

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, C. C-36, AS AMENDED

AND IN THE MATTER OF HOLLANDER SLEEP PRODUCTS LLC,
HOLLANDER SLEEP PRODUCTS CANADA LIMITED, DREAM II
HOLDINGS, LLC, HOLLANDER HOME FASHIONS HOLDINGS, LLC,
PACIFIC COAST FEATHER, LLC, HOLLANDER SLEEP PRODUCTS
KENTUCKY, LLC, AND PACIFIC COAST FEATHER CUSHION, LLC

APPLICATION OF HOLLANDER SLEEP PRODUCTS LLC UNDER SECTION
46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-
36, AS AMENDED

APPLICANT

APPLICATION RECORD

May 23, 2019

OSLER, HOSKIN & HARCOURT LLP

Box 50, 1 First Canadian Place
Toronto, Ontario, Canada M5X 1B8

Marc Wasserman (LSO# 44066M)

Tel: 416.862.4908

mwasserman@osler.com

Shawn T. Irving (LSO# 500035U)

Tel: 416.862.4733

sirving@osler.com

Martino Calvaruso (LSO# 57359Q)

Tel: 416.862.6665

mcavarusos@osler.com

Lawyers for the Applicant

TO: ATTACHED SERVICE LIST

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, C. C-36, AS AMENDED

AND IN THE MATTER OF HOLLANDER SLEEP PRODUCTS LLC,
HOLLANDER SLEEP PRODUCTS CANADA LIMITED, DREAM II
HOLDINGS, LLC, HOLLANDER HOME FASHIONS HOLDINGS, LLC,
PACIFIC COAST FEATHER, LLC, HOLLANDER SLEEP PRODUCTS
KENTUCKY, LLC, AND PACIFIC COAST FEATHER CUSHION, LLC

APPLICATION OF HOLLANDER SLEEP PRODUCTS LLC UNDER SECTION
46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-
36, AS AMENDED

APPLICANT

SERVICE LIST

(as at May 23, 2019)

<u>PARTY</u>	<u>CONTACT</u>
OSLER, HOSKIN & HARCOURT LLP Box 50, 1 First Canadian Place 100 King Street West, Suite 6200 Toronto, ON M5X 1B8 Fax: 416.862.6666 Canadian Counsel to the Applicant & Chapter 11 Debtors	Marc Wasserman Tel: 416.862.4908 Email: mwasserman@osler.com Shawn Irving Tel: 416.862.4733 Email: sirving@osler.com Martino Calvaruso Tel: 416.862.6665 Email: mcalvaruso@osler.com

<p>KIRKLAND & ELLIS LLP 601 Lexington Avenue New York, NY 10022</p> <p>Fax: 212.446.4900</p> <p>U.S. Counsel to the Applicant & Chapter 11 Debtors</p>	<p>Joshua A. Sussberg, P.C. Tel: 212.446.4829 Email: joshua.sussberg@kirkland.com</p> <p>Christopher T. Greco, P.C. Tel: 212.446.4734 Email: christopher.greco@kirkland.com</p>
<p>KIRKLAND & ELLIS LLP 300 North LaSalle Chicago, IL 60654</p> <p>Fax: 312.862.2200</p> <p>U.S. Counsel to the Applicant & Chapter 11 Debtors</p>	<p>Joseph M. Graham Tel: 312.862.2434 Email: joe.graham@kirkland.com</p> <p>Laura E. Krucks Tel: 312.862.2822 Email: laura.krucks@kirkland.com</p>
<p>KSV KOFMAN INC. 150 King Street West, Suite 2308 Toronto, Ontario, M5H 1J9</p> <p>Fax: 416.932.6266</p> <p>Proposed Information Officer</p>	<p>David Sieradzki Tel: 416.932.6030 Email: dsieradzki@ksvadvisory.com</p> <p>Jordan Wong Tel: 416.932.6025 Email: jwong@ksvadvisory.com</p>
<p>NORTON ROSE FULBRIGHT LLP Royal Bank Plaza, South Tower 200 Bay Street, Suite 3800 Toronto, ON M5J 3Z4</p> <p>Fax: 416.216.3930</p> <p>Counsel to the Proposed Information Officer</p>	<p>Orestes Pasparakis Tel: 416.216.4815 Email: orestes.pasparakis@nortonrosefulbright.com</p> <p>Virginie Gauthier Tel: 416.216.4853 Email: virginie.gauthier@nortonrosefulbright.com</p> <p>Hugo Margoc Tel: 416.203.4466 Email: hugo.margoc@nortonrosefulbright.com</p>

