restricted Entity (a) has good and marketable fee simple title to, or a valid leasehold interest or easement in, all material real property, and good title to all material personal Property, used in its business, and (b) none of the Property owned by a Restricted Entity is subject to any Lien except Permitted Liens.

Section 4.6 **True and Complete Disclosure**. All written factual information (whether delivered before or after the date of this Agreement) prepared by or on behalf of any Restricted

Entity and furnished to any Lender Party for purposes of or in connection with this Agreement or any other Credit Document, taken as a whole, does not contain any material misstatement of fact or omits to state any material fact necessary to make the statements therein not misleading as of the date such information is dated or certified. There is no fact known to any Responsible Officer of any Credit Party on the date of this Agreement that has not been disclosed to Administrative Agent that could reasonably be expected to result in a Material Adverse Change. All projections, estimates, budgets, and pro forma financial information furnished by any Restricted Entity, were prepared on the basis of assumptions, data, information, tests, or conditions (including current and reasonably foreseeable business conditions) believed to be reasonable at the time such projections, estimates, and pro forma financial information were furnished (it being recognized by the Lender Parties, however, that projections as to future events are not to be viewed as facts and that results during the period(s) covered by such projections may differ from the projected results and that such differences may be material and that Credit Parties make no representation that such projections will be realized).

Section 4.7 **Litigation**. There are no actions, suits, or proceedings pending or, to any Restricted Entity's knowledge, threatened against Ultimate Parent or any Restricted Entity, at law, in equity, or in admiralty, or by or before any Governmental Authority, which could reasonably be expected to result in a Material Adverse Change. Additionally, except as disclosed in writing to Administrative Agent (which Administrative Agent shall promptly forward the Lenders), there is no pending or, to the knowledge of any Restricted Entity, threatened action or proceeding instituted against Ultimate Parent or any Restricted Entity which seeks to adjudicate Ultimate Parent or any Restricted Entity as bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any Debtor Relief Law, or seeking the entry of an order for relief or the appointment of a receiver, trustee or other similar official for it or for any substantial part of its Property.

Section 4.8 **Compliance with Agreements**.

(a) No Restricted Entity is a party to any indenture, loan or credit agreement or any lease or any other types of agreement or instrument or subject to any charter or corporate restriction or provision of applicable law or governmental regulation the performance of or compliance with which could reasonably be expected to cause a Material Adverse Change. To the knowledge of Credit Parties, no Restricted Entity is in default under, or has received a notice of default under, any contract, agreement, lease or any other document or instrument to which any Restricted Entity is a party which is continuing and which, if not cured, could reasonably be expected to cause a Material Adverse Change.

(b) No Default has occurred and is continuing.

Section 4.9 **Employee Benefit Plans**.

(a) Except for matters that could not reasonably be expected to result in a Material Adverse Change, all Employee Benefit Plans are in compliance with, and have been administered in accordance with all applicable provisions of the law including Code and ERISA and the terms of such Plan, (b) no Termination Event has occurred with respect to any Plan that

would result in an Event of Default under Section 7.1(i), (c) no "accumulated funding deficiency" (as defined in Section 302 of ERISA) has occurred with respect to any Plan, and for plan years after December 31, 2007, no unpaid minimum required contribution exists with respect to any Plan, and there has been no excise tax imposed under Chapter 43 of the Code with respect to any Plan, (d) the present value of all benefits vested under each Plan (based on the assumptions used to fund such Plan) did not, as of the last annual valuation date applicable thereto, exceed the value of the assets of such Plan allocable to such vested benefits in an amount that could reasonably be expected to result in a Material Adverse Change, (e) no member of the Controlled Group has had a complete or partial withdrawal from any Multiemployer Plan for which there is any unsatisfied withdrawal liability that could reasonably be expected to result in a Material Adverse Change or an Event of Default under Section 7.1(j), and (f) no member of the Controlled Group has incurred any liability as a result of a Multiemployer Plan being insolvent that could reasonably be expected to result in a Material Adverse Change. Based upon GAAP existing as of the date of this Agreement and current factual circumstances, no Restricted Entity has any reason to believe that the annual cost during the term of this Agreement to any Subsidiary of Ultimate Parent for post-retirement benefits to be provided to the current and former employees any Subsidiary of Ultimate Parent under Plans that are welfare benefit plans (as defined in Section 3(1) of ERISA) could, in the aggregate, reasonably be expected to cause a Material Adverse Change. Except as could not

reasonably be expected to result in a Material Adverse Change, no Credit Party has incurred any liability for excise Taxes, penalties, fines, or damages for breach of fiduciary duty with respect to any Employee Benefit Plan, and to the knowledge of any Credit Party no such liability is expected.

Section 4.10 **Environmental Condition**. Except as set forth on Schedule 4.10:

(a) Permits, Etc. Each Restricted Entity (i) has obtained all material Environmental Permits necessary for the ownership and operation of its Properties and the conduct of its businesses; (ii) is and, during the relevant time periods specified under applicable statutes of limitation, has been in material compliance with all terms and conditions of such Permits and with all other material requirements of applicable Environmental Laws; (iii) has not received written notice of any material violation or alleged material violation of any Environmental Law or Environmental Permit; and (iv) is not subject to any actual or contingent Environmental Claim which could reasonably be expected to cause a Material Adverse Change.

(b) Certain Liabilities. To each Restricted Entity's knowledge, none of the present or previously owned or operated Property of any Restricted Entity or of any Subsidiary thereof, wherever located, (i) has been placed on or proposed to be placed on the National Priorities List, the Comprehensive Environmental Response Compensation Liability Information System list, or their state or local analogs, or have been otherwise investigated, designated, listed, or identified by a Governmental Authority as a potential site for removal, remediation, cleanup, closure, restoration, reclamation, or other response activity under any Environmental Laws; (ii) is subject to a Lien, arising under or in connection with any Environmental Laws, that attaches to any revenues or to any Property owned or operated by any Restricted Entity, wherever located, which could reasonably be expected to cause a Material Adverse Change; or (iii) has been the site of any Release of Hazardous Substances or Hazardous Wastes from present or past operations which has caused at the site or at any third-party site any condition that has

resulted in or could reasonably be expected to result in the need for Response that could cause a Material Adverse Change.

(c) Certain Actions. Without limiting the foregoing, (i) all necessary material notices have been properly filed, and no further material action is required under current applicable Environmental Law as to each Response or other restoration or remedial project required to be undertaken by any Restricted Entity, pursuant to any Environmental Law, on any of their presently or formerly owned or operated Property and (ii) the present and, to Credit Parties' knowledge, future liability, if any, of any Restricted Entity which could reasonably be expected to arise in connection with requirements under Environmental Laws is not expected to result in a Material Adverse Change.

Section 4.11 **Subsidiaries**. As of the Effective Date, there are no other Subsidiaries of Ultimate Parent other than those listed on Schedule 4.11. Each Restricted Entity (including any such Restricted Entity formed or acquired subsequent to the Effective Date) has complied with the requirements of Section 5.6 to the extent applicable and subject to the time periods set forth in Section 5.7 and Schedule 5.7.

Section 4.12 **Investment Company Act**. No Restricted Entity is an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

Section 4.13 **Taxes**. All U.S. federal income tax returns and all other material tax returns, reports and statements required to be filed (after giving effect to any extension granted in the time for filing) by Ultimate Parent, each Restricted Entity or any member of the Affiliated Group as determined under Section 1504 of the Code have been filed with the appropriate Governmental Authorities, and all Taxes (which are material in amount) due and payable have been timely paid prior to the date on which any fine, penalty, interest, late charge or loss may be added thereto for non-payment thereof except where contested in good faith and by appropriate proceeding.

Section 4.14 **Permits, Licenses, etc**. Each Restricted Entity possesses all permits, licenses, patents, patent rights or licenses, trademarks, trademark rights, trade names rights, and copyrights which are material to the conduct of its business. Each Restricted Entity manages and operates its business in accordance with all applicable Legal Requirements except where the failure to so manage or operate could not reasonably be expected to result in a Material Adverse Change; provided that this Section 4.14 does not apply with respect to Environmental Permits.

Section 4.15 **Use of Proceeds**. The proceeds of the Advances and the Letters of Credit will be used by Borrower for the purposes described in Section 6.6. No Credit Party is engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U). No proceeds of any Advance or Letter of Credit will be used to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying Margin Stock in violation of Regulation T, U, or X.

Section 4.16 **Condition of Property; Casualties**. The material Properties used or to be used in the continuing operations of the Restricted Entities, taken as a whole, are in good

working order and condition, normal wear and tear excepted. Neither the business nor the material Properties of any Restricted Entity has been affected as a result of any fire, explosion, earthquake, flood, drought, windstorm, accident, strike or other labor disturbance, embargo, requisition or taking of Property or cancellation of contracts, permits or concessions by a Governmental Authority, riot, activities of armed forces or acts of God or of any public enemy, which effect could reasonably be expected to cause a Material Adverse Change.

Section 4.17 **Insurance**. Each Restricted Entity carries insurance (which may be carried by Ultimate Parent or Parent on a consolidated basis) with reputable insurers in respect of such of their respective Properties, in such amounts and against such risks as is customarily maintained by other Persons of similar size engaged in similar businesses or, self-insure to the extent that is customary for Persons of similar size engaged in similar businesses.

Section 4.18 **Security Interest**. Each Credit Party has authorized the filing of financing statements sufficient when filed to perfect the Lien created by the Security Documents to the extent such Lien can be perfected by filing financing statements. When such financing statements are filed in the offices noted therein, Administrative Agent will have a valid and perfected security interest in all Collateral that is capable of being perfected by filing financing statements (excluding, for perfection purposes, the Excluded Perfection Collateral).

Section 4.19 **OFAC; Sanctions; Anti-Corruption Laws; Anti-Money Laundering Laws**. Neither Ultimate Parent nor any of its Subsidiaries is in violation of any Sanctions. Neither Ultimate Parent nor any of its Subsidiaries nor, to the knowledge of Ultimate Parent or any of its Subsidiaries, any director, officer, employee, agent or Affiliate of such Person or such Subsidiary (a) is a Sanctioned Person or a Sanctioned Entity, (b) has any assets located in Sanctioned Entities, or (c) derives revenues from investments in, or transactions with Sanctioned Persons or Sanctioned Entities. Each of Ultimate Parent its Subsidiaries has implemented and maintains in effect policies and procedures designed to ensure compliance with all Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws. Each of Ultimate Parent and its Subsidiaries, and to

the knowledge of each of Ultimate Parent and its Subsidiaries, each director, officer, employee, agent and Affiliate of Ultimate Parent and its Subsidiaries, is in compliance with all Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws. No proceeds of any Advance made or Letter of Credit issued hereunder will be used to fund any operations in, finance any investments or activities in, or make any payments to, a Sanctioned Person or a Sanctioned Entity, or otherwise used in any manner that would result in a violation of any Sanction, Anti-Corruption Law or Anti-Money Laundering Law by any Person (including any Lender, Banking Services Provider, or other individual or entity participating in any transaction).

Section 4.20 **Solvency**. Before and after giving effect to the making of each Credit Extension after the Effective Date, the Credit Parties are, when taken as a whole, Solvent.

Section 4.21 [*Reserved*].

Section 4.22 **EEA Financial Institution**. No Credit Party and no Subsidiary of any Credit Party is an EEA Financial Institution and no Credit Party and no Subsidiary of any Credit Party is subject to the Write-Down and Conversion Powers of an EEA Resolution Authority.

Section 4.23 **Eligible Receivables**. As to each Receivable that is identified by Borrower as an Eligible Billed Receivable or Eligible Unbilled Receivable in a Borrowing Base Certificate submitted to Administrative Agent, such Receivable is (a) a bona fide existing payment obligation of the applicable Account Debtor created by the sale and delivery or lease of Inventory or the rendition of services to such Account Debtor in the ordinary course of business, (b) owed to a Credit Party without any known defenses, disputes, offsets, counterclaims, or rights of return or cancellation (other than as disclosed or reduced in the Borrowing Base Certificate), and (c) not excluded as ineligible by virtue of one or more of the excluding criteria (other than any Administrative Agent-discretionary criteria) set forth in the definition of Eligible Billed Receivable or Eligible Unbilled Receivable, as applicable.

Section 4.24 **Eligible Inventory**. As to each item of Inventory that is identified as Eligible Inventory in a Borrowing Base Certificate submitted to Administrative Agent, such Inventory is (a) of good and merchantable quality, free from known defects (other than as disclosed or reduced in the Borrowing Base Certificate), and (b) not excluded as ineligible by virtue of one or more of the excluding criteria (other than any Administrative Agent-discretionary criteria) set forth in the definition of Eligible Inventory.

ARTICLE V
AFFIRMATIVE COVENANTS

So long as any Secured Obligation shall remain unpaid (other than contingent reimbursement and indemnity obligations which survive and for which no Credit Party has received a notice of claim), any Lender shall have any Commitment hereunder, or there shall exist any Letter of Credit Exposure (unless such Letter of Credit Exposure shall have been Cash Collateralized on terms and in amounts reasonably acceptable to Issuing Lender), each Credit Party agrees to comply with the following covenants.

Section 5.1 **Organization**. Each Credit Party shall, and shall cause each of its respective Restricted Subsidiaries to, preserve and maintain its partnership, limited liability company or corporate existence, rights, franchises and privileges in the jurisdiction of its organization. Each Credit Party shall, and shall cause each of its respective Restricted Subsidiaries to qualify and remain qualified as a foreign business entity in each jurisdiction in which qualification is necessary or desirable in view of its business and operations or the ownership of its Properties, except where failure to so qualify could not reasonably be expected to cause a Material Adverse Change. Nothing contained in this Section 5.1 shall prevent any transaction permitted by Section 6.7 or Section 6.8.

Section 5.2 **Reporting**.

(a) Annual Financial Reports. Borrower shall provide, or shall cause to be provided, to Administrative Agent (to be provided by Administrative Agent to any Lender upon such Lender's reasonable request), as soon as available, but in any event within 120 days after the end of each fiscal year of Ultimate Parent (commencing with the fiscal year ended December 31, 2017), a consolidated and consolidating balance sheet of Ultimate Parent and its Restricted Subsidiaries as at the end of such fiscal year, and the related consolidated and consolidating statements of income or operations, shareholders' equity and cash flows for such fiscal year,

setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, such consolidated statements to be audited and accompanied by a report and opinion of any independent certified public accountant of recognized standing reasonably acceptable to Administrative Agent, which report and opinion shall be prepared in accordance with GAAP and shall not be subject to any "going concern" or like qualification or exception (other than with respect to, or resulting from, (i) the occurrence of the scheduled Maturity Date within one year from the date such opinion is delivered or (ii) any potential inability to satisfy the financial maintenance covenant set forth in Section 6.16 on a future date or in a future period) or any qualification or exception as to the scope of such audit, and such consolidated and consolidating statements to be certified by the chief executive officer, chief financial officer, director of finance or controller of Borrower to the effect that such statements fairly present the financial condition, results of operations, shareholders' equity and cash flows of Ultimate Parent and its Restricted Subsidiaries in all material respects in accordance with GAAP; provided that with respect to any statements delivered pursuant to this clause (a), the consolidating balance sheet, the related consolidating statements of income or operations, shareholders' equity and cash flow and other statements required hereunder shall explain in reasonably detail the differences between the information relating to Ultimate Parent and its Restricted Subsidiaries, on the one hand, and Parent and its Restricted Subsidiaries, on the other hand.

(b) Quarterly Financial Reports. Borrower shall provide, or shall cause to be provided, to Administrative Agent (to be provided by Administrative Agent to any Lender upon such Lender's reasonable request), as soon as available, but in any event within 50 days after the end of each of the first three fiscal quarters of each fiscal year of Ultimate Parent (commencing with the fiscal quarter ending December 31, 2017), a consolidated and consolidating balance sheet of Ultimate Parent and its Restricted Subsidiaries as at the end of such fiscal quarter, and the related consolidated and consolidating statements of income or operations for such fiscal quarter and for the portion of Ultimate Parent's fiscal year then ended and quarterly and year-to-date cash flow statements, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail, such consolidated and consolidating statements to be certified by the chief executive officer, chief financial officer, director of finance or controller of Borrower as fairly presenting the financial condition and results of operations of Ultimate Parent and its Restricted Subsidiaries, in all material respects, in accordance with GAAP, subject only to normal yearend audit adjustments and the absence of footnotes; provided, that with respect to any statements delivered pursuant to this clause (b), the consolidating balance sheet, the related consolidating statements of income or operations, shareholders' equity and cash flow and other statements and comparisons required hereunder shall explain in reasonable detail the differences between the information relating to Ultimate Parent and its Restricted Subsidiaries, on the one hand, and Parent and its Restricted Subsidiaries, on the other hand.

(c) Compliance Certificate. Concurrently with the delivery of the financial statements referred to in Section 5.2(a) and (b) above (commencing with those required for the fiscal quarter ending December 31, 2017), Borrower shall provide to Administrative Agent (to be provided by Administrative Agent to any Lender upon

such Lender's reasonable request) a duly completed Compliance Certificate (which shall provide a calculation for the financial covenant set forth in Section 6.16 regardless of whether such financial covenant is then being tested)

signed by a chief executive officer, chief financial officer, director of finance or controller of Borrower and attaching thereto detailed supporting information for the calculations made thereunder.

(d) Borrowing Base Certificate and Supporting Information. As soon as available and in any event within (i) 30 days after the end of the calendar months ending October 31, 2017, November 30, 2017, December 31, 2017 and January 31, 2018, and (ii) 20 days after the end of each calendar month (commencing with February 28, 2018), or, following the occurrence of an Increased Reporting Event, within 3 Business Days after the end of each calendar week until such Increased Reporting Period has terminated, Borrower shall provide to Administrative Agent (to be promptly provided by Administrative Agent to the Lenders), a certificate of the chief financial officer, chief executive officer, director of finance or controller of Borrower, or any other Responsible Officer of Borrower reasonably acceptable to Administrative Agent, in any event, on behalf of Borrower calculating the Borrowing Base in the form of the Borrowing Base Certificate then in effect as of the end of such calendar month or week, as applicable, including therein, among other things, each reported separately for Credit Parties: (i) a Receivables roll-forward with supporting details in a format acceptable to Administrative Agent and including a reconciliation to Credit Parties' general ledger, (ii) a detailed aging, by total, of Credit Parties' Receivables, together with a reconciliation and supporting documentation for any reconciling items noted (delivered electronically in an acceptable format, if Credit Parties have implemented electronic reporting), (iii) a detailed calculation of those Receivables that are not eligible for the Borrowing Base, if Credit Parties have not implemented electronic reporting, (iv) a detailed Inventory system/perpetual report by category with additional detail showing additions to and deletions therefrom together with a reconciliation to Credit Parties' general ledger accounts (delivered electronically in an acceptable format, if Credit Parties have implemented electronic reporting), (v) a detailed calculation of Inventory categories that are not eligible for the Borrowing Base, if Credit Parties have not implemented electronic reporting, (vi) a summary aging, by vendor, of Credit Parties' accounts payable (delivered electronically in an acceptable format, if Credit Parties have implemented electronic reporting).

(e) Additional Information. Borrower shall deliver to Administrative Agent (to be provided by Administrative Agent to any Lender upon such Lender's reasonable request) as soon as available and in any event within (i) 30 days after the end of each calendar month, a reconciliation of Receivables, trade accounts payable, and Inventory of Credit Parties' general ledger accounts to its financial statements including any book reserves related to each category, (ii) upon the request of Administrative Agent, within 30 days after the end of each fiscal year (or such longer period as may be agreed to by Administrative Agent), a perfection certificate or a supplement to the perfection certificate, which, with Administrative Agent's prior written consent in its sole discretion, may be limited to ABL Priority Collateral, and (iii) promptly following request therefor, such other reports as to the Collateral or the financial condition of Credit Parties and their Restricted Subsidiaries, as Administrative Agent may reasonably request, including, without limitation, a detailed list of Credit Parties' and their Restricted Subsidiaries' customers, with address and contact information.

(f) Annual Budget. As soon as available upon approval of the board of directors of Ultimate Parent and in any event within 75 days after the end of each fiscal year of

Borrower, Borrower shall provide to Administrative Agent (to be provided by Administrative Agent to any Lender upon such Lender's reasonable request) an annual budget consisting of projected balance sheets, income statements and cash flow statements for the immediately following fiscal year and reasonably detailed on a quarterly basis.

(g) Defaults. Credit Parties shall provide to Administrative Agent promptly, but in any event within five Business Days after a Responsible Officer of any Credit Party obtains knowledge thereof, a notice of any Default or Event of Default, together with a statement of a Responsible Officer of Borrower setting forth the details of such Default or Event of Default and the actions which Credit Parties have taken and propose to take with respect thereto.

(h) Other Creditors. Credit Parties shall provide to Administrative Agent promptly after the giving or receipt thereof, copies of any material default notices given or received by Ultimate Parent, Parent or by any of its Restricted Subsidiaries pursuant to the terms of any indenture, loan agreement, credit agreement, or similar agreement evidencing Debt in an amount in excess of $6,000,000.

(i) Litigation. Credit Parties shall provide to Administrative Agent promptly after the commencement thereof, notice of all actions, suits, and proceedings before any Governmental Authority, affecting any Restricted Entity that could reasonably be expected to result in a Material Adverse Change.

(j) Environmental Notices. Promptly upon, and in any event no later than 15 days after, the receipt thereof, or the acquisition of knowledge thereof, by any Responsible Officer of any Restricted Entity, Credit Parties shall provide Administrative Agent with a copy of any form of request, claim, complaint, order, notice, summons or citation received from any Governmental Authority or any other Person, (i) concerning violations or alleged violations of Environmental Laws, which seeks to impose liability therefore in excess of $6,000,000, (ii) concerning any action or omission on the part of any of Credit Parties or any of their former Subsidiaries in connection with Hazardous Waste or Hazardous Substances which could reasonably result in the imposition of liability in excess of $6,000,000 or requiring that action be taken to respond to or clean up a Release of Hazardous Substances or Hazardous Waste into the environment and such action or clean-up could reasonably be expected to exceed $6,000,000, including without limitation any information request related to, or notice of, potential responsibility under CERCLA which could reasonably result in the imposition of liability in excess of $6,000,000, or (iii) concerning the filing of a Lien (other than a Permitted Lien) upon, against or in connection with Ultimate Parent any Subsidiary of Ultimate Parent, or any of their respective former Subsidiaries, or any of their leased or owned Property, wherever located pursuant to any Environmental Law.

(k) Material Changes. Credit Parties shall provide to Administrative Agent prompt written notice of any condition or event of which any Responsible Officer of any Credit Party obtains knowledge and which could reasonably be expected to result in a Material Adverse Change.

(l) Termination Events. As soon as possible and in any event (i) within 30 days after Borrower or any member of the Controlled Group knows that any Termination Event

described in clause (a) of the definition of Termination Event with respect to any Plan has occurred, and (ii) within 10 days after Borrower or any member of the Controlled Group knows that any other Termination Event with respect to any Plan has occurred, Credit Parties shall provide to Administrative Agent a statement of an authorized officer of Borrower describing such Termination Event and the action, if any, which Borrower or any Affiliate of Borrower proposes to take with respect thereto;

(m) Termination of Plans. Promptly and in any event within five Business Days after receipt thereof by Borrower or any member of the Controlled Group from the PBGC, Credit Parties shall provide to Administrative Agent copies of each notice received by Borrower or any such member of the Controlled Group of the PBGC's intention to terminate any Plan or to have a trustee appointed to administer any Plan;

(n) Other ERISA Notices. Promptly and in any event within five Business Days after receipt thereof by Borrower or any member of the Controlled Group from a Multiemployer Plan sponsor, Credit Parties shall provide to Administrative Agent a copy of each notice received by Borrower or any member of the Controlled Group concerning the imposition or amount of withdrawal liability imposed on Borrower or any member of the Controlled Group pursuant to Section 4202 of ERISA;

(o) Other Governmental Notices. Promptly and in any event within five Business Days after receipt thereof by Ultimate Parent, Parent or any Restricted Subsidiary, Credit Parties shall provide to Administrative Agent a copy of any notice, summons, citation, or proceeding seeking to modify, revoke, or suspend any contract, license, permit, or agreement with any Governmental Authority the modification, revocation or suspension of which could reasonably be expected to result in a Material Adverse Change;

(p) Disputes; etc. Credit Parties shall provide to Administrative Agent prompt written notice of (i) any claims, legal or arbitration proceedings, proceedings before any Governmental Authority, or disputes, or to the knowledge of any Credit Party, any such actions threatened, or affecting Ultimate Parent, Parent or any Restricted Subsidiary thereof, in any event, which could reasonably be expected to cause a Material Adverse Change, or any material labor controversy of which any Credit Party has knowledge resulting in or reasonably considered to be likely to result in a strike against Ultimate Parent, Parent or any Restricted Subsidiary thereof, and (ii) any claim, judgment, Lien or other encumbrance (other than a Permitted Lien) affecting any Property of Parent or any Restricted Subsidiary thereof, if the value of the claim, judgment, Lien, or other encumbrance affecting such Property shall exceed $6,000,000;

(q) Management Letters; Other Accounting Reports. Promptly upon receipt thereof (to the extent permitted by the Parent's and its Restricted Subsidiaries' auditors), Credit Parties shall provide to Administrative Agent, a copy of each "management letter" submitted to Ultimate Parent, Parent or any Restricted Subsidiary thereof by independent accountants in connection with any annual, interim or special audit made by them of the books of Ultimate Parent, Parent or any of its Restricted Subsidiaries, and a copy of any response by Ultimate Parent, Parent or any of its Restricted Subsidiaries, or the board of directors or managers (or other applicable governing body) of any such Person, to such letter;

(r) SEC Filings. Promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the stockholders of Ultimate Parent, and copies of all annual, regular, periodic and special reports and registration statements which Ultimate Parent may file or be required to file with the SEC under Section 13 or 15(d) of the Exchange Act, or with any national securities exchange, and in any case not otherwise required to be delivered to Administrative Agent pursuant hereto;

(s) Investigations. Promptly, and in any event within five (5) Business Days after receipt thereof by Ultimate Parent or any Subsidiary thereof, copies of each notice or other correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdictions) concerning any investigation or possible investigation or other inquiry by such agency regarding financial or other operational results of Ultimate Parent or any Subsidiary thereof; and

(t) Other Information. Subject to the confidentiality provisions of Section 9.9, Credit Parties shall provide to Administrative Agent such other information respecting the business, operations, or Property of Ultimate Parent, Parent or any Restricted Subsidiary, financial or otherwise, as any Lender through Administrative Agent may reasonably request.

Any documentation or information that Credit Parties are required to deliver to Administrative Agent under this Section 5.2 shall be deemed to have been delivered to Administrative Agent on the date on which (A) such information or documentation is posted to any website established by Ultimate Parent of which Borrower notifies Administrative Agent in accordance with Section 9.10 and, Administrative Agent receives (i) written notice from such Credit Parties of the posting of any such documents (including to what website such documents were posted), which such notice may be by electronic mail in accordance with Section 9.10 or (ii) electronic versions of such documents via electronic mail, (B) such information or documentation is posted to the then-current website for the SEC, or (C) such information or documentation is posted to www.intralinks.com; www.syndtrak.com; www.debtx.com or (1) any successor website thereto of which Borrower notifies Administrative Agent in accordance with Section 9.10 or (2) any other virtual data room website that is commonly used in the banking industry to facilitate syndicated loan transactions and to which all Lenders have been granted access, and in any case, accessible by Administrative Agent free of charge. Notices may also be provided in accordance with Section 9.10.

Section 5.3 **Insurance.**

(a) Each Credit Party shall, and shall cause each of its Restricted Subsidiaries to, carry and maintain all such insurance in such amounts and against such risks as is customarily maintained by other Persons of similar size engaged in similar businesses and with reputable insurers.

(b) Copies of all certificates of insurance for policies covering the property or business of Borrower and its Restricted Subsidiaries, and endorsements and renewals thereof, shall be delivered by Borrower to and retained by Administrative Agent. At the request of Administrative Agent, copies of such policies of insurance, certified as true and correct copies of

such documents by a Responsible Officer of Borrower shall be delivered by Borrower to and retained by Administrative Agent. All policies of property insurance with respect to the Collateral either shall have attached thereto a lender's loss payable endorsement in favor of Administrative Agent for its benefit and the ratable benefit of the Secured Parties or name Administrative Agent as loss payee for its benefit and the ratable benefit of the Secured Parties, in either case, in form reasonably satisfactory to Administrative Agent, and all policies of liability insurance shall name Administrative Agent for its benefit and the ratable benefit of the Secured Parties as an additional insured. All policies or certificates of insurance shall set forth the coverage, the limits of liability, the name of the carrier, the policy number, and the period of coverage. All such policies shall contain a provision that notwithstanding any contrary agreements between any Restricted Subsidiary, and the applicable insurance company, such policies will not be canceled or allowed to lapse without renewal without at least 30 days' (or such shorter period as may be accepted by Administrative Agent) prior written notice to Administrative Agent.

(c) After the occurrence and during the continuance of Triggering Event, if requested by Administrative Agent, all proceeds of insurance of any Credit Party for Property constituting Collateral (other than D&O insurance and liability insurance payable to third parties), including any casualty insurance proceeds, property insurance proceeds, proceeds from actions, and any other proceeds, shall be paid directly to Administrative Agent and if necessary, assigned to Administrative Agent, to be applied to the Secured Obligations, whether or not the Secured Obligations are then due and payable.

(d) In the event that any insurance proceeds are paid to any Credit Party in violation of clause (c) above, such Credit Party shall hold the proceeds in trust for Administrative Agent, segregate the proceeds from the other funds of such Credit Party, and promptly pay the proceeds to Administrative Agent with any necessary endorsement. Upon the request of Administrative Agent, each of Credit Party shall execute and deliver to Administrative Agent any additional assignments and other documents as may be necessary to enable Administrative Agent to directly collect the proceeds as set forth herein.

Section 5.4 **Compliance with Laws**. Each Credit Party shall, and shall cause each of its Restricted Subsidiaries to, comply with Legal Requirements (including Environmental Laws) which are applicable to such Restricted Entity, including the operations, business or Property of such Restricted Entity and maintain all related permits necessary for the ownership and operation of such Restricted Entity's Property and business, except in any case where the failure to so comply could not reasonably be expected to result in a Material Adverse Change.

Section 5.5 **Taxes**. Each Credit Party shall, and shall cause each of its Restricted Subsidiaries to pay and discharge all material Taxes imposed on such Credit Party or any of its Restricted Subsidiaries prior to the date on which penalties attach, other than any Tax which is being contested in good faith and for which adequate reserves have been established in compliance with GAAP.

Section 5.6 **Further Assurances**. Parent and Borrower agree that Administrative Agent shall have an Acceptable Security Interest in all of the assets of each of the Credit Parties (whether now owned or hereafter arising or acquired, tangible or intangible, real or personal)

(other than Excluded Properties) as required below, subject to any permitted releases pursuant to the terms of this Agreement or the Security Documents and the grace periods set forth in Section 5.7 below and Schedule 5.7 with respect to newly formed or acquired (or converted) Wholly-Owned Restricted Subsidiaries, to secure the performance and payment of the applicable Secured Obligations as set forth in the Security Documents. Each Credit Party shall, and shall cause each Wholly-Owned Restricted Subsidiary to take such actions, including execution and delivery of any guaranty and Security Documents necessary to cause Parent and each Wholly-Owned Restricted Subsidiary of Parent to guaranty the Secured Obligations and to create, perfect and maintain an Acceptable Security Interest in favor of Administrative Agent in all of the assets of Parent and any Wholly-Owned Restricted Subsidiary of Parent, whether now owned or hereafter acquired (other than Excluded Properties). Notwithstanding the preceding provisions of this Section 5.6 or any other provisions of the Credit Documents, (i) subsidiaries of Parent that are Foreign Subsidiaries, Subsidiaries of Foreign Subsidiaries or FSHCOs will not be required to be a Guarantor and none of the Equity Interests in or Property owned by any Foreign Subsidiary, Subsidiary of a Foreign Subsidiary or FSHCO shall ever serve as collateral or other security for the Secured Obligations and (ii) no Unrestricted Subsidiary shall be required to grant an Acceptable Security Interest in any of its Properties or otherwise be bound by the requirements of this Section 5.6.

Section 5.7 **Designations with Respect to Subsidiaries.**

(a) Any Domestic Subsidiary formed or acquired after the Effective Date shall be deemed a Restricted Subsidiary (including, for the avoidance of doubt, any Subsidiary indirectly acquired pursuant to a Permitted Acquisition), except as otherwise provided in this Section 5.7(a). Borrower may designate by written notification thereof to Administrative Agent, any Subsidiary (other than Borrower or any other Credit Party with assets included in the Borrowing Base), including a newly formed or newly acquired Subsidiary, as an Unrestricted Subsidiary if (i) the Payment Conditions are satisfied before and after giving effect thereto (with the designation of such Subsidiary as an Unrestricted Subsidiary being deemed to be an Investment in an amount equal to the fair market value of such Subsidiary as of the date of such designation for purposes of determining compliance with the Payment Conditions), (ii) if such designation is to make a Credit Party an Unrestricted Subsidiary, no such designation may be made if such Credit Party has received from any Restricted Entity a Disposition that would not have been permitted under Section 6.8 had such Credit Party been an Unrestricted Subsidiary at the time of such Disposition, and (iii) only two such designations may be made as to any particular Subsidiary.

(b) If Borrower desires to designate any Subsidiary which is then an Unrestricted Subsidiary to be a Restricted Subsidiary after the date hereof, if no Default or Event of Default has occurred and is continuing or would result therefrom, Borrower shall cause such Person to comply with Section 5.7(c), at which time such Subsidiary shall cease to be an "Unrestricted Subsidiary" and shall become a "Restricted Subsidiary" for purposes of this Agreement and the other Credit Documents without any amendment, modification or other supplement to any of the foregoing.

(c) Borrower shall deliver to Administrative Agent each of the items set forth in Schedule 5.7 attached hereto with respect to each Wholly-Owned Restricted Subsidiary

created or acquired after the Effective Date to the extent required in Schedule 5.7 and subject to the grace periods set forth therein.

(d) At any time that one or more Unrestricted Subsidiaries exist hereunder, and to the extent they are consolidated with Parent, Borrower shall provide financial statements or reconciliation statements on a quarterly and annual basis that exclude the assets, liabilities and results of operations of the Unrestricted Subsidiaries from the consolidated financial statements delivered pursuant to Section 5.2(a) and 5.2(b) of this Agreement.

(e) The designation of any Subsidiary as an Unrestricted Subsidiary shall constitute an Investment in such Unrestricted Subsidiary and the Subsidiaries of such Unrestricted Subsidiary at the date of designation in an amount equal to the fair market value of Parent's or the applicable Restricted Subsidiaries' investment therein. The designation of any Unrestricted Subsidiary to be a Restricted Subsidiary shall constitute the incurrence at the time of designation of any Debt or Liens of such Subsidiary existing at such time.

(f) Notwithstanding anything herein to the contrary, no Subsidiary may be an Unrestricted Subsidiary if it is a "restricted subsidiary" for purposes of any indenture, term loan agreement, credit agreement or similar agreement that contains the concept of "restricted" and "unrestricted" subsidiaries.

Section 5.8 **Records; Inspection**. Each Credit Party shall maintain, in all material respects, proper, complete and consistent books of record with respect to such Person's operations, affairs, and financial condition. From time to time upon reasonable prior notice, each Credit Party shall permit any Lender, at such reasonable times and intervals and to a reasonable extent and under the reasonable guidance of officers of or employees delegated by officers of such Credit Party, to, subject to any applicable confidentiality considerations, examine and copy the books and records of such Credit Party, to visit and inspect the Property of such Credit Party, and to discuss the business operations and Property of such Credit Party with the officers and directors thereof (provided that, so long as no Event of Default has occurred and is continuing, the Lenders shall be entitled to only one such visit per year coordinated by Administrative Agent).

Section 5.9 **Maintenance of Property**. Each Credit Party shall, and shall cause each of its Restricted Subsidiaries to, maintain their owned, leased, or operated material Property, taken as a whole, in good condition and repair, except for normal wear and tear; and shall abstain from, and cause each of its Restricted Subsidiaries to abstain from, knowingly or willfully permitting the commission of waste or other injury, destruction, or loss of natural resources, or the occurrence of pollution, contamination,

or any other condition in, on or about the owned or operated Property involving the Environment that could reasonably be expected to result in Response activities and that could reasonably be expected to cause a Material Adverse Change.

Section 5.10 **Deposit Accounts; Securities and Commodity Accounts**.

(a) Each Credit Party shall establish and maintain a cash management system reasonably satisfactory to Administrative Agent.

(b) Each Credit Party shall, and shall cause each of its Restricted Subsidiaries to (i) maintain its primary operating accounts and other deposit accounts in the United States with any Lender or one of its Affiliates, (ii) within 45 days of the Effective Date and at all times thereafter, cause its deposit accounts to be subject to Account Control Agreements, provided that, the requirements of this clause (b) shall not apply to (x) deposit accounts that are designated solely as accounts for, and are used solely for, payment of salaries, wages, workers' compensation, 401(k) or other employee benefit accounts, escrow accounts in favor of a third party, or other funds on deposit for the benefit of third parties for transactions not restricted by this Agreement, (y) deposit accounts that are used solely for petty cash with an aggregate amount on deposit for all such petty cash accounts of no more than $750,000 and (z) any deposit accounts solely containing proceeds from equipment and other fixed assets securing Debt permitted under Section 6.1(j), and (ii) deposit all proceeds of Receivables into one or more of the deposit accounts established solely for that purpose with Administrative Agent that are subject to Account Control Agreements.

(c) Each Credit Party shall, and shall cause each of its Restricted Subsidiaries to maintain all securities accounts and all commodities accounts (other than commodities accounts with respect to chemicals purchased and sold in the ordinary course of business) of Credit Parties subject to Account Control Agreements.

Section 5.11 [*Reserved*].

Section 5.12 **Appraisals; Field Exams**.

(a) Requested Appraisals. Borrower shall, and shall cause each Restricted Subsidiary of Parent to, cooperate with Administrative Agent, or its designee, in order for an industry recognized third party appraiser engaged and directed by Administrative Agent to conduct an Inventory appraisal solely for the benefit of Administrative Agent and the Lenders but at Credit Parties' sole cost and expense, which written Inventory appraisal may cover information as requested by Administrative Agent, including, but not limited to, a specified procedures letter from such appraiser satisfactory to Administrative Agent; provided that, unless an Event of Default has occurred and is continuing, Borrower shall bear the cost of only one such appraisal per fiscal year (or two such appraisals per fiscal year in any year in which an Increased Reporting Event occurs), excluding the initial appraisal completed in connection with this Agreement.

(b) Field Exam. Borrower shall, and shall cause each Restricted Subsidiary of Parent to, permit Administrative Agent to, at any reasonable time and upon reasonable prior notice, and from time to time upon request by Administrative Agent with reasonable notice, perform a field inspection of the books, records and asset value of the accounts receivable of Parent and its Restricted Subsidiaries, including an audit, verification and inspection of the accounts receivable of Parent and its Restricted Subsidiaries and, in any event, conducted by Administrative Agent or any other Person selected by Administrative Agent; provided that, unless an Event of Default has occurred and is continuing, Borrower shall bear the cost of only one such field exam per fiscal year (or two such field exams per fiscal year in any year in which an Increased Reporting Event occurs), excluding the initial field exam completed in connection with this Agreement.

(c) Event of Default; Beneficiary. If an Event of Default has occurred and is continuing, Administrative Agent may perform any additional collateral audits, appraisals and field exams, and all such collateral audits, appraisals and field exams shall be performed at Borrower's sole cost and expense. Notwithstanding anything herein to the contrary, (i) no Credit Party nor any Affiliate thereof nor any of the foregoing's respective equity holders are intended to, and no such Person shall be, third party beneficiaries of any audits, appraisals, field exams or collateral audit conducted by any Secured Party or any other Person at the direction of any Secured Party and (ii) no Secured Party is obligated to share any such material or information with any Person other than the directly intended and express beneficiary thereof.

(d) Field Examination and Other Fees. Subject to the foregoing provisions of this Section 5.12, Borrower shall pay to Administrative Agent, field examination and appraisal fees and charges, as and when incurred or chargeable, as follows (i) a fee of up to $1,000 per day, per examiner, plus out-of-pocket expenses (including travel, meals, and lodging) for each field examination of Credit Parties performed by personnel employed by Administrative Agent, (ii) if implemented, a fee of up to $1,000 per day, per Person, plus out-of-pocket expenses (including travel, meals and lodging), if Administrative Agent elects to establish electronic collateral reporting systems, and (iii) the fees or charges paid or incurred by Administrative Agent (but, in any event, no less than a charge of up to $1,000 per day, per Person, plus out-of-pocket expenses (including travel, meals, and lodging)) if it elects to employ the services of one or more third Persons to perform field examinations of Credit Parties, or to appraise the Collateral, or any portion thereof; provided, that so long as no Event of Default has occurred and is continuing, Borrower shall not be obligated to reimburse Administrative Agent for any appraisals of Inventory so long as Eligible Inventory constitutes less than 15% of the total Borrowing Base at the time any such Inventory appraisal is ordered.

Section 5.13 **OFAC; Sanctions; Anti-Corruption Laws; Anti-Money Laundering Laws**. Each Credit Party will, and will cause Ultimate Parent and each of its Subsidiaries to comply with all applicable Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws. Each of Ultimate Parent and its Subsidiaries shall implement and maintain in effect policies and procedures designed to ensure compliance by Ultimate Parent and its Subsidiaries and their respective directors, officers, employees, agents and Affiliates with all Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws. Each of Ultimate Parent and its Subsidiaries shall and shall cause their respective Subsidiaries to comply with all Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws.

Section 5.14 **Post-Closing Item**.

(a) Within 45 days after the Effective Date, Borrower shall deliver to Administrative Agent, (i) a lender's loss payee endorsement with respect to each of the Credit Parties' property insurance policies, (ii) an additional insured endorsement with respect to each of the Credit Parties' liability insurance policies, and (iii) notice of cancellation endorsements with respect to all property insurance policies and liability insurance policies, in each case, consistent with the requirements of Section 5.3 of the Credit Agreement and in form and substance reasonably acceptable to Administrative Agent.

(b) No later than November 3, 2017, Borrower shall deliver to Administrative Agent a legal opinion from North Dakota counsel with respect to International Western Company, Inc. and the Intercompany Subordination Agreement, Assignment of Business Interruption Insurance Policy as Collateral Security and

Authorization to File UCC Financing Statements to which it is party, in each case dated as of November 1, 2017, which shall be in form and substance reasonably acceptable to Administrative Agent.