<p>GOODMANS LLP Bay Adelaide Centre – West Tower 333 Bay Street, Suite 3400 Toronto, ON M5H 2S7</p> <p>Fax: 416.979.1234</p> <p>Counsel to the ABL Agent and DIP ABL Agent</p>	<p>Joe Latham Tel: 416.597.4211 Email: jlatham@goodmans.ca</p> <p>Andrew Harmes Tel: 416.849.6923 Email: aharmes@goodmans.ca</p>
<p>GOLDBERG KOHN LTD 55 East Monroe Street, Suite 3300 Chicago, Illinois 60606</p> <p>Fax: 312.863.7474</p> <p>U.S. Counsel to the ABL Agent and DIP ABL Agent</p>	<p>Randall L. Klein Tel: 312.201.3974 Email: randall.klein@goldbergkohn.com</p> <p>Prisca M. Kim Tel: 312.201.3968 Email: prisca.kim@goldbergkohn.com</p> <p>Kristina Bunker Tel: 312.863.7191 Email: kristina.bunker@goldbergkohn.com</p>
<p>BLAKE, CASSELS & GRAYDON LLP 199 Bay Street, Suite 4000 Commerce Court West Toronto ON M5L 1A9</p> <p>Fax: 416.863.2653</p> <p>Counsel to the Term Loan Agent and DIP Term Loan Agent</p>	<p>Kelly Bourassa Tel: 403.260.9697 Email: kelly.bourassa@blakes.com</p> <p>Milly Chow Tel: 416.863.2594 Email: milly.chow@blakes.com</p>

<p>KRAMER LEVIN NAFTALIS & FRANKEL LLP 1177 Avenue of the Americas New York, NY 10036</p> <p>Fax: 212.715.8059</p> <p>Counsel to Sentinel Capital Partners, L.L.C., Sentinel Capital Partners V, L.P., Sentinel Capital Partners V-A, L.P., Sentinel Dream Blocker, Inc., and Sentinel Capital Investors V, L.P.</p>	<p>Kenneth H. Eckstein Tel: 212.715.9229 Email: keckstein@kramerlevin.com</p> <p>Adam C. Rogoff Tel: 212.715.9285 Email: arogoff@kramerlevin.com</p> <p>Jennifer Sharret Tel: 212.715.9516 Email: jsharret@kramerlevin.com</p> <p>Nathaniel Allard Tel: 212.715.9107 Email: nallard@kramerlevin.com</p>
<p>PROSKAUER ROSE LLP Eleven Times Square New York, NY 10036-8299</p> <p>Fax: 212.969.2900</p>	<p>David Hillman Tel: 212.969.3470 Email: dhillman@proskauer.com</p> <p>Chris Theodoridis Tel: 212.969.5095 Email: ctheodoridis@proskauer.com</p>
<p>DEPARTMENT OF JUSTICE CANADA 120 Adelaide Street West, Suite 400 Toronto, ON M5H 1T1</p> <p>Fax: 416.973.0810</p>	<p>Diane Winters Tel: 416.973.3172 Email: diane.winters@justice.gc.ca</p> <p>Rakhee Bhandari Tel: 416.9752.8563 Email: rakhee.bhandari@justice.gc.ca</p>
<p>REVENUE QUEBEC Goods and Services Tax, Harmonized Sales Tax and Law of Quebec 3e étage, secteur R23CPF 1600, boulevard René-Lévesque Ouest Montréal, QC H3H 2V2</p> <p>Fax: 514.285.3833</p>	<p>Alain Casavant Tel: 514.415.5083 Email: alain.casavant@revenuquebec.ca</p>

MINISTRY OF FINANCE (ONTARIO) LEGAL SERVICES BRANCH College Park 11 th Floor 777 Bay St, Toronto, ON M5G 2C8 Fax: 416.325.1460	Kevin O'Hara Tel: 416.327.8463 Email: kevin.ohara@ontario.ca
MINISTRY OF FINANCE (BRITISH COLUMBIA) P.O. Box 9048 Stn Prov. Govt. Victoria, BC V8W 9E2 Fax: 250.387.5594	Minister of Finance Tel: 250.387.3751 Email: Minister@gov.bc.ca
MINISTRY OF JUSTICE AND ATTORNEY GENERAL (BC) LEGAL SERVICES BRANCH P.O. Box 9289 Stn Prov. Govt. Victoria, BC V8W 9J7 Fax: 250.387.0700	David Hatter Tel: 250.387.1274 Email: david.hatter@gov.bc.ca
CBSC CAPITAL INC. 3450 Superior Court, Unit 1 Oakville, ON L6L 0C4	

Email List:

mwasserman@osler.com; sirving@osler.com; mcavaruso@osler.com;
joshua.sussberg@kirkland.com; christopher.greco@kirkland.com; joe.graham@kirkland.com;
laura.krucks@kirkland.com; dsieradzki@ksvadvisory.com; jwong@ksvadvisory.com;
orestes.pasparakis@nortonrosefulbright.com; jlatham@goodmans.ca; aharmes@goodmans.ca;
virginie.gauthier@nortonrosefulbright.com; hugo.margoc@nortonrosefulbright.com;
randall.klein@goldbergkohn.com; prisca.kim@goldbergkohn.com;
kristina.bunker@goldbergkohn.com; diane.winters@justice.gc.ca; rakhee.bhandari@justice.gc.ca
alain.casavant@revenuquebec.ca; kevin.ohara@ontario.ca; david.hatter@gov.bc.ca;
kelly.bourassa@blakes.com; milly.chow@blakes.com; aarogoff@kramerlevin.com;
jsharret@kramerlevin.com; nallard@kramerlevin.com; Minister@gov.bc.ca;
dhillman@proskauer.com; ctheodoridis@proskauer.com;

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C. C-36, AS AMENDED

AND IN THE MATTER OF HOLLANDER SLEEP PRODUCTS LLC,
HOLLANDER SLEEP PRODUCTS CANADA LIMITED, DREAM II
HOLDINGS, LLC, HOLLANDER HOME FASHIONS HOLDINGS, LLC,
PACIFIC COAST FEATHER, LLC, HOLLANDER SLEEP PRODUCTS
KENTUCKY, LLC, AND PACIFIC COAST FEATHER CUSHION, LLC

APPLICATION OF HOLLANDER SLEEP PRODUCTS LLC UNDER
SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

APPLICANT

INDEX

Tab	Document	Page No.
1	Notice of Application	1
2	Affidavit of Marc Pfefferle, sworn May 23, 2019	14
A	First Day Declaration of Marc Pfefferle, declared May 19, 2019	52
B	Hollander Organization Chart	78
C	Hollander Canada's unaudited balance sheet as at April 30, 2019	80
D	Restructuring Support Agreement, dated May 19, 2019	82
E	Chapter 11 Plan of Reorganization, dated May 19, 2019	124
F	KSV Kofman Inc.'s Consent to Act as Information Officer, dated May 21, 2019	182
3	Affidavit of Evan Barz, sworn May 23, 2019	184
A	Voluntary Petition of Hollander Sleep Products LLC	188