ARTICLE VI
NEGATIVE COVENANTS

So long as any Secured Obligation shall remain unpaid (other than contingent reimbursement and indemnity obligations which survive and for which no Credit Party has received a notice of claim), any Lender shall have any Commitment hereunder, or there shall exist any Letter of Credit Exposure (unless such Letter of Credit Exposure shall have been Cash Collateralized on terms and in amounts reasonably acceptable to Issuing Lender), each Credit Party agrees to comply with the following covenants:

Section 6.1 **Debt**. No Credit Party shall, nor shall it permit any of its Restricted Subsidiaries to, create, assume, incur, suffer to exist, or in any manner become liable, directly, indirectly, or contingently in respect of, any Debt other than the following (collectively, the "Permitted Debt"):

(a) (i) the Obligations, and (ii) the Banking Services Obligations;

(b) [R*eserved*];

(c) intercompany Debt incurred by any Credit Party owing to any other Credit Party;

(d) [*Reserved*];

(e) [*Reserved*];

(f) purchase money debt or Capital Leases (including extensions, refinancings, refundings, replacements and renewals thereof) subject to the limitations in the last sentence of this Section 6.1, in an aggregate outstanding principal amount not to exceed $100,000,000 at any time;

(g) Hedging Arrangements permitted under Section 6.15;

(h) (i) Debt arising from the endorsement of instruments for collection in the ordinary course of business and (ii) Debt incurred in the ordinary course of business under performance, surety and appeal bonds, government contracts, bids, statutory obligations, regulatory obligations and other obligations of a like manner; provided that, the aggregate outstanding amount of Debt under this clause (ii) shall not exceed $15,000,000 at any time;

(i) [*Reserved*];

(j) Debt of the Borrower (and guarantees thereof by Guarantors) evidenced by term loans, bonds, debentures, notes or other similar instruments (including extensions, refinancings, refundings, replacements and renewals of thereof); provided that, (i) the scheduled maturity date of such Debt shall not be earlier than one hundred eighty days after the Maturity Date, (ii) no Default or Event of Default shall have occurred and be continuing or shall result therefrom, (iii) in the case of secured Debt, at the time of incurrence thereof and after giving pro forma effect thereto and the use of proceeds thereof, the Borrower would be in compliance with a Senior Leverage Ratio, calculated on a pro forma basis as of the most recently ended fiscal quarter or year, as applicable, for which Administrative Agent has received financial statements pursuant to Section 5.1 on or prior to the incurrence of such secured Debt, that is no greater than 4.00:1.00; provided that any secured Debt incurred pursuant to this clause (j) may only be secured by a first priority security interest in the Term Loan Priority Collateral (and Administrative Agent would be granted a second priority security interest in such Term Loan Priority Collateral simultaneously with the granting of a first priority security interest therein) and/or a second priority security interest in the ABL Priority Collateral, (iv) in the case of unsecured Debt, at the time of incurrence thereof and after giving pro forma effect thereto and the use of proceeds thereof, Borrower would be in compliance with the Leverage Ratio, calculated on a pro forma basis as of the most recently ended fiscal quarter or year, as applicable, for which Administrative Agent has received financial statements pursuant to Section 5.1 on or prior to the incurrence of such unsecured Debt, that is no greater than 5:00:1.00, (v) in the case of secured Debt, the holder of such secured Debt (or an agent or representative in respect thereof) shall have entered into a customary intercreditor agreement in form and substance reasonably satisfactory to Administrative Agent, Majority Lenders, and Borrower, (vi) such Debt shall not have any amortization or other requirement to purchase, redeem, retire, defease or otherwise make any payment in respect thereof, other than at scheduled maturity thereof, mandatory prepayments which are customary with respect to such type of Debt and that are triggered upon change in control and sale of all or substantially all assets and certain other asset sales, and (vii) the agreements and instruments governing such Debt shall not contain (A) any affirmative or negative covenants that are, taken as a whole, materially more restrictive than those set forth in this Agreement; provided that the inclusion of any financial covenant that is customary with respect to such type of Debt and that is not found in this Agreement shall not be deemed to be more restrictive for purposes of this clause (A), (B) any restrictions on the ability of Parent or any Subsidiary of the Parent to guarantee the Secured Obligations, provided that a requirement that any such Subsidiary also guarantee such Debt shall not be deemed to be a violation of this clause (B), (C) any restrictions on the ability of Parent or any Restricted Subsidiary to pledge Collateral as collateral security for the Secured Obligations, or (D) any restrictions on the ability of Parent or any Restricted Subsidiary to incur Debt under this Agreement or any other Credit Document other than a restriction as to the outstanding principal amount of such Debt in excess of the aggregate Maximum Exposure Amount then in effect on the initial issuance date of such Debt;

(k) [*Reserved*];

(l) Debt (including purchase money debt and Capital Leases) of any Restricted Entity that is non-recourse to any other Restricted Entity and that is assumed by such Restricted Entity in connection with any Permitted Acquisition (or, if such Restricted Subsidiary is acquired as part of such Permitted Acquisition, existing prior thereto) and the refinancing and

renewal thereof; provided, however, that (i) such Debt exists at the time of such Permitted Acquisition at least in the amounts assumed in connection therewith and is not drawn down, created or increased in contemplation of or in connection with such Permitted Acquisition, (ii) that such Debt is non-recourse to any other Restricted Entity or any Property thereof, (iii) such Debt is either purchase money Debt or a Capital Lease with respect to Equipment or mortgage financing with respect to real property, and (iv) the aggregate principal amount of Debt at any time outstanding pursuant to this clause (l) shall not exceed $50,000,000;

(m) Debt arising from the financing of insurance premiums of any Restricted Entity, so long as (i) such Debt is on customary terms and (ii) the aggregate principal amount of Debt at any time outstanding pursuant to this clause (m) shall not exceed $30,000,000;

(n) secured Debt not otherwise permitted under the preceding provisions of this Section 6.1 (including extensions, refinancings, refundings, replacements and renewals of thereof subject to the last sentence of this Section 6.1); provided that, (i) the aggregate principal amount of such Debt shall not exceed $65,000,000 at any time and (ii) the Properties encumbered by any Lien securing such Debt shall not be ABL Priority Collateral;

(o) unsecured Debt in respect of Investments permitted by Section 6.3(d), Section 6.3(e) and Section 6.3(n);

(p) Debt comprised of earn-out obligations or contingent obligations of Parent or any Subsidiary arising from or relating to a Permitted Acquisition so long as, (i) with respect to each payment of any such Debt, no Default then exists or would arise as a result of such payment, and (ii) with respect to each payment of any such Debt to the extent the principal amount of such Debt exceeds $15,000,000 in the aggregate outstanding at the time of such payment, the Fixed Charge Coverage Ratio of Parent and its Restricted Subsidiaries is equal to or greater than 1.00:1.00 for the trailing 4 fiscal quarter period most recently ended for which financial statements are required to have been delivered to Administrative Agent pursuant to Section 5.2 (or, prior to the date on which the first of such financial statements are required to have been delivered, for the trailing 4 fiscal quarter period ended June 30, 2016) (calculated on a pro forma basis as if such proposed payment is a Fixed Charge made on the last day of such 4 fiscal quarter period (it being understood that such proposed payment shall also be a Fixed Charge made on the last day of such 4 fiscal quarter period for purposes of calculating the Fixed Charge Coverage Ratio under this clause (ii) for any subsequent proposed payment in the relevant period)) and such payment conditions are acknowledged by the holder of such Debt;

(q) Debt comprised of any lease payment obligations related to a sale and leaseback transaction permitted under Section 6.14;

(r) a guaranty by a Restricted Entity of Debt of another Restricted Entity that is otherwise permitted under this Section 6.1 to the extent that (i) such guarantor would have otherwise been permitted under this Section 6.1 to incur the Debt that it is guaranteeing and (ii) the terms of such guaranty are otherwise permitted under this Section 6.1; and

(s) unsecured Debt not otherwise permitted under the preceding provisions of this Section 6.1 (including extensions, refinancings, refundings, replacements and renewals of

thereof subject to the last sentence of this Section 6.1); provided that, the aggregate outstanding principal amount of Debt permitted under this clause (s) shall not exceed $105,000,000 at any time.

Any extensions, refinancings, refundings, replacements and renewals of Debt as permitted above in this Section 6.1 shall be subject to the following conditions: (A) any such refinancing Debt is in an aggregate principal amount not greater than the aggregate principal amount of the Debt being renewed or refinanced, plus the amount of any premiums required to be paid thereon and reasonable fees and expenses associated therewith and an amount equal to any unutilized active commitment under the Debt being renewed or refinanced or unutilized basket hereunder and (B) the covenants, events of default, subordination and other provisions thereof (including any guarantees thereof) shall be, in the aggregate, no less favorable to the Lenders than those contained in the Debt being renewed or refinance; provided that, the foregoing conditions are not, and shall not be construed as, an increase in any dollar limit already provided in Section 6.1 above nor an amendment of any specific requirement set forth in Section 6.1 above.

Any Debt permitted above owing by any Credit Party or any Restricted Subsidiary to any Unrestricted Subsidiary shall be subject to the condition that the applicable Credit Parties, Restricted Subsidiaries, and Unrestricted Subsidiaries are parties to the Intercompany Subordination Agreement.

Section 6.2 **Liens**. No Credit Party shall, nor shall it permit any of its Restricted Subsidiaries to, create, assume, incur, or suffer to exist any Lien on the Property of any Credit Party or any Restricted Subsidiary, whether now owned or hereafter acquired, or assign any right to receive any income, other than the following (collectively, the "Permitted Liens"):

(a) Liens securing the Secured Obligations pursuant to the Security Documents;

(b) Liens imposed by law, such as materialmen's, mechanics', carriers', workmen's and repairmen's liens, landlord's liens and other similar liens, and such Liens granted under contract with such materialmen, mechanic, carrier, workmen, repairmen and landlord, in any case, arising in the ordinary course of business securing obligations which are not overdue for a period of more than 30 days or are being contested in good faith by appropriate procedures or proceedings and for which adequate reserves have been established;

(c) Liens arising in the ordinary course of business out of pledges or deposits under workers compensation laws, unemployment insurance, old age pensions, or other social security or retirement benefits, or similar legislation to secure public or statutory obligations;

(d) Liens for Taxes which (i) are not yet due and payable, (ii) are with respect to Taxes in an amount less than $200,000 and are being actively contested in good faith by appropriate proceedings, or (iii) do not have priority over Administrative Agent's Liens and which are being actively contested in good faith by appropriate proceedings, including those set forth on Schedule 6.2;

(e) Liens securing purchase money debt or Capital Lease obligations permitted under Section 6.1(f); provided that each such Lien encumbers only the Property

purchased in connection with the creation of any such purchase money debt or the subject of any such Capital Lease, and all proceeds thereof (including insurance proceeds) and accessions thereto;

(f) Liens arising from precautionary UCC financing statements regarding operating leases;

(g) encumbrances consisting of easements, zoning restrictions, servitudes or other restrictions on the use of real property that do not (individually or in the aggregate) materially affect the value of the assets encumbered thereby or materially impair the ability of any Credit Party to use such assets in its business;

(h) Liens arising solely by virtue of a depository institution's standard account documentation or any statutory or common law provision relating to banker's liens, rights of set-off or similar rights and remedies and burdening only deposit accounts or other funds maintained with a depository institution;

(i) Liens on cash or securities pledged to secure performance of tenders, surety and appeal bonds, government contracts, performance and return of money bonds, bids, trade contracts, leases, statutory obligations, regulatory obligations and other obligations of a like nature incurred in the ordinary course of business;

(j) judgment and attachment Liens not giving rise to an Event of Default, provided that (i) any appropriate legal proceedings which may have been duly initiated for the review of such judgment shall not have been finally terminated or the period within which such proceeding may be initiated shall not have expired and (ii) no action to enforce such Lien has been commenced;

(k) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into in the ordinary course of business or Liens arising by operation of law under Article 2 of the UCC or by contract in favor of a reclaiming seller of goods or buyer of goods (including purchase money security interests in favor of vendors in the ordinary course of business);

(l) Liens solely on cash earnest money deposits made in connection with any letter of intent or purchase agreement permitted hereunder;

(m) Liens arising by reason of deposits with or giving of any form of security to any Governmental Authority for any purpose at any time as required by applicable law as a condition to the transaction of any business or the exercise of any privilege or license;

(n) Liens created pursuant to joint venture agreements and related documents (to the extent requiring a Lien on the Equity Interest owned by any Restricted Entity in the applicable joint venture is required thereunder) having ordinary and customary terms (including with respect to Liens) and entered into in the ordinary course of business and securing obligations other than Debt;

(o) Liens encumbering Properties of the Restricted Entities which is not ABL Priority Collateral and securing Debt permitted under Section 6.1(n);

(p) [*Reserved*];

(q) Liens in favor of insurers (or other Persons financing the payment of insurance premiums) securing Debt of the type described in and permitted under Section 6.1(m); provided that such Liens shall encumber only the insurance proceeds and unearned premiums of the insurance financed thereby;

(r) Liens on Property of a Person which becomes a Restricted Subsidiary after the date hereof or which are assumed by a Restricted Subsidiary in connection with a Permitted Acquisition, that secure Debt permitted by Section 6.1(l), to the extent that (i) such Liens are in existence at the time such Person becomes a Restricted Subsidiary (or at the time of such Permitted Acquisition) and were not created in anticipation thereof and (ii) the Debt secured by such Liens does not thereafter increase in amount;

(s) Liens existing as of the date hereof and set forth on Schedule 6.2;

(t) [R*eserved*]; and

(u) Liens securing Debt permitted pursuant to Section 6.1(j); provided, that any such Liens shall be subject to an intercreditor agreement on terms reasonably satisfactory to Administrative Agent and Majority Lenders.

Section 6.3 **Investments**. No Credit Party shall, nor shall it permit any of its Restricted Subsidiaries to, make or hold any Investment other than the following (collectively, the "Permitted Investments"):

(a) Investments in the form of trade credit to customers of a Restricted Entity arising in the ordinary course of business and represented by accounts from such customers;

(b) Liquid Investments;

(c) Investments made prior to the Effective Date as specified in the attached Schedule 6.3 and Investments in Subsidiaries existing on the Effective Date set forth on Section 4.11;

(d) Investments in any Unrestricted Subsidiary and Foreign Subsidiaries by any Credit Party or Restricted Subsidiary; provided that, (i) the aggregate amount of all such Investments permitted under this clause (d) at any time outstanding does not exceed $25,000,000 (other than as a result of appreciation and other than to the extent funded with Equity Issuance Proceeds), and (ii) if any Restricted Payments made by Unrestricted Subsidiaries are included in the calculation of EBITDA of any period for any purpose under this Agreement, then no Investments may be made by any Restricted Entity in such applicable Unrestricted Subsidiary during such period (under this clause (d) or otherwise) unless Borrower would otherwise be in compliance with the applicable covenant without taking into account such Restricted Payments from the Unrestricted Subsidiaries;

(e) Investments by any Credit Party to any other Credit Party;

(f) Investments in the form of Permitted Acquisitions (including Investments held by any Restricted Subsidiary on the date such Person becomes a Restricted Subsidiary after the Effective Date but only to the extent that (i) such Investment is in existence at the time such Person becomes a Restricted Subsidiary and were not created in anticipation thereof and (ii) such Investment does not thereafter increase in amount (other than by appreciation and it being understood that this clause (ii) shall not limit an increase in such Investment that is permitted under another clause of this Section 6.3); provided that, such Permitted Acquisition otherwise complies with this Agreement, including Section 5.7 and Section 6.4(b);

(g) creation of any additional Restricted Subsidiaries of Parent in compliance with Sections 5.6 and 5.7;

(h) creation of any Unrestricted Subsidiaries in compliance with Section 5.7; provided that, the initial capitalization thereof is permitted under clause (d) or clause (o) hereof;

(i) loans or advances to directors, officers and employees of any Restricted Entity for expenses or other payments incident to such Person's employment or association with any Restricted Entity; provided that the aggregate outstanding amount of such advances and loans shall not exceed $3,500,000;

(j) the Transactions contemplated by this Agreement;

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

(l) Investments in the form of mergers, amalgamations and consolidations of Restricted Entities in compliance with Section 6.7(a); provided that, if such Investment involves a Subsidiary, such Investment otherwise complies with this Agreement, including Section 5.7;

(m) Capital Expenditures;

(n) other Investments in an aggregate amount not to exceed $20,000,000 at any time outstanding (other than as a result of appreciation); and

(o) other Investments (other than Acquisitions) so long as the Payment Conditions are satisfied.

Any Investments permitted above consisting of loans or advances by any Unrestricted Subsidiary to any Credit Party or any Restricted Subsidiary to shall be subject to the condition that the applicable Unrestricted Subsidiaries, Credit Parties, and Restricted Subsidiaries are parties to the Intercompany Subordination Agreement.

Section 6.4 **Acquisitions**. No Credit Party shall, nor shall it permit any of its Restricted Subsidiaries to, make an Acquisition in a single transaction or related series of transactions other than :

(a) mergers, amalgamations and consolidations permitted by Section 6.7(a);

(b) Acquisitions constituting Investments permitted by Section 6.3(n); and

(c) any Permitted Acquisition by Parent (directly by Parent or indirectly through Ultimate Parent and contributed to Parent) or any Restricted Subsidiary of Parent so long as the Payment Conditions are satisfied;

Section 6.5 **Agreements Restricting Liens**. No Credit Party shall, nor shall it permit any of its Restricted Subsidiaries to, create, incur, assume or permit to exist any contract, agreement or understanding which in any way prohibits or restricts the granting, conveying, creation or imposition of any Lien on any of the Collateral, whether now owned or hereafter acquired, to secure the Secured Obligations or restricts any Restricted Subsidiary from paying Restricted Payments to Parent, or which requires the consent of or notice to other Persons in connection therewith other than:

(a) this Agreement and the Security Documents;

(b) agreements governing Debt permitted by Section 6.1(f) and Section 6.1(q) and purchase money Debt set forth on Schedule 6.1, in each instance, to the extent such restrictions govern only the assets financed pursuant to such Debt and the proceeds thereof;

(c) agreements governing Debt permitted by Section 6.1(l), (j) and (n) to the extent such restrictions do not apply to Collateral or Properties which are required to be Collateral under Section 5.6 and such agreements do not require the direct or indirect granting of any Lien securing such Debt or other obligation by virtue of the granting of Liens on or pledge of Collateral to secure the Secured Obligations (other than Permitted Liens);

(d) any prohibition or limitation that (i) exists pursuant to applicable requirements of a Governmental Authority, (ii) restricts subletting or assignment of leasehold interests contained in any lease governing a leasehold interest of Parent or a Restricted Subsidiary and customary provisions in other contracts restricting assignment thereof, or (iii) exists in any agreement in effect at the time a Subsidiary becomes a Restricted Subsidiary of Parent, so long as such agreement was not entered into in contemplation of such Person becoming a Restricted Subsidiary;

(e) any prohibition or limitation that exists in any contract to which a Credit Party is a party so long as (i) such prohibition or limitation is generally applicable and does not specifically address any of the Secured Obligations or the Liens granted under the Credit Documents, and (ii) the noncompliance of such prohibition or limitation would not reasonably be expected to be adverse to any Secured Party; and

(f) prohibitions or limitations contained in the organizational documents of any Joint Venture (that is not required to be a Credit Party hereunder) or the related joint venture

or similar agreement that prohibit or restrict the granting, conveying, creation or imposition of any Lien on any Equity Interest in such Joint Venture.

Section 6.6 **Use of Proceeds; Use of Letters of Credit**. No Credit Party shall, nor shall it permit any of its Subsidiaries to: (a) use the proceeds of the Advances for any purposes other than (i) the payment of fees and expenses related to the entering into of the Transactions, (ii) working capital purposes of Borrower and any Restricted Subsidiary, (iii) to make permitted Restricted Payments, and (iv) other general corporate purposes of Borrower and any Restricted Subsidiary, including Permitted Acquisitions; (b) use the proceeds of the Swingline Advances or the Letters of Credit for any purposes other than (i) working capital purposes of Borrower and any Restricted Subsidiary or (ii) other general corporate purposes of Borrower and any Restricted Subsidiary. No Credit Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, use any part of the proceeds of Advances or Letters of Credit for any purpose which violates, or is inconsistent with, Regulations T, U, or X. No part of the proceeds of any Advance or Letter of Credit will be used, directly or indirectly, to make any payments to a Sanctioned Entity or a Sanctioned Person, to fund any investments, loans or contributions in, or otherwise make such proceeds available to, a Sanctioned Entity or a Sanctioned Person, to fund any operations, activities or business of a Sanctioned Entity or a Sanctioned Person, or in any other manner that would result in a violation of Sanctions by any Person. No part of the proceeds of any Advance or Letter of Credit will be used, directly or indirectly, in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Sanctions, Anti-Corruption Laws or Anti-Money Laundering Laws.

Section 6.7 **Corporate Actions; Accounting Changes**.

(a) No Credit Party shall, nor shall it permit any of its Restricted Subsidiaries to, merge, amalgamate or consolidate with or into any other Person, except:

(i) that Borrower may merge with any of its Restricted Subsidiaries and any Restricted Subsidiary may merge or be consolidated with or into any other Restricted Subsidiary; provided that immediately after giving effect to any such proposed transaction no Default would exist and, (A) in the case of any such merger to which Borrower is a party, Borrower is the surviving entity and (B) in the case of a merger to which a Credit Party is a party, a Credit Party is the surviving entity or the surviving entity then becomes a Credit Party;

(ii) [*reserved*];

(iii) that any Restricted Entity that is not a Credit Party may merge, amalgamate or consolidate with any other Restricted Entity that is not a Credit Party;

(iv) any other merger, amalgamation or consolidation as part of an Acquisition constituting an Investment permitted under Section 6.3(o) or Permitted Acquisition under Section 6.4(c) and, (A) in the case of any such merger to which Borrower is a party, Borrower is the surviving entity and (B) in the case of a merger to

which a Credit Party is a party, a Credit Party is the surviving entity or the surviving entity then becomes a Credit Party; and

(v) any Restricted Subsidiary (other than Borrower) may dissolve, liquidate or wind up its affairs at any time; provided that such dissolution, liquidation or winding up, as applicable, could not reasonably be expected to have a Material Adverse Change and such Restricted Subsidiary could effect the same by merger or consolidation permitted under this Section 6.7(a).

(b) No Credit Party shall, nor shall it permit any of its Restricted Subsidiaries to, (i) without at least 15 days (or such shorter period as agreed to by Administrative Agent) prior written notice to Administrative Agent, change its name, change its state of incorporation, formation or organization, change its organizational identification number or reorganize in another jurisdiction, (ii) amend, supplement, modify or restate their articles or certificate of incorporation or formation, limited partnership agreement, bylaws, limited liability company agreements, or other equivalent organizational documents, in any manner that could reasonably be expected to be materially adverse to the Lenders (it being agreed that any modification to the limited liability company agreement of Parent providing for Parent to cease to be member-managed shall deemed to be materially adverse to the Lenders), or (iii) change the method of accounting employed in the preparation of the financial statements referred to in Section 4.4 or change the fiscal year end of such Restricted Subsidiary unless such changes are required to conform to GAAP or such changes are to conform the accounting practices of Borrower and notice of such changes have been delivered to Administrative Agent prior to effecting such changes.

Section 6.8 **Disposition of Assets**. No Credit Party shall, nor shall it permit any of its Restricted Subsidiaries to, make a Disposition other than:

(a) Disposition by any Restricted Entity (other than a Credit Party) of any of its Properties to any Credit Party; provided that, at the reasonable request of Administrative Agent, the receiving Credit Party shall ratify, grant and confirm the Liens on such assets (and any other related Collateral) pursuant to documentation reasonably satisfactory to Administrative Agent;

(b) Disposition by any Credit Party of any of its Properties to any other Credit Party; provided that, at the reasonable request of Administrative Agent, the receiving Credit Party shall ratify, grant and confirm the Liens on such assets (and any other related Collateral) pursuant to documentation reasonably satisfactory to Administrative Agent;

(c) Disposition by any Restricted Entity that is not a Credit Party of any of its Properties to any other Restricted Entity that is not a Credit Party;

(d) Sale of inventory in the ordinary course of business and Disposition of cash or Liquid Investments in the ordinary course of business;

(e) Disposition of worn out, obsolete or surplus property in the ordinary course of business and the abandonment or other Disposition of patents, trademarks and copyrights that, in the reasonable judgment of Borrower, should be replaced or is no longer

economically practicable to maintain or useful in the conduct of the business of Parent and its Restricted Subsidiaries taken as a whole;

(f) mergers, amalgamations, and consolidations in compliance with Section 6.7(a);

(g) Permitted Investments;

(h) assignments and licenses of patents, trademarks or copyrights of any Restricted Entity in the ordinary course of business;

(i) Disposition of any assets required under Legal Requirements;

(j) Dispositions of equipment by any Credit Party the proceeds of which are reinvested in the acquisition of equipment of comparable value and in the same line of business within 180 days; provided that, for the avoidance of doubt, to the extent such proceeds are not so reinvested within such 180 day period, then such Disposition is not a Disposition permitted under this clause (j);

(k) [*reserved*];

(l) Dispositions of Equity Interests in a joint venture;

(m) leases of real or personal property in the ordinary course of business;

(n) Dispositions of Properties to effect a sale and leaseback transaction permitted under Section 6.14;

(o) [R*eserved*];

(p) so long as no Default has occurred and is continuing or would result therefrom and the applicable Credit Party or Restricted Subsidiary receives at least the fair market value of the Property so Disposed, Dispositions of Excluded Properties; and

(q) Dispositions of Properties (other than ABL Priority Collateral) not otherwise permitted under the preceding clauses of this Section 6.8; provided that, such Disposition, taken together with all such other Dispositions completed since the Effective Date, does not exceed 5% of the Tangible Net Assets in the aggregate and calculated at the time of such subject Disposition.

Section 6.9 **Restricted Payments**. No Credit Party shall, nor shall it permit any of its Restricted Subsidiaries to make any Restricted Payments except that:

(a) Borrower and the other Restricted Subsidiaries of Parent may make Restricted Payments to Parent or any other Credit Party (and, if applicable, cash Restricted Payments on account of Equity Interests that do not constitute Debt to third party holders thereof on a pro rata basis);

(b) Parent may make Permitted Tax Distributions;

(c) so long as no Default exists or would result from the making of such Restricted Payment, Credit Parties or any Restricted Subsidiary may make cash Restricted Payments in an amount not to exceed $5,000,000 following the Effective Date in the aggregate to existing and former officers, directors, and employees of Credit Parties or such Restricted Subsidiary; provided that such Restricted Payments are in consideration for the retirement, purchase, or redemption of any of the Equity Interests of such Restricted Entity, or any option, warrant or other right to purchase or acquire such Equity Interest, in any event, held by such Person;

(d) so long as no Default exists or would result from the making of such Restricted Payment, Borrower may reimburse or make payments to the Parent and Ultimate Parent for (A) accounting, legal, insurance and other general and administrative expenses which are actual third party costs and expenses incurred by the Parent or Ultimate Parent in the ordinary course of business, including costs and expenses for activities permitted under Section 6.23(a)(iv), (v), (viii), (ix) and (xi), and (B) out-of-pocket costs and expenses of securities offerings for Equity Issuances which will result in Equity Issuance Proceeds and of exchanges of Equity Interests;

(e) in connection with any Equity Issuance, Borrower or Parent may make cash Restricted Payments in lieu of fractional interests in an amount not to exceed $300,000 in the aggregate;

(f) so long as no Default exists or would result from the making of such Restricted Payment, within 15 days of an Equity Issuance, Parent may make cash Restricted Payments to redeem its Equity Interests with the proceeds of such Equity Issuance; and

(g) Credit Parties may make other Restricted Payments so long as the Payment Conditions are satisfied.

Section 6.10 **Affiliate Transactions**. No Credit Party shall, nor shall it permit any of its Restricted Subsidiaries to, directly or indirectly, enter into or permit to exist any transaction or series of transactions (including, but not limited to, the purchase, sale, lease or exchange of Property, the making of any Investment, the giving of any guaranty, the assumption of any obligation or the rendering of any service) with any of their Affiliates that are not Restricted Entities other than:

(a) such transaction or series of transactions are arm's length transactions entered into on terms that are not materially less favorable to Borrower or any Restricted Subsidiary, as applicable, than those that could be obtained in a comparable arm's length transaction with a Person that is not such an Affiliate;

(b) the intercompany agreements described on Schedule 6.10; provided that the terms thereof may not be amended, supplemented or otherwise modified unless such amended, supplemented or otherwise modified terms complies with clause (a) above;

(c) the Restricted Payments permitted under Section 6.9;

(d) permitted Investments in Subsidiaries and Joint Ventures, including the purchase or acquisition of Equity Interests thereof and capital contributions in connection therewith;

(e) reasonable and customary director, officer and employee compensation (including bonuses) and other benefits (including retirement, health, stock option and other benefit plans); and

(f) without duplication of Section 6.9(d), so long as no Default exists or would result therefrom, reimbursements or payments to the Parent or Ultimate Parent for (A) accounting, legal, insurance and other general and administrative expenses which are actual third party costs and expenses incurred by the Parent or Ultimate Parent in the ordinary course of business, including costs and expenses for activities permitted under Section 6.23(a)(iv), (v), (viii), (ix) and (xi), and (B) out-of-pocket costs and expenses of securities offerings for Equity Issuances which will result in Equity Issuance Proceeds and of exchanges of Equity Interests.

Section 6.11 **Line of Business**. No Credit Party shall, and shall not permit any of its Restricted Subsidiaries to, change the character of Parent's and its Restricted Subsidiaries collective business as conducted on the date of this Agreement, or engage in any type of business not reasonably related to, or a normal extension of, Parent's and its Restricted Subsidiaries collective business as presently conducted.

Section 6.12 **Hazardous Materials**. No Credit Party (a) shall, nor shall it permit any of its Subsidiaries to, create, handle, transport, use, or dispose of any Hazardous Substance or Hazardous Waste, except in the ordinary course of its business and except in compliance with Environmental Law other than to the extent that such non-compliance could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Change or in any liability on the Lenders or Administrative Agent, and (b) shall, nor shall it permit any of its Subsidiaries to, Release any Hazardous Substance or Hazardous Waste into the Environment and shall not permit any Credit Party's or any Subsidiary's Property to be subjected to any Release of Hazardous Substance or Hazardous Waste, except in compliance with Environmental Law other than to the extent that such non-compliance could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Change or in any material liability on the Lenders or Administrative Agent.

Section 6.13 **Compliance with ERISA**. Except for matters that could not reasonably be expected to cause a Material Adverse Change, no Credit Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly: (a) engage in any transaction in connection with which Ultimate Parent or any Subsidiary of Ultimate Parent could be subjected to either a civil penalty assessed pursuant to Section 502(c), (i) or (l) of ERISA or a tax imposed by Chapter 43 of the Code; (b) terminate, or permit any member of the Controlled Group to terminate, any Plan in a manner, or take any other action with respect to any Plan, which could result in any liability to Ultimate Parent or any Subsidiary of Ultimate Parent, or any member of the Controlled Group to the PBGC; (c) fail to make, or permit any member of the Controlled Group to fail to make, full payment when due of all amounts which, under the provisions of any Plan, agreement relating thereto or applicable law, Ultimate Parent or any Subsidiary of Ultimate Parent or member of the Controlled Group is required to pay as contributions thereto; (d) permit to exist, or allow

Ultimate Parent or any Subsidiary of Ultimate Parent or any member of the Controlled Group to permit to exist, any accumulated funding deficiency (or unpaid minimum required contribution for plan years after December 31, 2007); (e) permit, or allow any member of the Controlled Group to permit, the actuarial present value of the benefit liabilities (as "actuarial present value of the benefit liabilities" shall have the meaning specified in Section 4041 of ERISA) under any Plan that is regulated under Title IV of ERISA to exceed the current value of the assets (computed on a plan termination basis in accordance with Title IV of ERISA) of such Plan allocable to such benefit liabilities; (f) contribute to or assume an obligation to contribute to, or permit any member of the Controlled Group to contribute to or assume an obligation to contribute to, any Multiemployer Plan; (g) acquire, or permit any member of the Controlled Group to acquire, an interest in any Person that causes such Person to become a member of the Controlled Group if such Person sponsors, maintains or contributes to, or at any time in the six-year period preceding such acquisition has sponsored, maintained, or contributed to, (1) any Multiemployer Plan, or (2) any other Plan that is subject to Title IV of ERISA under which the actuarial present value of the benefit liabilities under such Plan exceeds the current value of the assets (computed on a plan termination basis in accordance with Title IV of ERISA) of such Plan allocable to such benefit liabilities; (h) incur, or permit any member of the Controlled Group to incur, a liability to or on account of a Plan under Sections 515, 4062, 4063, 4064, 4201 or 4204 of ERISA; (i) contribute to or assume an obligation to contribute to any employee welfare benefit plan, as defined in Section 3(1) of ERISA, including, without limitation, any such plan maintained to provide benefits to former employees of such entities, that may not be terminated by such entities in their sole discretion at any time without any liability; or (j) or to incur any liability for any excise Taxes, penalties, fines or damages for breach of fiduciary duty with respect to any Employee Benefit Plan.

Section 6.14 **Sale and Leaseback Transactions**. No Credit Party shall, nor shall it permit any of its Restricted Subsidiaries to, sell or transfer to a Person any Property, whether now owned or hereafter acquired, if at the time or thereafter Parent or any Restricted Subsidiary shall lease as lessee such Property or any part thereof or other Property which Parent or any Restricted Subsidiary intends to use for substantially the same purpose as the Property sold or transferred; provided that, the Restricted Entities may effect such transactions with Property that is not ABL Priority Collateral so long as such transactions do not exceed $30,000,000 in the aggregate and such transaction is made on an arm's-length basis for fair market value.

Section 6.15 **Limitation on Hedging**. No Credit Party shall, nor shall it permit any of its Restricted Subsidiaries to, (a) purchase, assume, or hold a speculative position in any commodities market or futures market or enter into any Hedging Arrangement for speculative purposes; or (b) be party to or otherwise enter into any Hedging Arrangement which is entered into for reasons other than as a part of its normal business operations as a risk management strategy and/or hedge against changes resulting from market conditions related to Parent's or its Restricted Subsidiaries' operations; provided that, for the avoidance of doubt, any Restricted Entity may enter into Hedging Arrangements (A) to mitigate risk to which such Restricted Entity has actual exposure, (B) to effectively cap, collar or exchange interest rates (from floating to fixed rates, from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of any Restricted Entities and (C) consisting of spot and forward delivery foreign exchange contracts entered into in the ordinary course of business and not for speculative purposes.

Section 6.16 **Fixed Charge Coverage Ratio**. Parent will maintain a Fixed Charge Coverage Ratio, calculated for each 4 fiscal quarter period ending on the first day of any Covenant Testing Period and the last day of each fiscal quarter occurring until the end of any Covenant Testing Period (including the last day thereof), in each case of at least 1.00 to 1.00.

Section 6.17 [*Reserved*].

Section 6.18 [*Reserved*].

Section 6.19 **Landlord Agreements**. No Credit Party shall, nor shall it permit any of its Restricted Subsidiaries that is, or is required to be, a Credit Party to hold, store or otherwise maintain any Inventory at premises within the US which are not owned by a Credit Party unless (i) such Inventory is located at Third Party Locations and which such Credit Party has used commercially reasonable efforts to seek and deliver a Collateral Access Agreement to Administrative Agent, (ii) such Inventory located on premises owned or operated by the customer that is to purchase such Inventory, (iii) such Inventory is located on premises owned by a Credit Party securing on a first priority basis Debt (other than the Obligations) permitted under this Agreement so long as access terms reasonably acceptable to Administrative Agent have been agreed with the holder of such Debt, (iv) the aggregate value of all Inventory located at Third Party Locations and which are not covered by a Collateral Access Agreement is less than $500,000; or (v) Inventory Reserves have been instituted by Administrative Agent.

Section 6.20 **Prepayment of Certain Debt**. No Credit Party shall, nor shall it permit any of its Restricted Subsidiaries to, prepay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner, or make any payment in violation of any subordination terms of, any Debt, except:

(a) the prepayment of the Obligations in accordance with the terms of this Agreement,

(b) regularly scheduled or required repayments or redemptions of Permitted Debt and refinancings and refundings of Permitted Debt so long as such refinancings and refundings would otherwise comply with Section 6.1, including the last sentence therein,

(c) so long as no Event of Default exists or would result therefrom, prepayments of intercompany Debt permitted under Section 6.1, and

(d) so long as the Payment Conditions are satisfied, other prepayments of Permitted Debt.

Section 6.21 **OFAC; Anti-Terrorism; etc**.

(a) No Credit Party shall, nor shall it permit any of its Subsidiaries to, (i) become a Person described or designated in the Specially Designated Nationals and Blocked Persons List of the Office of Foreign Assets Control or in Section 1 of the Anti-Terrorism Order, or otherwise a Sanctioned Person or a Sanctioned Entity, (ii) have any of its assets located in Sanctioned Entities, (iii) derive revenues from investments in, or transactions with Sanctioned Persons or Sanctioned Entities, (iv) engage in any dealings or transactions, or is or will be

otherwise associated with, Sanctioned Persons or Sanctioned Entities, or (v) violate any Sanctions, including without limitation any of the country or list-based economic and trade sanctions administered and enforced by any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto. No proceeds of any Advance or Letter of Credit will be used, directly or indirectly, to fund any operations in or with, finance any investments or activities in or with, or make any payments to, a Sanctioned Person or a Sanctioned Entity.

(b) Each Credit Party shall, and shall cause its Subsidiaries to, comply with all laws and regulations relating to money laundering or terrorist financing, including, without limitation, the Bank Secrecy Act, 31 U.S.C. Sections 5301 et seq.; the Patriot Act; Laundering of Monetary Instruments, 18 U.S.C. Section 1956; Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity, 18 U.S.C. Section 1957; the Financial Recordkeeping and Reporting of Currency and Foreign Transactions Regulations, 31 C.F.R. Part 103; and any similar laws or regulations currently in force or hereafter enacted.

(c) No Credit Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly use any Letter of Credit or any part of the proceeds of any Advances (i) in violation of the Trading with the Enemy Act, as amended, or any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto, or (ii) for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended, assuming in all cases that such Act applies to Borrower and its Subsidiaries.

(d) Borrower shall implement and maintain in effect policies and procedures designed to ensure compliance by its and its Subsidiaries respective directors, officers, employees and agents with applicable Sanctions and all laws and regulations relating to foreign corrupt practices, money laundering or terrorist financing, including, without limitation, the United States Foreign Corrupt Practices Act of 1977, as amended, the Bank Secrecy Act, 31 U.S.C. Sections 5301 et seq.; the Patriot Act; Laundering of Monetary Instruments, 18 U.S.C. Section 1956; Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity, 18 U.S.C. Section 1957; the Financial Recordkeeping and Reporting of Currency and Foreign Transactions Regulations, 31 C.F.R. Part 103; and any similar laws or regulations currently in force or hereafter enacted.

Section 6.22 **Equity Issuances**. Parent shall not permit any of its Restricted Subsidiaries to issue Equity Interests other than common Equity Interests.

Section 6.23 **Passive Holding Companies**. Notwithstanding anything herein to the contrary, including any other provision in this Article VI, each of Parent and Ultimate Parent shall not:

(a) engage at any time in any business or activity other than (i) ownership of Equity Interests in its direct Subsidiaries as in existence on the Effective Date and making of Investments in, and contributions to, such direct Subsidiaries, together with activities related thereto (including engaging in Permitted Acquisitions permitted hereunder and drop down of assets acquired thereunder to such Subsidiaries), (ii) paying Taxes, (iii) issuances, sales, repurchases and redemptions of its common Equity Interests and common Equity Interests and activities in connection therewith and related thereto which are not otherwise prohibited hereunder, (iv) holding directors' and shareholders' meetings, preparing corporate and similar records and other activities (including the ability to incur fees, costs and expenses and maintain cash and reserves, in any case, relating to such maintenance or such participation) required to maintain its corporate or other legal structure (including payment of franchise or similar taxes) or to participate in tax, accounting or other administrative matters related to Borrower and the Subsidiaries of Borrower, (v) preparing reports to, and preparing and making notices to and filings with, Governmental Authorities, securities exchanges and to its holders of Equity Interests, (vi) receiving, and holding proceeds of, Restricted Payments permitted hereunder and distributing the proceeds thereof, (vii) making of Restricted Payments to the holders of its Equity Interests which are permitted hereunder, (viii) providing customary indemnification to officers, directors, employees and agents subject to the terms hereof, and (ix) hiring, maintaining and compensating executives and other employees and consultants to the extent required or incidental to owning Equity Interests in the Credit Parties, (x) in the case of Parent, entry into, and performance of its obligations under, the Credit Documents, (xi) engaging in litigation; and (xii) ownership of immaterial properties and assets incidental to the business or activities described in the foregoing clauses of this Section 6.24, activities incidental to the business or activities described in the foregoing clauses of this Section 6.24 and payment of costs and expenses in connection with the business or activities described in the foregoing clauses of this Section 6.24;

(b) create, incur, assume or permit to exist any Debt (other than, in the case of Parent, Debt of the types described in Section 6.1(h)(ii), (m), and (r), in each case, subject to the limitations set forth therein, including any applicable caps on amounts) or grant any Lien encumbering any of its properties or assets (other than Liens of a type described in Section 6.2(b), (c), (d), (f), (h), (i), (j), (m), and (q) in each case, subject to the limitations set forth therein); or (c) fail to be, or fail to be caused to be, done all things necessary to preserve, renew and keep in full force and effect its legal existence.

ARTICLE VII
DEFAULT AND REMEDIES

Section 7.1 **Events of Default**. The occurrence of any of the following events shall constitute an "Event of Default" under this Agreement and any other Credit Document:

(a) Payment Failure. Any Credit Party (i) fails to pay any principal when due under this Agreement, or (ii) fails to pay, within three Business Days of when due, any other amount due under this Agreement or any other Credit Document, including payments of interest, fees, reimbursements, and indemnifications;

(b) False Representation or Warranties. Any representation or warranty made or deemed to be made by any Credit Party or any officer thereof in this Agreement, in any other Credit Document or in any certificate delivered in connection with this Agreement or any other Credit Document is incorrect, false or otherwise misleading in any material respect (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) at the time it was made or deemed made;

(c) Breach of Covenant. (i) Any breach by any Credit Party of any of the covenants in Section 5.1 (solely if the Borrower is not in good standing in its jurisdiction of organization), Section 5.2(a), (b), (c), (d) or (g), Section 5.3(a), Section 5.12 (solely if any Credit Party refuses to allow Administrative Agent or its representatives or agents to visit any Credit Party's properties, inspect its assets or books or records, examine and make copies of its books and records, or discuss such Credit Party's affairs, finances, and accounts with officers and employees of any Credit Party), or Article VI of this Agreement or Section 7 of the Guaranty and Security Agreement; provided, however that any Event of Default under Section 6.16 is subject to cure as contemplated by Section 7.7 below; (ii) any breach by any Credit Party of any of the

covenants in Section 5.1 (solely if any Guarantor is not in good standing in its jurisdiction of organization) and such breach shall remain unremedied for a period of ten days after the earliest of (A) the date any Responsible Officer of Borrower or Parent or Ultimate Parent has actual knowledge of such breach, (B) the date any Executive Officer of any Restricted Subsidiary has actual knowledge of such breach, and (C) the date written notice thereof shall have been given to Borrower by any Lender Party; or (iii) any breach by any Credit Party of any other covenant or agreement contained in this Agreement or any other Credit Document and such breach shall remain unremedied for a period of thirty days after the earliest of (A) the date any Responsible Officer of Borrower or Parent or Ultimate Parent has actual knowledge of such breach, (B) the date any Executive Officer of any Restricted Subsidiary has actual knowledge of such breach, and (C) the date written notice thereof shall have been given to Borrower by any Lender Party;

(d) Guaranties. (i) Any material provision in the Guaranties shall at any time (before the Guaranties expire in accordance with their terms) and for any reason be determined by a court of competent jurisdiction to cease to be in full force and effect and valid and binding on the Guarantors party thereto or shall be contested by any Guarantor party thereto or by Borrower; (ii) Borrower or any Guarantor shall deny in writing that it has any liability or obligation under the Guaranties; or (iii) any Guarantor shall cease to exist other than as expressly permitted by the terms of this Agreement;

(e) Security Documents. Any Security Document shall at any time and for any reason cease to create an Acceptable Security Interest with respect to any Collateral having a fair market value, individually or in the aggregate, in excess of $5,000,000 (unless released or terminated pursuant to the terms of such Security Document) or any material provisions thereof shall cease to be in full force and effect and valid and binding on the Credit Party that is a party thereto or any such Person shall so state in writing (unless released or terminated pursuant to the terms of such Security Document);

(f) Cross-Default. (i) Any Restricted Entity shall fail to pay any principal of or premium or interest on its Debt which is outstanding in a principal amount of at least

$30,000,000, individually or when aggregated with all such Debt of the Restricted Entities so in default (but excluding Debt owing to the Lenders hereunder) when the same becomes due and payable (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), and such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument relating to such Debt; (ii) any other event shall occur or condition shall exist under any agreement or instrument relating to Debt of the Restricted Entities which is outstanding in a principal amount of at least $30,000,000 individually or when aggregated with all such Debt of the Restricted Entities so in default (but excluding Debt owing to the Lenders hereunder), and shall continue after the applicable grace period, if any, specified in such agreement or instrument, if the effect of such event or condition is to accelerate, or to permit the acceleration of, the maturity of such Debt prior to the stated maturity thereof; or (iii) any such Debt shall be declared to be due and payable, or required to be prepaid (other than by a regularly scheduled required prepayment); provided that, for purposes of this subsection (f), the "principal amount" of the obligations in respect of Hedging Arrangements at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that would be required to be paid if such Hedging Arrangements were terminated at such time;

(g) Bankruptcy and Insolvency. (i) Except as otherwise permitted under this Agreement, any Credit Party shall terminate its existence or dissolve or (ii) Ultimate Parent or any Restricted Entity (A) admits in writing its inability to pay its debts generally as they become due; makes an assignment for the benefit of its creditors; consents to or acquiesces in the appointment of a receiver, liquidator, fiscal agent, or trustee of itself or any of its Property; files a petition under any Debtor Relief Law; or consents to any reorganization, arrangement, workout, liquidation, dissolution, or similar relief (other than liquidations or dissolutions otherwise permitted under this Agreement) or (B) shall have had, without its consent: any court enter an order appointing a receiver, liquidator, fiscal agent, or trustee of itself or any of its Property; any petition filed against it seeking reorganization, arrangement, workout, liquidation, dissolution or similar relief under any Debtor Relief Law and such petition shall not be dismissed, stayed, or set aside for an aggregate of 60 days, whether or not consecutive;

(h) Adverse Judgment. Any Restricted Entity suffers final judgments against any of them since the date of this Agreement in an aggregate amount, less any insurance proceeds covering such judgments which are received or as to which the insurance carriers have not denied coverage, greater than $25,000,000 and either (i) enforcement proceedings shall have been commenced by any creditor upon such judgments or (ii) there shall be any period of 30 consecutive days during which a stay of enforcement of such judgments, by reason of a pending appeal, bond or otherwise, shall not be in effect;

(i) Termination Events. Any Termination Event with respect to a Plan shall have occurred, and, 30 days after notice thereof shall have been given to Borrower by Administrative Agent, such Termination Event shall not have been corrected and shall have created and caused to be continuing a material risk of Plan termination or liability for withdrawal from the Plan as a "substantial employer" (as defined in Section 4001(a)(2) of ERISA), which termination could reasonably be expect to result in a liability of, or liability for withdrawal could reasonably be expected to be, greater than $25,000,000;

(j) Multiemployer Plan Withdrawals. Borrower or any member of the Controlled Group as employer under a Multiemployer Plan shall have made a complete or partial withdrawal from such Multiemployer Plan and such withdrawing employer shall have incurred a withdrawal liability in an annual amount exceeding $25,000,000;

(k) Invalidity of Credit Agreement. Any material provision of this Agreement shall cease to be in full force and effect and valid and binding on Parent or Borrower or Parent or Borrower shall so state in writing (except as permitted by the terms of this Agreement or as waived in accordance with Section 9.2); or

(l) Change in Control. The occurrence of a Change in Control.