Tab	Document	Page No.
B	Voluntary Petition of Hollander Sleep Products Canada Limited	215
C	Voluntary Petition of Dream II Holdings, LLC	243
D	Voluntary Petition of Hollander Home Fashions Holdings, LLC	273
E	Voluntary Petition of Pacific Coast Feather, LLC	300
F	Voluntary Petition of Hollander Sleep Products Kentucky, LLC	327
G	Voluntary Petition of Pacific Coast Feather Cushion, LLC	354
H	Foreign Representative Motion	381
I	Joint Administration Motion	393
J	Employee Wages Motion	409
K	Cash Management Motion	457
L	DIP Motion	511
M	Critical Vendors and Shippers Motion	1047
N	Customer Programs Motion	1083
O	Orders Granted by the U.S. Court	1108
4	Initial Recognition Order (Foreign Main Proceeding)	1221
5	Supplemental Order (Foreign Main Proceeding), without Schedules A-G, which are attached as Exhibit "O" to the Affidavit of Evan Barz.	1226

TAB 1

Court File No. CV-19-620484-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C. C-36, AS AMENDED

AND IN THE MATTER OF HOLLANDER SLEEP PRODUCTS LLC,
HOLLANDER SLEEP PRODUCTS CANADA LIMITED, DREAM II
HOLDINGS, LLC, HOLLANDER HOME FASHIONS HOLDINGS, LLC,
PACIFIC COAST FEATHER, LLC, HOLLANDER SLEEP PRODUCTS
KENTUCKY, LLC, AND PACIFIC COAST FEATHER CUSHION, LLC

APPLICATION OF HOLLANDER SLEEP PRODUCTS LLC UNDER
SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

APPLICANT

NOTICE OF APPLICATION

TO THE RESPONDENTS:

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

THIS APPLICATION will come on for a hearing before a Judge presiding over the Commercial List on May 23, 2019 at the Court House, 330 University Avenue, Toronto, Ontario.

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

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the Applicants' lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in the court office

where the application is to be heard as soon as possible, but not later than 2 p.m. on the day before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: May 23, 2019

Local Registrar

Address of court office: 330 University Avenue
Toronto, Ontario M5G 1R7

TO: SERVICE LIST

APPLICATION

1. Hollander Sleep Products LLC (“**Applicant**”), in its capacity as a foreign representative of itself as well as Dream II Holdings, LLC, Hollander Sleep Products Canada Limited (“**Hollander Canada**”), Hollander Home Fashions Holdings, LLC, Pacific Coast Feather, LLC, Hollander Sleep Products Kentucky, LLC and Pacific Coast Feather Cushion, LLC (collectively, the “**Chapter 11 Debtors**”), makes this Application seeking orders, *inter alia*, for the following relief, substantially in the form of draft Orders included in the Application Record:

(a) **Initial Recognition Order (Foreign Main Proceeding)**

- (i) Appointing the Applicant as the foreign representative (the “**Foreign Representative**”) of the Chapter 11 Debtors as defined in section 45 of the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”);
- (ii) Declaring that the centre of main interest for each of the Chapter 11 Debtors is the United States of America and recognizing the Chapter 11 cases (the “**Chapter 11 Cases**”) commenced in respect of the Chapter 11 Debtors in the United States Bankruptcy Court for the Southern District of New York (the “**U.S. Court**”) as a “foreign main proceeding” as defined in section 45 of the CCAA;
- (iii) Granting a stay of proceedings in respect of the Chapter 11 Debtors until otherwise ordered by this Court;

- (iv) Restraining the right of any person or entity to, among other things, discontinue or terminate any supply of products to the Chapter 11 Debtors; and
- (v) Requiring the Information Officer to publish notice of this proceeding as required by section 53(b) of the CCAA.

(b) **Supplemental Order (Foreign Main Proceeding)**

- (i) Recognizing and enforcing the terms of the orders made by the U.S. Court dated May 22 and 23, 2019 in the following motions (the “**First Day Orders**”)
 - (A) Foreign Representative Motion;
 - (B) Joint Administration Motion;
 - (C) Employee Wages Motion;
 - (D) Cash Management Motion;
 - (E) DIP Motion;
 - (F) Critical Vendors and Shippers Motion; and
 - (G) Customer Programs Motion.
- (ii) Granting a stay of proceedings (the “**Requested Stay**”), as further described