Section 7.2 **Optional Acceleration of Maturity**. If any Event of Default (other than an Event of Default pursuant to Section 7.1(g)) shall have occurred and be continuing, then, and in any such event,

(a) Administrative Agent (i) may individually and shall at the request, or may with the consent, of the Majority Lenders, by notice to Borrower, declare that the obligation of each Lender, each Swingline Lender and each Issuing Lender to make Credit Extensions shall be terminated, whereupon the same shall forthwith terminate, and (ii) may individually and shall at the request, or may with the consent, of the Majority Lenders, by notice to Borrower, declare all outstanding Advances, all interest thereon, and all other amounts payable under this Agreement to be forthwith due and payable, whereupon such Advances, all such interest, and all such amounts shall become and be forthwith due and payable in full, without presentment, demand, protest or further notice of any kind (including, without limitation, any notice of intent to accelerate or notice of acceleration), all of which are hereby expressly waived by Borrower,

(b) Borrower shall, on demand of Administrative Agent individually or at the request or with the consent of the Majority Lenders, deposit with Administrative Agent into the Cash Collateral Account an amount of cash equal to 105% of the outstanding Letter of Credit Exposure as security for the Secured Obligations to the extent the Letter of Credit Obligations are not otherwise paid or Cash Collateralized at such time, and

(c) Administrative Agent may individually and shall at the request of, or may with the consent of, the Majority Lenders proceed to enforce its rights and remedies under the Security Documents, any guaranties, or any other Credit Document by appropriate proceedings.

Section 7.3 **Automatic Acceleration of Maturity**. If any Event of Default pursuant to Section 7.1(g) shall occur,

(a) the obligation of each Lender, each Swingline Lender and each Issuing Lender to make Credit Extensions shall immediately and automatically be terminated and all Advances, all interest on the Advances, and all other amounts payable under this Agreement shall immediately and automatically become and be due and payable in full, without presentment, demand, protest or any notice of any kind (including, without limitation, any notice of intent to accelerate or notice of acceleration), all of which are hereby expressly waived by Borrower,

(b) Borrower shall, on demand of Administrative Agent individually or at the request or with the consent of the Majority Lenders, deposit with Administrative Agent into the Cash Collateral Account an amount of cash equal to 105% of the outstanding Letter of Credit Exposure as security for the Secured Obligations to the extent the Letter of Credit Obligations are not otherwise paid or Cash Collateralized at such time, and

(c) Administrative Agent may individually and shall at the request of, or may with the consent of, the Majority Lenders proceed to enforce its rights and remedies under the Security Documents, any guaranties, or any other Credit Document by appropriate proceedings.

Section 7.4 **Set-off**. If an Event of Default shall have occurred and be continuing, each Lender Party, and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Legal Requirement, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender Party or any such Affiliate to or for the credit or the account of Borrower against any and all of the obligations of Borrower now or hereafter existing under this Agreement or any other Credit Document to such Lender Party or Affiliate, irrespective of whether or not such Lender Party or Affiliate shall have made any demand under this Agreement or any other Credit Document and although such obligations of Borrower may be contingent or unmatured or are owed to a branch or office of such Lender Party or Affiliate different from the branch or office holding such deposit or obligated on such indebtedness; provided that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to Administrative Agent for further application in accordance with the provisions of Section 2.18 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of Administrative Agent, the Issuing Lenders, the Swingline Lenders and the Lenders, and (y) the Defaulting Lender shall provide promptly to Administrative Agent a statement describing in reasonable detail the Secured Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of Administrative Agent, each Lender, each Issuing Lender and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that Administrative Agent, such Lender, Issuing Lender or their respective Affiliates may have. Each Lender and each Issuing Lender agrees to notify Borrower and Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

Section 7.5 **Remedies Cumulative, No Waiver**. No right, power, or remedy conferred to any Lender, Administrative Agent, or Issuing Lender in this Agreement or the Credit Documents, or now or hereafter existing at law, in equity, by statute, or otherwise shall be exclusive, and each such right, power, or remedy shall to the full extent permitted by law be cumulative and in addition to every other such right, power or remedy. No course of dealing and no delay in exercising any right, power, or remedy conferred to any Lender, Administrative Agent, or Issuing Lender in this Agreement and the Credit Documents or now or hereafter existing at law, in equity, by statute, or otherwise shall operate as a waiver of or otherwise prejudice any such right, power, or remedy. Any Lender, Administrative Agent, or Issuing Lender may cure any Event of Default without waiving the Event of Default. No notice to or demand upon Borrower shall entitle Borrower to similar notices or demands in the future.

Section 7.6 **Application of Payments**.

(a) Prior to Event of Default. Prior to an Event of Default, all payments made hereunder shall be applied as directed by Borrower, but such payments are subject to the terms of this Agreement, including the application of prepayments according to Section 2.7.

(b) After Event of Default. If an Event of Default has occurred and is continuing, any amounts received or collected from, or on account of assets held by, any Credit Party shall be applied to the Secured Obligations by Administrative Agent in the following order and manner but subject to the marshalling rights of Administrative Agent and Lenders:

(i) First, to payment of that portion of such Secured Obligations constituting fees, indemnities, expenses, and other amounts (including fees, charges, and disbursements of counsel to Administrative Agent and amounts payable under Section 2.12, 2.13, and 2.15) payable by any Credit Party to Administrative Agent in its capacity as such;

(ii) Second, to payment of that portion of such Secured Obligations constituting accrued and unpaid interest in respect of all Protective Advances, allocated ratably among the Lender Parties in proportion to the Dollar Equivalent of the amounts described in this clause Second payable to them;

(iii) Third, to payment of that portion of such Secured Obligations constituting principal of all Protective Advances payable by any Credit Party to the Secured Parties, ratably among such Secured Parties in proportion to the Dollar Equivalent of the amounts described in this clause Third payable to them;

(iv) Fourth, to payment of that portion of such Secured Obligations constituting any other accrued and unpaid interest, allocated ratably among the Lender Parties in proportion to the Dollar Equivalent of the amounts described in this clause Fourth payable to them;

(v) Fifth, to payment of that portion of such Secured Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable by any Credit Party to the Secured Parties (including fees, charges and disbursements of counsel to the respective Secured Parties and amounts payable under Article II), ratably among such Secured Parties in proportion to the Dollar Equivalent of the amounts described in this clause Fifth payable to them;

(vi) Sixth, ratably among Administrative Agent for the account of Issuing Lender, to Cash Collateralize that portion of the Letter of Credit Secured Obligations comprised of the aggregate undrawn amount of Letters of Credit, and to payment of that portion of the Secured Obligations constituting unpaid principal of the Secured Obligations payable by any Credit Party (including Swap Obligations and other Banking Services Obligations up to the lesser of (x) the amount of the Banking Services Reserve then in effect and (y) $25,000,000) and allocated ratably among the Lender Parties in proportion to the Dollar Equivalent of the respective amounts described in this clause Seventh held by them;

(vii) Seventh, ratably to the remaining Secured Obligations owed by any Credit Party including all Swap Obligations and other Banking Services Obligations (which, for the avoidance of doubt, shall include Banking Services Obligations in respect of Banking Services provided to any Wholly-Owned Subsidiary of any Credit Party) and all Secured Obligations for which Borrower is liable as a Guarantor, allocated among such remaining Secured Obligations ratably; and

(viii) Last, the balance, if any, after all of the Secured Obligations have been indefeasibly paid in full, to Borrower or as otherwise required by any Legal Requirement.

Notwithstanding the foregoing, payments and collections received by Administrative Agent from any Credit Party that is not a Qualified ECP Guarantor (and any proceeds received in respect of such Credit Party's Collateral (as defined in the Guaranty and Security Agreement)) shall not be applied to Excluded Swap Obligations with respect to any Credit Party, provided, however, that Administrative Agent shall make such adjustments as they determine are appropriate with respect to payments and collections received from the other Credit Parties (or proceeds received in respect of such other Credit Parties' Collateral) to preserve, as nearly as possible, the allocation to Secured Obligations otherwise set forth above in this Section 7.6 (assuming that, solely for purposes of such adjustments, Secured Obligations includes Excluded Swap Obligations).

Subject to Section 2.3(i), amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fourth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as cash collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Secured Obligations, if any, in the order set forth above.

Section 7.7 **Equity Right to Cure**.

(a) Notwithstanding anything to the contrary contained in Section 7.1, in the event of any Event of Default under the covenant set forth in Section 6.16, and in each case until the expiration of the tenth (10th) Business Day after the date on which financial statements are required to be delivered pursuant to Section 5.2(a) or (b) with respect to the applicable fiscal quarter hereunder (provided, that in the case of the start of a Covenant Testing Period that reverts to previously delivered financial statements, such cash proceeds may be received on or before the date that is 10 Business Days after the start of such Covenant Testing Period), Parent may sell or issue common Equity Interests of Parent to any of its Equity Interest holders (to the extent such transaction would not result in a Change in Control) or obtain cash capital contributions on account of common Equity Interests of Parent, and apply the Equity Issuance Proceeds thereof or such cash capital contributions to increase consolidated EBITDA of Parent with respect to such applicable quarter (and include it as consolidated EBITDA in such quarter for any four fiscal quarter period including such quarter); provided that (i) such Equity Issuance Proceeds or cash capital contributions are actually received by Parent on account of its common Equity Interests, no later than ten (10) Business Days after the date on which financial statements are required to be delivered pursuant to Section 5.2(a) or (b) with respect to such fiscal quarter hereunder (provided, that in the case of the start of a Covenant Testing Period that reverts to previously

delivered financial statements, such cash proceeds may be received on or before the date that is 10 Business Days after the start of such Covenant Testing Period), (ii) the amount of such Equity Issuance Proceeds included as consolidated EBITDA for any such fiscal quarter shall not exceed the minimum amount necessary to cause the minimum Fixed Charge Coverage Ratio on a pro forma basis after giving effect to the cure provided herein, to be in compliance under Section 6.16 for the applicable period, and (iii) such Equity Issuance Proceeds or contribution must be applied *first*, as a prepayment of outstanding principal amount of any Swingline Advances on a pro rata basis, and *second* as a prepayment of the outstanding Advances on a pro rata basis. Subject to the terms set forth above and the terms in clauses (b) and (c) below, upon (A) application of the Equity Issuance Proceeds as provided above within the ten (10) Business Day period described above in such amounts sufficient to cure the Events of Default under the covenant set forth in Section 6.16, and (y) delivery of an updated Compliance Certificate executed by a Responsible Officer of Borrower to Administrative Agent reflecting compliance with the applicable covenant such Events of Default shall be deemed cured and no longer in existence.

(b) The parties hereby acknowledge and agree that this Section 7.7 may not be relied on for purposes of calculating any financial ratios or other conditions or compliances other than the Fixed Charge Coverage Ratio covenant set forth in Section 6.16, and shall not result in any adjustment to any amounts other than the amount of the consolidated EBITDA referred to in Section 7.7(a) above solely for purposes of determining Borrower's compliance with Section 6.16. Borrower shall not be permitted to request any Advance or Letter of Credit Extension, and such Events of Default shall be considered hereunder to have occurred and be continuing for all purposes (other than for purposes of Section 7.2 hereof) until such Equity Issuance Proceeds or cash capital contributions have been received by Borrower.

(c) From and after the Effective Date, Borrower (i) may not utilize more than five (5) cures provided in this Section 7.7, (ii) may not utilize more than two (2) cures provided in this Section 7.7 in any four fiscal quarter period, and (iii) may not utilize cures in two (2) consecutive fiscal quarters.

ARTICLE VIII
ADMINISTRATIVE AGENT AND ISSUING LENDERS

Section 8.1 **Appointment, Powers, and Immunities**.

(a) Appointment and Authority. Each Lender and each Issuing Lender (and, by entering into a Banking Services Agreement each Banking Services Provider shall be deemed to) hereby (a) irrevocably appoints Wells Fargo to act on its behalf as Administrative Agent hereunder and under the other Credit Documents, and (b) authorizes Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article VIII are solely for the benefit of the Lender Parties (and to the extent applicable, the Banking Services Providers), and neither Borrower nor any other Credit Party shall have rights as a third party beneficiary of any of such provisions (except for Credit Parties' consent rights provided in Section 8.6). It is understood and agreed that the use of the term "agent" herein or in any other Credit Documents (or any other similar

term) with reference to Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Legal Requirement. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

(b) Rights as a Lender. The Person serving as Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not Administrative Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with Parent, Borrower or any Subsidiary or other Affiliate thereof as if such Person were not Administrative Agent hereunder and without any duty to account therefor to the Lenders. Wells Fargo (and any successor acting as Administrative Agent) and its Affiliates may accept fees and other consideration from Parent, Borrower or any Subsidiary or Affiliate thereof for services in connection with this Agreement or otherwise without having to account for the same to the Lenders or the Issuing Lenders.

(c) Exculpatory Provisions. Administrative Agent (which term as used in this Section 8.1(c) shall include its Related Parties) shall not have any duties or obligations except those expressly set forth herein and in the other Credit Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, Administrative Agent:

(i) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Credit Documents that Administrative Agent is required to exercise as directed in writing by the Majority Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Credit Documents), provided that Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose Administrative Agent to liability or that is contrary to any Credit Document or Legal Requirement, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and

(iii) shall not, except as expressly set forth herein and in the other Credit Documents, have any duty to disclose, nor shall it be liable for the failure to disclose, any information relating to Borrower, any Credit Party or any of their respective Affiliates that is communicated to or obtained by the Person serving as Administrative Agent or any of its Affiliates in any capacity.

Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Majority Lenders, Majority Lenders (or such other number or percentage of the Lenders as shall be necessary, or as Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Section 8.1 and 9.2) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to Administrative Agent in writing by Borrower, a Lender or an Issuing Lender. In the event that Administrative Agent receives such a notice of the occurrence of a Default, Administrative Agent shall (subject to Section 9.2) take such action with respect to such Default or Event of Default as shall reasonably be directed by the Majority Lenders, provided that, unless and until Administrative Agent shall have received such directions, Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default as it shall deem advisable in the best interest of the Secured Parties.

Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any recital, statement, warranty or representation (whether written or oral) made in or in connection with this Agreement or any other Credit Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the value, validity, enforceability, effectiveness, enforceability, sufficiency or genuineness of this Agreement, any other Credit Document or any other agreement, instrument or document, (v) the inspection of, or to inspect, the Property (including the books and records) of any Credit Party or any Restricted Subsidiary or Affiliate thereof, (vi) the satisfaction of any condition set forth in Article III or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to Administrative Agent, or (vii) any litigation or collection proceedings (or to initiate or conduct any such litigation or proceedings) under any Credit Document unless requested by the Majority Lenders in writing and it receives indemnification satisfactory to it from the Lenders.

Section 8.2 **Reliance by Administrative Agent and Issuing Lender**. Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document, writing or other communication (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Credit Extension or any conversion or continuance of an Advance that by its terms must be fulfilled to the satisfaction of a Lender or an Issuing Lender, Administrative Agent may presume that such condition is satisfactory to such Lender or Issuing Lender unless Administrative Agent shall have received notice to the contrary from such Lender or Issuing Lender prior to the making of such Credit Extension or conversion or continuance of an Advance. Administrative Agent may consult with legal counsel (who may be counsel for Borrower), independent accountants and other experts selected by it, and shall not be liable for

any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Section 8.3 **Delegation of Duties**. Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Credit Document by or through any one or more sub-agents appointed by Administrative Agent. Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the Facilities provided for herein as well as activities as Administrative Agent. Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub agents.

Section 8.4 **Indemnification**.

(a) INDEMNITY OF ADMINISTRATIVE AGENT. THE LENDERS SEVERALLY AGREE TO INDEMNIFY ADMINISTRATIVE AGENT AND EACH AFFILIATE THEREOF AND THEIR RESPECTIVE RELATED PARTIES (TO THE EXTENT NOT REIMBURSED BY BORROWER), RATABLY ACCORDING TO THE RESPECTIVE PRINCIPAL AMOUNTS OF THE ADVANCES THEN HELD BY EACH OF THEM (OR IF NO PRINCIPAL OF THE ADVANCES IS AT THE TIME OUTSTANDING, RATABLY ACCORDING TO THE RESPECTIVE APPLICABLE COMMITMENTS HELD BY EACH OF THEM IMMEDIATELY PRIOR TO THE TERMINATION, EXPIRATION OR FULL REDUCTION OF EACH SUCH COMMITMENT), FROM AND AGAINST ANY AND ALL LIABILITIES, OBLIGATIONS, LOSSES, DAMAGES, PENALTIES, ACTIONS, JUDGMENTS, SUITS, COSTS, EXPENSES, OR DISBURSEMENTS OF ANY KIND OR NATURE

WHATSOEVER WHICH MAY BE IMPOSED ON, INCURRED BY, OR ASSERTED AGAINST ADMINISTRATIVE AGENT OR ANY OF ITS RELATED PARTIES IN ANY WAY RELATING TO OR ARISING OUT OF THIS AGREEMENT, ANY CREDIT DOCUMENT OR ANY ACTION TAKEN OR OMITTED BY ADMINISTRATIVE AGENT UNDER THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT (**INCLUDING SUCH INDEMNITEE'S OWN NEGLIGENCE REGARDLESS OF WHETHER SUCH NEGLIGENCE IS SOLE OR CONTRIBUTORY, ACTIVE OR PASSIVE, IMPUTED, JOINT OR TECHNICAL**), AND INCLUDING, WITHOUT LIMITATION, ENVIRONMENTAL LIABILITIES, PROVIDED THAT NO LENDER SHALL BE LIABLE FOR ANY PORTION OF SUCH LIABILITIES, OBLIGATIONS, LOSSES, DAMAGES, PENALTIES, ACTIONS, JUDGMENTS, SUITS, COSTS, EXPENSES, OR DISBURSEMENTS FOUND IN A FINAL, NON-APPEALABLE JUDGMENT BY A COURT OF COMPETENT JURISDICTION TO HAVE RESULTED FROM SUCH INDEMNITEE'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. WITHOUT LIMITATION OF THE FOREGOING, EACH LENDER AGREES TO REIMBURSE ADMINISTRATIVE AGENT PROMPTLY UPON DEMAND FOR ITS RATABLE SHARE (DETERMINED AS SET FORTH ABOVE IN THIS PARAGRAPH) OF (i) ANY OUT-OF-POCKET EXPENSES (INCLUDING REASONABLE COUNSEL FEES) INCURRED BY ADMINISTRATIVE

AGENT IN CONNECTION WITH THE PREPARATION, EXECUTION, DELIVERY, ADMINISTRATION, MODIFICATION, OR AMENDMENT, AND (ii) ANY OUT-OF-POCKET EXPENSES (INCLUDING COUNSEL FEES) INCURRED BY ADMINISTRATIVE AGENT IN CONNECTION WITH ENFORCEMENT OF THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT, IN ANY EVENT, INCLUDING LEGAL ADVICE IN RESPECT OF RIGHTS OR RESPONSIBILITIES UNDER THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT AND TO THE EXTENT THAT ADMINISTRATIVE AGENT IS NOT REIMBURSED FOR SUCH BY BORROWER.

(b) INDEMNITY OF ISSUING LENDER. THE LENDERS SEVERALLY AGREE TO INDEMNIFY ISSUING LENDER AND EACH AFFILIATE THEREOF AND THEIR RESPECTIVE RELATED PARTIES (TO THE EXTENT NOT REIMBURSED BY BORROWER), RATABLY ACCORDING TO THE RESPECTIVE PRINCIPAL AMOUNTS OF THE ADVANCES THEN HELD BY EACH OF THEM (OR IF NO PRINCIPAL OF THE ADVANCES IS AT THE TIME OUTSTANDING, RATABLY ACCORDING TO THE RESPECTIVE APPLICABLE COMMITMENTS HELD BY EACH OF THEM IMMEDIATELY PRIOR TO THE TERMINATION, EXPIRATION OR FULL REDUCTION OF EACH SUCH COMMITMENT), FROM AND AGAINST ANY AND ALL LIABILITIES, OBLIGATIONS, LOSSES, DAMAGES, PENALTIES, ACTIONS, JUDGMENTS, SUITS, COSTS, EXPENSES, OR DISBURSEMENTS OF ANY KIND OR NATURE WHATSOEVER WHICH MAY BE IMPOSED ON, INCURRED BY, OR ASSERTED AGAINST ISSUING LENDER OR ANY OF ITS RELATED PARTIES IN ANY WAY RELATING TO OR ARISING OUT OF THIS AGREEMENT, ANY CREDIT DOCUMENT OR ANY ACTION TAKEN OR OMITTED BY ISSUING LENDER UNDER THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT (**INCLUDING SUCH INDEMNITEE'S OWN NEGLIGENCE REGARDLESS OF WHETHER SUCH NEGLIGENCE IS SOLE OR CONTRIBUTORY, ACTIVE OR PASSIVE, IMPUTED, JOINT OR TECHNICAL**), AND INCLUDING, WITHOUT LIMITATION, ENVIRONMENTAL LIABILITIES, PROVIDED THAT NO LENDER SHALL BE LIABLE FOR ANY PORTION OF SUCH LIABILITIES, OBLIGATIONS, LOSSES, DAMAGES, PENALTIES, ACTIONS, JUDGMENTS, SUITS, COSTS, EXPENSES, OR DISBURSEMENTS FOUND IN A FINAL, NON-APPEALABLE JUDGMENT BY A COURT OF COMPETENT JURISDICTION TO HAVE RESULTED FROM SUCH INDEMNITEE'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

Section 8.5 **Non-Reliance on Administrative Agent and Other Lenders**. Each Lender Party (and, by entering into a Banking Services Agreement, each Banking Services Provider, shall be deemed to) acknowledges and agrees that it has, independently and without reliance upon Administrative Agent or any other Lender Party or any of their Related Parties, and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender Party (and, by entering into a Banking Services Agreement, each Banking Services Provider, shall be deemed to) also acknowledges and agrees that it will, independently and without reliance upon Administrative Agent or any other Lender Party or any of their Related Parties, and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Credit Document or any related agreement or any document furnished hereunder or thereunder. Except for notices, reports, and other documents and information expressly required to be furnished to

the Lenders or the Issuing Lender by Administrative Agent hereunder and for other information in Administrative Agent's possession which has been requested by a Lender and for which such Lender pays Administrative Agent's expenses in connection therewith, Administrative Agent shall not have any duty or responsibility to provide any Lender or Issuing Lender with any credit or other information concerning the affairs, financial condition, or business of any Credit Party or any of its Restricted Subsidiaries or Affiliates that may come into the possession of Administrative Agent or any of its Affiliates.

Section 8.6 **Resignation of Administrative Agent, Issuing Lender or Swingline Lender**.

(a) Administrative Agent and each Issuing Lender may at any time give notice of its resignation to the other applicable Lender Parties and Borrower. Upon receipt of any such notice of resignation, (i) the Majority Lenders shall have the right, with the prior written consent of Borrower (which consent is not required if a Default or Event of Default has occurred and is continuing and which consent shall not be unreasonably withheld or delayed), to appoint a successor Administrative Agent, (ii) the Majority Lenders shall have the right, with the prior written consent of Borrower (which consent is not required if a Default or Event of Default has occurred and is continuing and which consent shall not be unreasonably withheld or delayed) to appoint a successor Issuing Lender, which shall be a Lender. If no such successor Administrative Agent or Issuing Lender shall have been so appointed and shall have accepted such appointment within 30 days after the retiring Administrative Agent or Issuing Lender gives notice of its resignation (or such earlier day as shall be agreed by the applicable Majority Lenders) (the "Resignation Effective Date"), then the retiring Administrative Agent or Issuing Lender, as applicable, may on behalf of the Lenders and Issuing Lenders, appoint a successor agent or issuing lender meeting the qualifications set forth above. Whether or not a successor has been appointed, such resignation by Administrative Agent or an Issuing Lender shall become effective in accordance with such notice on the Resignation Effective Date.

(b) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Majority Lenders may, to the extent permitted by applicable Legal Requirement, by notice in writing to Borrower and such Person remove such Person as Administrative Agent and, in consultation with Borrower, appoint a successor. If no such successor shall have been so appointed by Majority Lenders and shall have accepted such appointment within 30 days (or such earlier day as shall be agreed by the Majority Lenders) (the "Removal Effective Date"), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable), (i) the retiring or removed Administrative Agent or Issuing Lender, as applicable, shall be discharged from its duties and obligations hereunder and under the other Credit Documents (except that (y) in the case of any collateral security held by Administrative Agent on behalf of the Lenders or an Issuing Lender under any of the Credit Documents, the retiring Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed and (z) the retiring Issuing Lender shall remain the Issuing Lender with respect to any Letters of Credit outstanding on the effective date of its resignation and the provisions affecting the Issuing Lender with respect to such Letters of Credit

shall inure to the benefit of the retiring Issuing Lender until the termination of all such Letters of Credit.), and (ii) all payments, communications and determinations provided to be made by, to or through the retiring or removed Administrative Agent or Issuing Lender, as applicable, shall instead be made by or to each applicable class of Lenders, until such time as the applicable Majority Lenders appoint a successor Administrative Agent or Issuing Lender as provided for above in this paragraph. Upon the acceptance of a successor's appointment as Administrative Agent or Issuing Lender hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring or removed Administrative Agent or Issuing Lender, as applicable, and the retiring or removed Administrative Agent or Issuing Lender, as applicable, shall be discharged from all of its duties and obligations hereunder or under the other Credit Documents. The fees payable by Borrower to a successor Administrative Agent or Issuing Lender, as applicable shall be the same as those payable to its predecessor unless otherwise agreed between Borrower and such successor. After the retiring or removed Administrative Agent's or Issuing Lender's resignation or removal hereunder and under the other Credit Documents, the provisions of this Article and Section 9.1 and Section 2.3(g) shall continue in effect for the benefit of such retiring or removed Administrative Agent and Issuing Lender, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring or removed Administrative Agent or Issuing Lender, as applicable, was acting as Administrative Agent or Issuing Lender.

(d) Swingline Lender may resign at any time by giving 30 days' prior notice to Administrative Agent, the Lenders and Borrower. After the resignation of Swingline Lender hereunder, the retiring Swingline Lender shall remain a party hereto and shall continue to have all the rights and obligations of Swingline Lender under this Agreement and the other Credit Documents with respect to Swingline Advances made by it prior to such resignation, but shall not be required to make any additional Swingline Advances. Upon such notice of resignation, Borrower shall have the right to designate any other Lender as Swingline Lender with the consent of such Lender so long as operational matters related to the funding of Advances under the Facility have been adequately addressed to the reasonable satisfaction of such new Swingline Lender and Administrative Agent (if such new Swingline Lender and Administrative Agent are not the same Person).

Section 8.7 **Collateral Matters**.

(a) Administrative Agent is authorized on behalf of the Secured Parties, without the necessity of any notice to or further consent from the Secured Parties, from time to time, to take any actions with respect to any Collateral or Security Documents which may be necessary to perfect and maintain Acceptable Security Interests in and Liens upon the Collateral granted pursuant to the Security Documents, including but not limited to, the joinder documents required under Sections 5.6 and 5.7. Administrative Agent is further authorized (but not obligated) on behalf of the Secured Parties, without the necessity of any notice to or further consent from the Secured Parties, from time to time, to take any action (other than enforcement actions requiring the consent of, or request by, the Majority Lenders as set forth in Section 7.2(c) or Section 7.3(c) above) in exigent circumstances as may be reasonably necessary to preserve any rights or privileges of the Lenders under the Credit Documents or applicable Legal Requirement.

(b) The Lenders hereby, and any other Secured Party by accepting the benefit of the Liens granted pursuant to the Security Documents, irrevocably authorize Administrative Agent to (i) release any Lien granted to or held by Administrative Agent upon any Collateral (a) upon termination of this Agreement, termination of all Swap Obligations with such Persons (other than as to which agreements satisfactory to the applicable Swap Counterparty have been made), termination of all Letters of Credit (other than Letters of Credit as to which other arrangements reasonably satisfactory to Issuing Lender have been made), and the payment in full of all outstanding Advances, Letter of Credit Obligations (other than with respect to Letters of Credit as to which other arrangements reasonably satisfactory to Issuing Lender have been made) and all other Secured Obligations payable under this Agreement and under any other Credit Document; (b) constituting property sold or to be sold or disposed of as part of or in connection with any disposition permitted under this Agreement or any other Credit Document; (c) constituting property in which no Credit Party owned an interest at the time the Lien was granted or at any time thereafter (other than as a result of a Disposition not permitted under this Agreement); or (d) constituting property leased to any Credit Party under a lease which has expired or has been terminated in a transaction permitted under this Agreement or is about to expire and which has not been, and is not intended by such Credit Party to be, renewed or extended; and (ii) release a Guarantor (and its property) from its obligations under the Guaranty and Security Document and any other applicable Credit Document if such Person ceases to be a Restricted Subsidiary as a result of a transaction permitted under this Agreement.

(c) Upon request by Administrative Agent at any time, the Secured Parties will confirm in writing Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guaranty and Security Agreement pursuant to this Section 8.7. Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of Administrative Agent's Lien thereon, or any certificate prepared by any Credit Party in connection therewith, nor shall Administrative Agent be responsible or liable to the Secured Parties or any other Lender Party for any failure to monitor or maintain any portion of the Collateral.

(d) Notwithstanding anything contained in any of the Credit Documents to the contrary, Credit Parties, Administrative Agent, and each Secured Party hereby agree that no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Guaranties, it being understood and agreed that all powers, rights and remedies under the Guaranties and under the Security Documents may be exercised solely by Administrative Agent on behalf of the Secured Parties in accordance with the terms hereof and the other Credit Documents.

(e) By accepting the benefit of the Liens granted pursuant to the Security Documents, each Secured Party hereby agrees to the terms of this Section 8.7.

Section 8.8 **No Other Duties, etc**. Anything herein to the contrary notwithstanding, none of the Joint Lead Arrangers or the Joint Book Runners listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Credit

Documents, except in its capacity, as applicable, as Administrative Agent, a Lender or an Issuing Lender hereunder.

Section 8.9 **Marshalling Rights of Lender Parties**. Notwithstanding anything herein or in any other Credit Document to the contrary, by receipt of the benefits of the Collateral, hereby acknowledge the marshalling rights of Administrative Agent and the Lenders.

Section 8.10 **Credit Bidding**.

(a) Administrative Agent, on behalf of itself and the Secured Parties, shall have the right, at the direction of the Majority Lenders, to credit bid and purchase for the benefit of Administrative Agent and the Secured Parties all or any portion of Collateral at any sale thereof conducted by Administrative Agent under the provisions of the UCC, including pursuant to Sections 9-610 or 9-620 of the UCC, at any sale thereof conducted under the provisions of the United States Bankruptcy Code,

including Section 363 thereof, or a sale under a plan of reorganization, or at any other sale or foreclosure conducted by Administrative Agent (whether by judicial action or otherwise) in accordance with Legal Requirements.

(b) Each Secured Party hereby agrees that, except as otherwise provided in any Credit Documents or with the written consent of Administrative Agent and the Majority Lenders, it will not take any enforcement action, accelerate obligations under any Credit Documents, or exercise any right that it might otherwise have under Legal Requirements to credit bid at foreclosure sales, UCC sales or other similar Dispositions of Collateral; provided that, for the avoidance of doubt, this subsection (b) shall not limit the rights of (i) any Swap Counterparty to terminate any Hedging Arrangement or net out any resulting termination values, or (ii) any Banking Service Provider to terminate any Banking Services or set off against any deposit accounts.

ARTICLE IX
MISCELLANEOUS

Section 9.1 **Expenses; Indemnity; Damage Waiver.**

(a) Costs and Expenses. Borrower shall pay, within 30 days of invoice, (i) all reasonable out-of-pocket expenses incurred by Administrative Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for Administrative Agent), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Credit Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by Issuing Lenders in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket expenses incurred by any Lender Party (including the fees, charges and disbursements of counsel for any Lender Party), in connection with the enforcement or protection of its rights, (A) in connection with this Agreement and the other Credit Documents, including its rights under this Section, or (B) in connection with the Advances made or Letters of

Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring, negotiations or legal proceedings in respect of such Advances or Letters of Credit.

(b) Indemnification by Borrower. Borrower shall, and does hereby indemnify, Administrative Agent (and any sub-agent thereof), each Lender and each Issuing Lender, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the reasonable fees, charges and disbursements of any counsel for any Indemnitee), incurred by any Indemnitee or asserted against any Indemnitee by any third party or by Borrower or any other Credit Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Credit Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder, the consummation of the transactions contemplated hereby or thereby, or, in the case of Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Credit Documents, (ii) any Advance or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by an Issuing Lender to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged Release of Hazardous Substance on or from any property owned or operated by Ultimate Parent or any of its Subsidiaries, or any Environmental Claim related in any way to Ultimate Parent or any of its Subsidiaries, 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 Borrower or any other Credit Party, and regardless of whether any Indemnitee is a party thereto**, IN ALL CASES, WHETHER OR NOT CAUSED BY OR ARISING, IN WHOLE OR IN PART, OUT OF THE COMPARATIVE, CONTRIBUTORY OR SOLE NEGLIGENCE OF THE INDEMNITEE**; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee, or (y) result from a claim brought by Borrower or any other Credit Party against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Credit Document, if Borrower or such other Credit Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. For the avoidance of doubt, this Section 9.1(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable Legal Requirement, no Credit Party shall assert, agrees not to 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 Credit Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Advance or Letter of Credit or the use of the proceeds thereof. To the fullest extent permitted by applicable Legal Requirement, no Indemnitee shall assert, agrees not to assert, and hereby waives, any claim against any Credit Party or any Affiliate thereof, 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 Credit Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby. For the avoidance of doubt, the parties hereto acknowledge and agree that a claim for indemnity under Section 9.1(b) above, to the extent covered thereby, is a claim of direct or actual damages. 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 Credit 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.

(d) Survival. Without prejudice to the survival of any other agreement hereunder, the agreements in this Section shall survive the resignation of Administrative Agent and any Issuing Lender, the replacement of any Lender, the termination of the Commitments, termination or expiration of all Letters of Credit, and the repayment, satisfaction or discharge of all the other Obligations.

(e) Payments. All amounts due under this Section 9.1 shall, unless otherwise set forth above, be payable not later than 10 days after demand therefor.

(f) Reimbursement by Lenders. To the extent that Borrower for any reason shall fail to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it to Administrative Agent (or any sub-agent thereof), any Issuing Lender, any Swingline Lender or any Related Party of any of the foregoing, each Lender severally agrees to pay to Administrative Agent (or any such sub-agent), Issuing Lender, Swingline Lender or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender's share of the aggregate Maximum Exposure Amount at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender); provided that with respect to such unpaid amounts owed to Administrative Agent, Issuing Lender or Swingline Lender solely in its capacity as such, only the Lenders of the applicable Facility shall be required to pay such unpaid amounts, such payment to be made severally among them based on such Lenders' Applicable Percentage (determined as of the time that the

applicable unreimbursed expense or indemnity payment is sought), provided further that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against Administrative Agent (or any such sub-agent), Issuing Lender or Swingline Lender in its capacity as such, or against any Related Party of any of the foregoing acting for Administrative Agent (or any such sub-agent), Issuing Lender or Swingline Lender in connection with such capacity. The obligations of the Lenders under this subsection (f) are subject to the provisions of Section 2.6(e).

Section 9.2 **Waivers and Amendments**. No amendment or waiver of any provision of this Agreement or any other Credit Document (other than the Fee Letter), nor consent to any departure by any Credit Party therefrom, shall in any event be effective unless the same shall be in writing and signed by the Majority Lenders (or by Administrative Agent at the written request

of the Majority Lenders) and Borrower, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided that:

(a) no amendment, waiver, or consent shall, unless in writing and signed by all the Lenders and Borrower (in addition to such other parties that may be required under this Section 9.2), change the number of Lenders which shall be required for the Lenders to take any action hereunder or under any other Credit Document;

(b) no amendment, waiver, or consent shall, unless in writing and signed by all the Lenders and Borrower, do any of the following: (i) waive any of the conditions specified in Section 3.1, (ii) reduce the principal or interest amounts payable hereunder or under any other Credit Document (provided that, the consent of the Majority Lenders shall be sufficient to waive or reduce the increased portion of interest resulting from Section 2.10(d)), (iii) amend Section 2.14(f), Section 7.6, this Section 9.2, any other provision in any Credit Document requiring the sharing of payments, or any other provision in any Credit Document which expressly requires the consent of, or action or waiver by, all of the Lenders, (iv) release all or substantially all of the Guarantors from their respective obligations under the Guaranty and Security Agreement or any other guaranty except as specifically provided in the Credit Documents or release Borrower from its obligations under the Guaranty and Security Agreement, (v) release all or substantially all of the Collateral except as permitted under Section 8.7(b), or (vi) amend the definitions of "Majority Lenders", "Maximum Exposure Amount", or "Supermajority Lenders";

(c) no amendment, waiver, or consent shall, unless in writing and signed by each Lender directly and adversely affected thereby, do any of the following: (i) postpone any date fixed for any principal, interest, fees or other amounts payable hereunder or extend the Maturity Date, or (ii) reduce any fees or other amounts payable hereunder or under any other Credit Document (other than the principal or interest);

(d) no Commitment of a Lender or any obligations of a Lender may be increased without such Lender's written consent;

(e) no amendment, waiver, or consent shall, unless in writing and signed by Administrative Agent in addition to the Lenders required above to take such action, affect the rights or duties of Administrative Agent under this Agreement or any other Credit Document;

(f) no amendment, waiver or consent shall, unless in writing and signed by Issuing Lender in addition to the Lenders required above to take such action, affect the rights or duties of Issuing Lender under this Agreement or any other Credit Document;

(g) without written consent of Administrative Agent, Borrower and the Supermajority Lenders, no amendment, waiver, modification, elimination, or consent shall amend, waive, modify, or eliminate the definition of Borrowing Base or any of the defined terms (including the definitions of Eligible Billed Receivables, Eligible Unbilled Receivables or Eligible Inventory) that are used in such definition to the extent that any such change results in more credit being made available to Borrower based upon the Borrowing Base, but not otherwise;

(h) no amendment, waiver or consent shall, unless in writing and signed by Swingline Lender in addition to the Lenders required above to take such action, affect the rights or duties of Swingline Lender under this Agreement or any other Credit Document;

(i) except as otherwise expressly permitted in this Agreement, no amendment, waiver, or consent shall, unless in writing and signed by Administrative Agent and all Lenders, contractually subordinate Administrative Agent's Liens; and

(j) no amendment, waiver, or consent shall, unless in writing and signed by Administrative Agent in addition to the Lenders required above, take action to amend, modify, or eliminate any of the provisions of Section 9.7 with respect to assignments or participations.

For the avoidance of doubt, no Lender or any Affiliate of a Lender shall have any voting rights under this Agreement or any Credit Document as a result of the existence of Swap Obligations or Banking Services Obligations owed to it.

Section 9.3 **Severability**. In case one or more provisions of this Agreement or the other Credit Documents shall be invalid, illegal or unenforceable in any respect under any applicable Legal Requirement, the validity, legality, and enforceability of the remaining provisions contained herein or therein shall not be affected or impaired thereby.

Section 9.4 **Survival of Representations and Obligations**. All representations and warranties contained in this Agreement or made in writing by or on behalf of Credit Parties in connection herewith shall survive the execution and delivery of this Agreement and the other Credit Documents, the making Credit Extensions and any investigation made by or on behalf of the Lenders, none of which investigations shall diminish any Lender's right to rely on such representations and warranties. Without limiting the provisions hereof which expressly provide for the survival of obligations, all obligations of Borrower or any other Credit Party provided for in Section 2.12, 2.13, 2.15 and 9.1(a), (b), (c) and (e) and all of the obligations of the Lenders in Section 8.4, 9.1(c) and 9.1(f) shall survive any termination of this Agreement, repayment in full of the Obligations, and termination or expiration of all Letters of Credit.

Section 9.5 **Binding Effect**. This Agreement shall become effective when it shall have been executed by Borrower, and Administrative Agent, and when Administrative Agent shall have, as to each Lender, either received a counterpart hereof executed by such Lender or been notified by such Lender that such Lender has executed it.

Section 9.6 **Successors and Assigns Generally**. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender Party or pursuant to a transaction permitted under Section 6.7(a) and no Lender may assign or otherwise transfer any of its rights or obligations

hereunder except (a) to an Eligible Assignee in accordance with the provisions of Section 9.7(a), (b) by way of participation in accordance with the provisions of Section 9.7(c), or (c) by way of pledge or assignment of a security interest subject to the restrictions of Section 9.7(d) (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall

be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in Section 9.7(d) and, to the extent expressly contemplated hereby, the Related Parties of Administrative Agent and each Lender) any legal or equitable right, remedy or claim under or by reason of this Agreement.

Section 9.7 **Lender Assignments and Participations**.

(a) Assignments by Lenders. Any Lender may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Advances at the time owing to it); provided that (in each case with respect to any Facility), any such assignment will be subject to the following conditions:

(i) except in the case of an assignment of the entire remaining amount of the assigning Lender's applicable Commitment and the Advances under such Commitment at the time owing to it (in each case with respect to any Facility) or in the case of an assignment to a Lender or an Affiliate of a Lender, the aggregate amount of the applicable Commitment (which for this purpose includes Advances outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Advances of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to Administrative Agent or, if "Trade Date" is specified in the Assignment and Acceptance, as of the Trade Date) shall not be less than $5,000,000 unless Administrative Agent and, so long as no Event of Default has occurred and is continuing, Borrower otherwise consent (each such consent not to be unreasonably withheld or delayed);

(ii) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the applicable Class of Advances or the applicable Commitment assigned;

(iii) any assignment of a Commitment must be approved by Administrative Agent, Issuing Lender and Swingline Lender (such approval not to be unreasonably withheld or delayed), unless the Person that is the proposed assignee is itself a Lender with a Commitment under the applicable Facility (whether or not the proposed assignee would otherwise qualify as an Eligible Assignee);

(iv) the parties to each assignment shall execute and deliver to Administrative Agent an Assignment and Acceptance, together with a processing and recordation fee of $3,500; provided that Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment, and the Eligible Assignee, if it shall not be a Lender, shall deliver to Administrative Agent an Administrative Questionnaire; and

(v) copies of any Assignment and Acceptance received by Administrative Agent shall be promptly forwarded to Administrative Agent;

Subject to acceptance and recording thereof by Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Acceptance, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Section 2.12, 2.13, 2.15, 9.1 with respect to facts and circumstances occurring prior to the effective date of such assignment; provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (c) of this Section.

(b) Register. Administrative Agent, acting solely for this purpose as a non-fiduciary agent of Borrower, shall maintain at its address referred to in Section 9.10 a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Advances owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and Borrower and the Lender Parties shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(c) Participations. Any Lender may at any time, without the consent of, or notice to, Borrower or Administrative Agent, sell participations to any Person (other than a natural person) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitments and/or the Advances owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) Borrower and the Lender Parties shall continue to deal solely and directly with such Lender Party in connection with such Lender Party's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 8.4(a) with respect to any payments made by such Lender to its Participant(s). Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in clauses (a) through (f) of Section 9.2 (that adversely affects such Participant). Borrower agrees that each Participant shall be entitled to the benefits of Section 2.12, 2.13 and 2.15 (subject to the requirements and limitations therein, including the requirements under Section 2.15(g) (it being

understood that the documentation required under Section 2.15(g) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (a) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Section 2.16 as if it were an assignee under subsection (a) of this Section; and (B) shall not be entitled to receive any greater payment under Section 2.13 and 2.15, with respect to any participation, than its

participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation.

Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 2.16 with respect to any Participant. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of Borrower, maintain a register in the United States on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the obligations under the Credit Documents (the "Participant Register") and no Lender shall have any obligation to disclose any information contained in any Participant Register (including the identity of any Participant or any information relating to the Participant's interests in any commitments, loans, letters of credit or its other obligations under any Credit Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations and other applicable provisions of the Code. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(d) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

Section 9.8 **Cashless Settlement**. Notwithstanding anything to the contrary contained in this Agreement, any Lender may exchange, continue or rollover all or a portion of its Advances in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by Borrower, Administrative Agent and such Lender.

Section 9.9 **Confidentiality**. Each Lender Party agrees to keep confidential any information furnished or made available to it by any Restricted Entity pursuant to this Agreement; provided that nothing herein shall prevent any Lender Party from disclosing such information (a) to any other Lender Party or any Affiliate of any Lender Party, or any officer, director, employee, agent, or advisor of any Lender Party or Affiliate of any Lender Party for purposes of administering, negotiating, considering, processing, implementing, syndicating, assigning, or evaluating the credit facilities provided herein and the transactions contemplated

hereby, provided that such Persons are advised of the confidential nature of such information, (b) to any other Person if directly incidental to the administration of the credit facilities provided herein, provided, that such Persons are advised of the confidential nature of such information, (c) as required by any Legal Requirement, (d) upon the order of any court or administrative agency, (e) upon the request or demand of any regulatory agency or authority (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (f) that is or becomes available to the public or that is or becomes available to any Lender Party other than as a result of a disclosure by any other Lender Party prohibited by this Agreement, (g) in connection with any litigation relating to this Agreement or any other Credit Document to which such Lender Party or any of its Affiliates may be a party, (h) to the extent necessary in connection with the exercise of any right or remedy under this Agreement or any other Credit Document, and (i) to any actual or proposed participant or assignee, in each case, subject to provisions similar to those contained in this Section 9.9. **NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, nothing in this Agreement shall (a) restrict any Lender Party from providing information to any bank or other regulatory or Governmental Authorities, including the Federal Reserve Board and its supervisory staff; (b) require or permit any Lender Party to disclose to any Credit Party that any information will be or was provided to the Federal Reserve Board or any of its supervisory staff; or (c) require or permit any Lender Party to inform any Credit Party of a current or upcoming Federal Reserve Board examination or any nonpublic Federal Reserve Board supervisory initiative or action.** Anything in this Agreement to the contrary notwithstanding, Administrative Agent may disclose information concerning the terms and conditions of this Agreement and the other Credit Documents to loan syndication and pricing reporting services or in its marketing or promotional materials, with such information to consist of deal terms and other information customarily found in such publications or marketing or promotional materials and may otherwise use the name, logos, and other insignia of Borrower or the other Credit Parties and the Commitments provided hereunder in any "tombstone" or other advertisements, on its website or in other marketing materials of Administrative Agent.

Section 9.10 **Notices, Etc**.

(a) Notices Generally.

(i) Except in the case of notices and other communications expressly permitted to be given by telephone or electronic communication in accordance with Section 9.10(a)(ii) (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 as follows: (i) if to Borrower or any other Credit Party, at the applicable address (or facsimile numbers) set forth on Schedule II; (ii) if to Administrative Agent or Issuing Lender, at the applicable address (or facsimile numbers) set forth on Schedule II; and (iii) if to a Lender, to it at its address (or facsimile number) set forth in its Administrative Questionnaire. 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 facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered

through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in said subsection (b).

(ii) Notices and other communications to the Lenders and the Issuing Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or any Issuing Lender pursuant to Article II if such Lender or Issuing Lender, as applicable, has notified Administrative Agent that is incapable of receiving notices under such Article by electronic communication. Administrative Agent and Borrower may, in its discretion, agree to accept such notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications. Unless Administrative Agent otherwise prescribes, (A) 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), and (B) 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 sub-clause (A) of notification that such notice or communication is available and identifying the website address therefor; provided that, for both sub-clauses (A) and (B) above, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or other communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(b) Electronic Communications.

(i) Borrower and the Lenders agree that Administrative Agent may make any material delivered by Borrower to Administrative Agent, as well as any amendments, waivers, consents, and other written information, documents, instruments and other materials relating to Borrower, any of its Subsidiaries, or any other materials or matters relating to this Agreement, the Notes or any of the transactions contemplated hereby (collectively, the "Communications") available to the Lenders by posting such notices on an electronic delivery system (which may be provided by Administrative Agent, an Affiliate of Administrative Agent, or any Person that is not an Affiliate of Administrative Agent), such as IntraLinks, or a substantially similar electronic system (the "Platform"). Borrower acknowledges that (i) the distribution of material through an electronic medium is not necessarily secure and that there are confidentiality and other risks associated with such distribution, (ii) the Platform is provided "as is" and "as available" and (iii) neither Administrative Agent nor any of its Affiliates warrants the accuracy, completeness, timeliness, sufficiency, or sequencing of the Communications posted on the Platform. Administrative Agent and its Affiliates expressly disclaim with respect to the Platform any liability for errors in transmission, incorrect or incomplete downloading, delays in posting or delivery, or problems accessing the Communications posted on the Platform and any liability for any losses, costs, expenses or liabilities that may be suffered or incurred in connection with the Platform. No warranty of any kind,

express, implied or statutory, including, without limitation, any warranty of merchantability, fitness for a particular purpose, non-infringement of third party rights or freedom from viruses or other code defects, is made by Administrative Agent or any of their respective Affiliates in connection with the Platform. In no event shall Administrative Agent or any of its Related Parties have any liability to Borrower or the other Credit Parties, any Lender Party or any other Person or entity for damages of any kind, including, without limitation, direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of Borrower's, any Credit Party's or any Lender Party's transmission of communications through the Platform.

(ii) Each Lender agrees that notice to it (as provided in the next sentence) (a "Notice") specifying that any Communication has been posted to the Platform shall for purposes of this Agreement constitute effective delivery to such Lender of such information, documents or other materials comprising such Communication. Each Lender agrees (i) to notify, on or before the date such Lender becomes a party to this Agreement, Administrative Agent in writing of such Lender's e-mail address to which a Notice may be sent (and from time to time thereafter to ensure that Administrative Agent has on record an effective e-mail address for such Lender) and (ii) that any Notice may be sent to such e-mail address.

(c) Change of Address, Etc. Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto.

Section 9.11 **Usury Not Intended**. It is the intent of each Credit Party and each Lender Party in the execution and performance of this Agreement and the other Credit Documents to contract in strict compliance with applicable usury laws, including conflicts of law concepts, governing the Advances of each Lender including such applicable laws of the State of New York, if any, and the United States of America from time to time in effect. In furtherance thereof, the Lender Parties and Credit Parties stipulate and agree that none of the terms and provisions contained in this Agreement or the other Credit Documents shall ever be construed to create a contract to pay, as consideration for the use, forbearance or detention of money, interest at a rate in excess of the Maximum Rate and that for purposes of this Agreement "interest" shall include the aggregate of all charges which constitute interest under such laws that are contracted for, charged or received under this Agreement; and in the event that, notwithstanding the foregoing, under any circumstances the aggregate amounts taken, reserved, charged, received or paid on the Advances, include amounts which by applicable Legal Requirement are deemed interest which would exceed the Maximum Rate, then such excess shall be deemed to be a mistake and each Lender receiving same shall credit the same on the principal of its Obligations (or if such Obligations shall have been paid in full, refund said excess to Borrower). In the event that the maturity of the Obligations are accelerated by reason of any election of the holder thereof resulting from any Event of Default under this Agreement or otherwise, or in the event of any required or permitted prepayment, then such consideration that constitutes interest may never include more than the Maximum Rate, and excess interest, if any, provided for in this Agreement or otherwise shall be canceled automatically as of the date of such acceleration or prepayment and, if theretofore paid, shall be credited on the applicable Obligations (or, if the

applicable Obligations shall have been paid in full, refunded to Borrower of such interest). In determining whether or not the interest paid or payable under any specific contingencies exceeds the Maximum Rate, Credit Parties and the Lender Parties shall to the maximum extent permitted under applicable law amortize, prorate, allocate and spread in equal parts during the period of the full stated term of the Obligations all amounts considered to be interest under applicable law at any time contracted for, charged, received or reserved in connection with the Obligations. The provisions of this Section shall control over all other provisions of this Agreement or the other Credit Documents which may be in apparent conflict herewith.

Section 9.12 **Usury Recapture**. In the event the rate of interest chargeable under this Agreement at any time is greater than the Maximum Rate, the unpaid principal amount of the Advances shall bear interest at the Maximum Rate until the total amount of interest paid or accrued on the Advances equals the amount of interest which would have been paid or accrued on the Advances if the stated rates of interest set forth in this Agreement had at all times been in effect. In the event, upon payment in full of the Advances, the total amount of interest paid or accrued under the terms of this Agreement and the Advances is less than the total amount of interest which would have been paid or accrued if the rates of interest set forth in this Agreement had, at all times, been in effect, then Borrower shall, to the extent permitted by applicable Legal Requirement, pay Administrative Agent for the account of the applicable Lenders an amount equal to the difference between (i) the lesser of (A) the amount of interest which would have been charged on its Advances if the Maximum Rate had, at all times, been in effect and (B) the amount of interest which would have accrued on its Advances if the rates of interest set forth in this Agreement had at all times been in effect and (ii) the amount of interest actually paid under this Agreement on its Advances. In the event the Lenders ever receive, collect or apply as interest any sum in excess of the Maximum Rate, such excess amount shall, to the extent permitted by applicable Legal Requirement, be applied to the reduction of the principal balance of the Advances, and if no such principal is then outstanding, such excess or part thereof remaining shall be paid to Borrower.

Section 9.13 **Judgment Currency**. If for the purposes of obtaining judgment in any court it is necessary to convert a sum due from Borrower hereunder in the currency expressed to be payable herein (the "specified currency") into another currency, the parties hereto agree, to the fullest extent that they may effectively do so, that the rate of exchange used shall be that at which in accordance with usual and customary banking procedures Administrative Agent could purchase the specified currency with such other currency at any of Administrative Agent's offices in the United States of America on the Business Day preceding that on which final judgment is given. The obligations of Borrower in respect of any sum due to any Lender Party hereunder shall, notwithstanding any judgment in a currency other than the specified currency, be discharged only to the extent that on the Business Day following receipt by such Lender, Issuing Lender or Administrative Agent (as the case may be) of any sum adjudged to be so due in such other currency such Lender, Issuing Lender or Administrative Agent (as the case may be) may in accordance with normal, reasonable banking procedures purchase the specified currency with such other currency. If the amount of the specified currency so purchased is less than the sum originally due to such Lender, Issuing Lender or Administrative Agent, as the case may be, in the specified currency, Borrower agrees, to the fullest extent that it may effectively do so, as a separate obligation and notwithstanding any such judgment, to indemnify such Lender, Issuing Lender or Administrative Agent, as the case may be, against such loss, and if the amount of the

specified currency so purchased exceeds (a) the sum originally due to any Lender, Issuing Lender or Administrative Agent, as the case may be, in the specified currency and (b) any amounts shared with other Lenders as a result of allocations of such excess as a disproportionate payment to such Lender under Section 2.14, each Lender, Issuing Lender or Administrative Agent, as the case may be, agrees to promptly remit such excess to Borrower.

Section 9.14 **Payments Set Aside**. To the extent that any payment by or on behalf of Borrower is made to any Lender Party, or any Lender Party exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by any Lender Party in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and each Issuing Lender severally agrees to pay to Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect, in the applicable currency of such recovery or payment. The obligations of the Lenders and the Issuing Lenders under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

Section 9.15 **Governing Law**. This Agreement, the Notes and the other Credit Documents (other than such Credit Documents which expressly provide otherwise) shall be governed by, and construed and enforced in accordance with, the laws of the State of New York (including Section 5-1401 and Section 5- 1402 of the General Obligations Law of the State of New York). Each Letter of Credit shall be governed by either (i) the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600, or (ii) the ISP, in either case, including any subsequent revisions thereof approved by a Congress of the International Chamber of Commerce and adhered to by Issuing Lender.

Section 9.16 **Submission to Jurisdiction**. EACH PARTY TO THIS AGREEMENT IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LEGAL REQUIREMENT, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER

PROVIDED BY APPLICABLE LEGAL REQUIREMENT. NOTHING IN THIS AGREEMENT SHALL AFFECT ANY RIGHT THAT ANY PARTY MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT AGAINST ANY OTHER PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

Section 9.17 **Waiver of Venue**. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LEGAL REQUIREMENT, 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 IN ANY COURT REFERRED TO IN SECTION 9.16. EACH OF THE PARTIES HERETO HEREBY AGREES THAT SECTIONS 5-1401 AND 4-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK SHALL APPLY TO THIS AGREEMENT AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LEGAL REQUIREMENT, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

Section 9.18 **Service of Process**. Each party hereto irrevocably consents to service of process in the manner provided for notices in Section 9.10. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by applicable Legal Requirement.

Section 9.19 **Execution in Counterparts**. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or by e-mail "PDF" copy shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 9.20 **Electronic Execution of Assignments**. The words "execution," "signed," "signature," and words of like import in any Assignment and Acceptance shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

Section 9.21 **Waiver of Jury**. 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 CREDIT 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 CREDIT DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 9.22 **USA Patriot Act**. Each Lender that is subject to the Patriot Act and Administrative Agent (for itself and not on behalf of any Lender) hereby notifies each Credit Party that pursuant to the requirements of the Patriot Act it is required to obtain, verify and record information that identifies such Credit Party, which information

includes the name and address of such Credit Party and other information that will allow such Lender or Administrative Agent, as applicable, to identify such Credit Party in accordance with the Patriot Act.

Section 9.23 **Keepwell**. Each Qualified ECP Guarantor hereby jointly and severally absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each other Credit Party to honor all of its obligations under this Agreement in respect of Swap Obligations (provided, however, that each Qualified ECP Guarantor shall only be liable under this Section 9.23 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 9.23, or otherwise under this Agreement, voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified ECP Guarantor under this Section shall remain in full force and effect until the termination of all Commitments and payment in full of all Obligations (other than contingent indemnification obligations) and the expiration or termination of all Letters of Credit (other than Letters of Credit as to which other arrangements satisfactory to Administrative Agent and Issuing Lender have been made). Each Qualified ECP Guarantor intends that this Section 9.23 constitute, and this Section 9.23 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Credit Party for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

Section 9.24 **Acknowledgement and Consent to Bail-In of EEA Financial Institutions**. Notwithstanding anything to the contrary in any Credit Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Credit Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Credit Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of any EEA Resolution Authority.

Section 9.25 **Integration**. THIS AGREEMENT AND THE CREDIT DOCUMENTS, AS DEFINED IN THIS AGREEMENT, REPRESENT THE FINAL AGREEMENT AMONG THE PARTIES WITH RESPECT TO THE SUBJECT MATTERS SET FORTH HEREIN AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.

Section 9.26 **Banking Services Providers**. Each Banking Services Provider in its capacity as such shall be deemed a third party beneficiary hereof and of the provisions of the other Credit Documents for purposes of any reference in a Credit Document to the parties for whom Administrative Agent is acting. Administrative Agent hereby agrees to act as agent for such Banking Services Providers and, by virtue of entering into a Banking Services Agreement, the applicable Banking Services Provider shall be automatically deemed to have appointed Administrative Agent as its agent and to have accepted the benefits of the Credit Documents. It is understood and agreed that the rights and benefits of each Banking Services Provider under the Credit Documents consist exclusively of such Banking Services Provider's being a beneficiary of the Liens and security interests (and, if applicable, guarantees) granted to Administrative Agent and the right to share in payments and collections out of the Collateral as more fully set forth herein. In addition, each Banking Services Provider, by virtue of entering into a Banking Services Agreement, shall be automatically deemed to have agreed that Administrative Agent shall have the right, but shall have no obligation, to establish, maintain, relax, or release reserves in respect of the Banking Services Obligations and that if reserves are established there is no obligation on the part of Administrative Agent to determine or insure whether the amount of any such reserve is appropriate or not. In connection with any such distribution of payments or proceeds of Collateral, Administrative Agent shall be entitled to assume no amounts are due or owing to any Banking Services Provider unless such Banking Services Provider has provided a written certification (setting forth a reasonably detailed calculation) to Administrative Agent as to the amounts that are due and owing to it and such written certification is received by Administrative Agent a reasonable period of time prior to the making of such distribution. Administrative Agent shall have no obligation to calculate the amount due and payable with respect to any Banking Services, but may rely upon the written certification of the amount due and payable from the applicable Banking Services Provider. In the absence of an updated certification, Administrative Agent shall be entitled to assume that the amount due and payable to the applicable Banking Services Provider is the amount last certified to Administrative Agent by such Banking Services Provider as being due and payable (*less* any distributions made to such Banking Services Provider on account thereof). The Credit Parties and their Wholly-Owned Subsidiaries may obtain Banking Services from any Banking Services Provider, although Credit Parties and their Wholly-Owned Subsidiaries are not required to do so. No Banking Services Provider has committed to provide any Banking Services and the providing of Banking Services

by any Banking Services Provider is in the sole and absolute discretion of such Banking Services Provider. Notwithstanding anything to the contrary in this Agreement or any other Credit Document, no provider or holder of any Banking Services shall have any voting or approval rights hereunder (or be deemed a Lender) solely by virtue of its status as the provider or holder of such agreements or products or the Secured Obligations owing thereunder, nor shall the consent of any such provider or holder be required (other than in their capacities as Lenders, to the extent applicable) for any matter hereunder or under any of the other Credit Documents, including as to any matter relating to the Collateral or the release of Collateral or Guarantors.

[Remainder of this page intentionally left blank. Signature pages follow.]

EXECUTED as of the date first above written.

BORROWER: **SELECT ENERGY SERVICES, LLC**

By: /s/ Gary M. Gillette
Name: Gary M. Gillette
Title: Senior Vice President and Chief Financial Officer

PARENT:

SES HOLDINGS, LLC

By: /s/ Gary M. Gillette
Name: Gary M. Gillette
Title: Senior Vice President and Chief Financial Officer

AGENT:

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Administrative Agent, Swingline Lender, Issuing Lender, Joint Lead Arranger, Joint Book Runner, and as a Lender

By: /s/ Sarah Raybon
Name: Sarah Raybon
Title: Its Authorized Signatory

JPMORGAN CHASE BANK, N.A., as a Lender

By: /s/ Timothy J. Whitefoot
Name: Timothy J. Whitefoot
Title: Authorized Officer

BANK OF AMERICA, N.A., as a Lender

By: /s/ Susan Fred
Name: Susan Fred
Title: Senior Vice President

CITIBANK, N.A., as a Lender

By: /s/ William H. Moul, Jr.
Name: William H. Moul, Jr.
Title: Authorized Signatory

ZB, N.A. DBA AMEGY BANK, as a Lender

By: /s/ Rachel Pletcher
Name: Rachel Pletcher
Title: Vice President

ROYAL BANK OF CANADA, as a Lender

By: /s/ Pierre Noriega
Name: Pierre Noriega
Title: Authorized Signatory

Signature Page to Credit Agreement

SCHEDULE I
Pricing Schedule

The Applicable Margin means, as of any date of determination and with respect to any Advances (including, if applicable, Swingline Advances), the applicable margin set forth in the following table that corresponds to the Average Excess Availability of Borrower for the most recently completed calendar quarter; provided, that for the period from the Effective Date through and including June 30, 2018, the Applicable Margin shall be set at the margin in the row styled "Level II":

Level	Average Excess Availability	Applicable Margin for Base Rate Advances (the "Base Rate Margin")	Applicable Margin for Eurocurrency Advances (the "Eurocurrency Rate Margin")
I	< 33.33% of the Commitments	1.00 percentage points	2.00 percentage points
II	< 66.67% of the Commitments and ≥ 33.33% of the Commitments	0.75 percentage points	1.75 percentage points
III	≥ 66.67% of the Commitments	0.50 percentage points	1.50 percentage points

The Applicable Margin shall be re-determined as of the first day of each calendar quarter.

"Average Excess Availability" means, with respect to any period, the sum of the aggregate amount of Availability for each day in such period (as calculated by Administrative Agent as of the end of each respective day) divided by the number of days in such period.

SCHEDULE II
Commitments, Contact Information

ADMINISTRATIVE AGENT/ISSUING LENDER/SWINGLINE LENDER

Wells Fargo Bank, National Association

Address: 1100 Abernathy Road
Suite 1600
Atlanta, Georgia 30328
Attn: Portfolio Manager – Select Energy
Facsimile: (855) 260-0212

CREDIT PARTIES

Borrower/Guarantors

Address: 1400 Post Oak Boulevard, Suite 400
Houston, Texas 77056

Attn: Gary M. Gillette, Senior Vice President and Chief Financial Officer,
and
Adam R. Law, Senior Vice President, General Counsel and Corporate Secretary
Email: GGillette@selectenergyservices.com
and
ALaw@selectenergyservices.com

Lenders	Commitments
Wells Fargo Bank, National Association	$ 105,000,000.00
JPMorgan Chase Bank, N.A.	$ 65,000,000.00
Bank of America, N.A.	$ 40,000,000.00
Citibank, N.A.	$ 40,000,000.00
ZB, N.A. DBA Amegy Bank	$ 25,000,000.00
Royal Bank of Canada	$ 25,000,000.00
TOTAL:	$ 300,000,000.00

BOARD OBSERVATION RIGHTS AGREEMENT

THIS BOARD OBSERVATION RIGHTS AGREEMENT, dated as of November 1, 2017 (this "**Agreement**"), is entered into by and between Select Energy Services, Inc., a Delaware corporation (the "**Company**"), and White Deer Energy L.P., a Cayman Islands exempted limited partnership ("**White Deer**"). The Company and White Deer are herein referred to as the "**Parties**." Capitalized terms used but not defined herein shall have the meaning assigned to such terms in the Agreement and Plan of Merger, dated July 18, 2017 (the "**Merger Agreement**"), by and among the Company, Raptor Merger Sub, Inc., a Delaware corporation and a wholly owned subsidiary of the Company ("**Corporate Merger Sub**"), SES Holdings, LLC, a Delaware limited liability company and a subsidiary of the Company, Raptor Merger Sub, LLC, a Delaware limited liability company and an indirect wholly owned subsidiary of SES Holdings, LLC ("**LLC Merger Sub**"), Rockwater Energy Solutions, Inc., a Delaware corporation ("**Rockwater**"), and Rockwater Energy Solutions, LLC, a Delaware limited liability company and a subsidiary of Rockwater ("**Rockwater Holdco**").

Recitals

WHEREAS, pursuant to the Merger Agreement, among other things, (a) Corporate Merger Sub will be merged with and into Rockwater and the separate existence of Corporate Merger Sub will cease (the "**Corporate Merger**"), (b) LLC Merger Sub will be merged with and into Rockwater Holdco and the separate existence of LLC Merger Sub will cease and (c) (x) each share of Class A Common Stock, $0.01 par value per share, of Rockwater then outstanding will be converted into the right to receive a number of shares of Class A Common Stock, $0.01 par value per share, of the Company ("**Company Class A Common Stock**") equal to the Exchange Ratio, (y) each share of Class A-1 Common Stock, $0.01 par value per share, of Rockwater then outstanding will be converted into the right to receive a number of shares of Class A-2 Common Stock, $0.01 par value per share, of the Company ("**Company Class A-2 Common Stock**") equal to the Exchange Ratio, and (z) each share of Class B Common Stock, $0.01 par value per share, of Rockwater then outstanding will be converted into the right to receive a number of shares of Class B Common Stock, $0.01 par value per share, of the Company ("**Company Class B Common Stock**" and together with Company Class A Common Stock and Class A-2 Common Stock, "**Company Common Stock**") equal to the Exchange Ratio;

WHEREAS, as of the Closing, after giving effect to the issuance of Company Common Stock pursuant to the Merger Agreement, White Deer will own 675,177 shares of Company Class A Common Stock and 3,824,179 shares of Company Class B Common Stock;

WHEREAS, pursuant to Section 5.20 of the Merger Agreement, the Company agreed to use its commercially reasonable efforts to enter into this Agreement with White Deer, pursuant to which, from and after the effective time of the Corporate Merger (the "**Corporate Merger Effective Time**"), White Deer shall have the right to appoint a single representative as a board observer with respect to the board of directors of the Company (the "**Board**"), subject to certain limitations;

WHEREAS, the Company desires to provide White Deer with certain observation rights in respect of the Board;

WHEREAS, the Board has determined it to be in the best interests of the Company to provide White Deer with such observation rights in respect of the Board, pursuant to the terms of this Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the Parties, the Parties hereby agree as follows:

Agreement

Section 1. **Board Observation Rights.**

(a) Beginning at the Corporate Merger Effective Time and ending on the date that White Deer and its Affiliates (collectively, the "**White Deer Group Members**") no longer beneficially own at least 2,249,678 shares of Company Common Stock (the "**Board Rights Termination Date**" and such period from the date of this Agreement to the Board Rights Termination Date, the "**Observation Period**"), the Company hereby grants White Deer the option and right, exercisable at any time during the Observation Period by delivering a written notice of such appointment to the Company (the "**Observer Notice**"), to appoint a single representative (the "**Board Observer**"), to attend all meetings of the Board during the Observation Period in an observer capacity. Subject to Section 1(c), the Board Observer may participate fully in discussions of all matters brought to the Board, but shall not constitute a member of the Board and shall not be entitled to vote on, or consent to, any matters presented to the Board. For the avoidance of doubt, the Board Observer shall have no right to attend any meeting of any committee of the Board (each, a "**Committee**"). The Board Observer shall be provided access to all Board materials and information as provided on the same terms and in the same manner as provided to the other members of the Board.

(b) Subject to Section 1(c), The Company shall (i) give the Board Observer notice of the applicable meeting or action taken by written consent promptly following the time notice is given to the members of the Board, (ii) provide the Board Observer with access to all notices, minutes, consents and other materials, including any draft versions, proposed written consents, and exhibits and annexes to any such materials, and other information given to the members of the Board in connection with such meetings or actions taken by written consent at the same time and in the same manner such materials and information are furnished to such members of the Board and (iii) provide the Board Observer with all rights to attend such meetings as a member of the Board. The Board Observer shall agree to maintain the confidentiality of all information and proceedings of the Board and to enter into, comply with, and be bound by, in all respects, the terms and conditions of a confidentiality agreement, substantially in the form attached hereto as Annex A (the "**Confidentiality Agreement**"); *provided, however*, upon request from any White Deer Group Member, the Board Observer shall provide, on a confidential basis, such non-public material and information to such White Deer Group Member; *provided* that such White Deer Group Member has agreed in writing to comply with and be bound by, in all respects, the Confidentiality Agreement.

(c) Notwithstanding any rights to be granted or provided to the Board Observer hereunder, the Company reserves the right to exclude the Board Observer from access to any

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material or meeting or portion thereof if the Board reasonably determines, acting in good faith, that such access would prevent the members of the Board from engaging in attorney-client privileged communication (*provided*, *however*, that any such exclusion shall only apply to such portion of such material or meeting which would be required to preserve such privilege). Notwithstanding any rights to be granted or provided to the Board Observer hereunder, the Board Observer must notify the Board of any conflicts of interest between the Board Observer or its Affiliates and the Company (including, for the avoidance of doubt, any direct or indirect interest held by any of the White Group Members in an existing or potential competitor of the Company), and if such conflict of interest or the matters underlying such conflict of interest (including,

for the avoidance of doubt, such existing or potential competitor) are to be discussed at a meeting of the Board, the Board reserves the right to exclude the Board Observer from access to any material or meeting or portion thereof and the Board Observer shall recuse himself or herself from any discussions regarding the conflict of interest.

(d) From and after the Board Rights Termination Date, the rights of the White Deer Group Members in Sections 1(a) and Section 1(b) shall cease.

(e) For the avoidance of doubt, the Board Observer in its capacity as a Board Observer shall have (i) no fiduciary duty to the Company and (ii) no obligations to the Company under this Agreement, except as described in Section 1 of this Agreement, or to any stockholder.

Section 2. **Miscellaneous.**

(a) **Confidentiality**. Any Board Observer shall agree to maintain the confidentiality of all information and proceedings of the Board and to enter into, comply with, and be bound by, in all respects, the terms and conditions of the Confidentiality Agreement; *provided*, *however*, upon request from a White Deer Group Member, the Board Observer shall provide, on a confidential basis, such non-public information to such White Deer Group Member; *provided* that such White Deer Group Member has agreed to comply with and be bound by, in all respects, the Confidentiality Agreement. White Deer agrees to indemnify the Company from any and all costs, losses, liabilities, damages, or expenses of any kind or nature whatsoever arising from the breach by a Board Observer of the confidentiality obligations under the Confidentiality Agreement or this Section 2(a).

(b) **Ownership**. White Deer hereby represents and warrants that as of the Closing, after giving effect to the issuance of Company Common Stock pursuant to the Merger Agreement, White Deer will own 675,177 shares of Company Class A Common Stock and 3,824,179 shares of Company Class B Common Stock.

(c) **Entire Agreement**. This Agreement is intended by the Parties as a final expression of their agreement and intended to be a complete and exclusive statement of the agreement and understanding of the Parties in respect of the subject matter contained herein. There are no restrictions, promises, warranties or undertakings other than those set forth or referred to herein with respect to the rights granted by the Company or any of its Affiliates or the White Deer Group Members set forth herein. This Agreement supersedes all prior agreements and understandings between the Parties with respect to the subject matter hereof.

(d) **Notices**. All notices and other communications hereunder shall be in writing and shall be delivered by hand, by email, or by overnight courier service (except for notices specifically required to be delivered orally). Such communications shall be deemed given to a Party (a) at the time and on the date of delivery, if delivered by hand or by email (provided, however, that notice given by email shall not be effective unless either (i) a duplicate copy of such email notice is promptly given by one of the other methods described in this Section 2(d) or (ii) the receiving party delivers a written confirmation of receipt of such notice either by email or any other method described in this Section 2(d)) and (b) at the end of the first (1st) Business Day following the date on which sent by overnight service by a nationally recognized courier service (costs prepaid).

Such communication in each case shall be delivered to the following addresses or email addresses and marked to the attention of the person (by name or title) designated below (or to such other address or person as a Party may designate by notice to the other Party):

White Deer:

White Deer Energy L.P.
598 Madison Avenue
Third Floor
New York, New York 10022
Attention: Alexander P. Lynch
Email: alynch@whitedeerenergy.com

with a copy to (which shall not constitute notice hereunder):

Locke Lord LLP
600 Travis St., Suite 2800
Houston, TX 77002-2906
Attention: Joe Perillo; Michael J. Blankenship
Email: jperillo@lockelord.com; michael.blankenship@lockelord.com

The Company:

Select Energy Services, Inc.
1820 N I-35
Gainesville, Texas 76240
Attention: Adam Law
Email: ALaw@selectenergyservices.com

with a copy to (which shall not constitute notice hereunder):

Vinson & Elkins LLP
1001 Fannin Street, Suite 2500
Houston, Texas 77002- 6760
Attention: Keith Fullenweider; Stephen M. Gill
Email: kfullenweider@velaw.com; sgill@velaw.com

(e) **Interpretation**. Section references in this Agreement are references to the corresponding Section to this Agreement, unless otherwise specified. All references to instruments, documents, contracts and agreements are references to such instruments, documents, contracts and agreements as the same may be amended, supplemented and otherwise modified from time to time, unless otherwise specified. The word "including" shall mean "including but not limited to" and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it. Whenever any determination, consent or approval is to be

made or given by a Party, such action shall be in such Party's sole discretion, unless otherwise specified in this Agreement. Any words imparting the singular number only shall include the plural and vice versa. The words such as "herein," "hereinafter," "hereof" and "hereunder" refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The division of this Agreement into Sections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be utilized in construing or interpreting this Agreement.

(f) **Severability**. If any provision of this Agreement (or portion thereof) is held invalid, illegal, or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement (or portion thereof) will remain in full force and effect, so long as the economic or legal substance of the actions contemplated hereby are not affected in any manner materially adverse to any Party.

(g) **Governing Law; Submission to Jurisdiction**. This Agreement and the agreements, instruments, and documents contemplated hereby, shall be governed by, and construed in accordance with, the laws of the State of Delaware, without regard to any applicable principles of conflicts of law that might require the application of the laws of any other jurisdiction. In any action or proceeding between any of the Parties arising out of or relating to this Agreement or any of the actions contemplated hereby, each of the Parties: (a) irrevocably and unconditionally consents and submits to the exclusive jurisdiction and venue of the Court of Chancery of the State of Delaware or to the extent such court does not have subject matter jurisdiction, the Superior Court of the State of Delaware or the United States District Court for the District of Delaware, (b) agrees that all claims in respect of such action or proceeding shall be heard and determined exclusively in accordance with the preceding clause (a), (c) waives any objection to laying venue in any such action or proceeding in such courts, (d) waives any objection that such courts are an inconvenient forum or do not have jurisdiction over any Party, and (e) agrees that service of process upon such Party in any such action or proceeding shall be effective if such process is given as a notice in accordance with Section 2(d) of this Agreement.

(h) **Waiver of Jury Trial**. EACH OF THE PARTIES IRREVOCABLY WAIVES ANY AND ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BETWEEN THE PARTIES ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE ACTIONS CONTEMPLATED HEREBY.

(i) **No Waiver; Modifications in Writing**.

(i) **Delay**. No failure or delay on the part of any Party in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial

exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies provided for herein are cumulative and are not exclusive of any remedies that may be available to a Party at law or in equity or otherwise.

(ii) **Specific Waiver**. Except as otherwise provided herein, no amendment, waiver, consent, modification or termination of any provision of this Agreement shall be effective unless signed by each of the Parties affected by such amendment, waiver, consent, modification or termination. Any amendment, supplement or modification of or to any provision of this Agreement, any waiver of any provision of this Agreement and any consent to any departure by a Party from the terms of any provision of this Agreement shall be effective only in the specific instance and for the specific purpose for which made or given. Except where notice is specifically required by this Agreement, no notice to or demand on a Party in any case shall entitle such Party to any other or further notice or demand in similar or other circumstances. Any investigation by or on behalf of any Party shall not be deemed to constitute a waiver by the Party taking such action of compliance with any representation, warranty, covenant or agreement contained herein.

(j) **Execution in Counterparts**. This Agreement may be executed in any number of counterparts and by different Parties in separate counterparts, each of which counterparts, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute one and the same agreement.

(k) **Binding Effect; Assignment**. This Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns, but will not be assignable or delegable by any Party without the prior written consent of each of the other Parties.

(l) **Independent Counsel**. Each of the Parties acknowledges that it has been represented by independent counsel of its choice throughout all negotiations that have preceded the execution of this Agreement and that it has executed the same with consent and upon the advice of said independent counsel. Each Party and its counsel cooperated in the drafting and preparation of this Agreement and the documents referred to herein, and any and all drafts relating thereto will be deemed the work product of the Parties and may not be construed against any Party by reason of its preparation. Accordingly, any rule of law or any legal decision that would require interpretation of any ambiguities in this Agreement against the Party that drafted it is of no application and is hereby expressly waived.

(m) **Specific Enforcement**. Each of the Parties acknowledges and agrees that monetary damages would not adequately compensate an injured Party for the breach of this Agreement by any Party, that this Agreement shall be specifically enforceable and that any breach or threatened breach of this Agreement shall be the proper subject of a temporary or permanent injunction or restraining order without a requirement of posting bond. Further, each Party waives any claim or defense that there is an adequate remedy at law for such breach or threatened breach.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties execute this Agreement, effective as of the date first above written.

SELECT ENERGY SERVICES, INC.

By: /s/ John D. Schmitz
Name: John D. Schmitz
Title: Chairman and Chief Executive Officer

WHITE DEER:

WHITE DEER ENERGY L.P.

By: Edelman & Guill Energy L.P., its general partner

By: Edelman & Guill Energy Ltd., its general partner

By: /s/ Ben A. Guill
Name: Ben A. Guill
Title: Managing Partner

Signature Page to
Board Observation Rights Agreement

ANNEX A

FORM OF CONFIDENTIALITY AGREEMENT

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Select Energy Services, Inc.
1820 N I-35
Gainesville, TX 76240
Attn: Adam R. Law

Dear Ladies and Gentlemen:

Pursuant to Section 2(a) of that certain Board Observation Rights Agreement (the "**Board Observation Rights Agreement**"), dated as of November 1, 2017, by and between Select Energy Services, Inc., a Delaware corporation (the "**Company**"), and White Deer Energy L.P., a Cayman Islands exempted limited partnership ("**White Deer**"), White Deer has exercised its right to appoint the undersigned as an observer (the "**Board Observer**") to the board of directors of the Company (the "**Board**"), although the individual serving as the Board Observer may be changed from time to time pursuant to the terms of the Board Observation Rights Agreement and upon such replacement individual signing a confidentiality agreement in substantially the form hereof. The Board Observer acknowledges that at the meetings of the Board and at other times the Board Observer may be provided with and otherwise have access to information concerning the Company and its Affiliates. Capitalized terms used but not otherwise defined herein, shall have the respective meanings ascribed therefor in the Board Observation Rights Agreement. In consideration for and as a condition to the Company furnishing access to such information, the Board Observer hereby agrees to the terms and conditions set forth in this letter agreement (this "**Agreement**"):

1. As used in this Agreement, subject to Paragraph 3 below, "**Confidential Information**" means any and all non-public financial or other non-public information concerning the Company and its Affiliates that may hereafter be disclosed to the Board Observer by the Company, its Affiliates or by any of their directors, officers, employees, agents, consultants, advisors or other representatives (including financial advisors, accountants or legal counsel) of the Company (the "**Representatives**"), including all notices, minutes, consents, materials, ideas or other information (to the extent constituting information concerning the Company and its Affiliates that is non-public financial or other non-public information) provided to the Board Observer.

2. Except to the extent permitted by this Paragraph 2 or by Paragraphs 3 or 4, the Board Observer shall keep such Confidential Information strictly confidential, and the Board Observer shall not use any Confidential Information made available to the Board Observer in his or her capacity as a member of the Board for any purpose other than management of the business and operations of the Company, or gathering information on behalf of his or her Affiliates in his or her observer capacity; *provided*, that the Board Observer may, upon request from a White Deer Group Member, share Confidential Information with such White Deer Group Member so long as such individuals or entities agree in writing to comply with, and be bound by, in all

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respects, the terms of this Agreement. The Board Observer may not record the proceedings of any meeting of the Board by means of an electronic recording device.

3. The term "Confidential Information" does not include information that (i) is or becomes generally available to the public other than (a) as a result of a disclosure by the Board Observer in violation of this Agreement or (b) in violation of a confidentiality obligation to the Company, (ii) is or becomes available to the Board Observer on a non-confidential basis from a source not known to have an obligation of confidentiality to the Company, (iii) was already known to the Board Observer at the time of disclosure or (iv) is independently developed by the Board Observer without reference to any Confidential Information disclosed to the Board Observer.

4. In the event that the Board Observer is requested, legally required or compelled to disclose the Confidential Information (including, without limitation, in connection with an audit or examination by a regulatory authority or self-regulatory organization), the Board Observer shall use reasonable efforts, to the extent permitted by applicable law, to provide the Company with prompt prior notice of such requirement so that the Company may seek, at such entities sole expense and cost, an appropriate protective order. If in the absence of a protective order, the Board Observer is nonetheless legally required or compelled to disclose Confidential Information, the Board Observer may disclose only the portion of the Confidential Information or other information that it is so legally required or compelled to disclose.

5. All Confidential Information disclosed by the Company or its Representatives to the Board Observer is and will remain the property of the Company, so long as such information remains Confidential Information.

6. It is understood and acknowledged that neither the Company nor any Representative makes any representation or warranty as to the accuracy or completeness of the Confidential Information or any component thereof.

7. It is further understood and agreed that money damages may not be a sufficient remedy for any breach of this Agreement by the Board Observer and that the Company shall be entitled to seek specific performance or any other appropriate form of equitable relief as a remedy for any such breach in addition to the remedies available to the Company at law.

8. This Agreement is personal to the Board Observer, is not assignable by the Board Observer and may be modified or waived only in writing. This Agreement is binding upon the parties hereto and their respective successors and assigns and inures to the benefit of the parties hereto and their respective successors and assigns.

9. If any provision of this Agreement (or portion thereof) is held invalid, illegal, or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement (or portion thereof) will remain in full force and effect. No failure or delay in exercising any right, power or privilege hereunder operates as a waiver thereof, nor does any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

10. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE, WITHOUT GIVING EFFECT TO ANY CHOICE OR CONFLICT OF LAW PROVISION (WHETHER OF THE STATE OF DELAWARE OR ANY OTHER JURISDICTION) THAT WOULD CAUSE THE APPLICATION OF THE LAWS OF ANY JURISDICTION OTHER THAN THE STATE OF DELAWARE.

11. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement, and all of which, when taken together, will constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile or electronic transmission constitutes effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement. Signatures of the parties transmitted by facsimile or electronic transmission will be deemed to be their original signatures for any purpose whatsoever.

[Signature Page Follows]

Very truly yours,

_____

Agreed to and Accepted, effective as of , 20 .

SELECT ENERGY SERVICES, INC.

By: _____
Name:
Title: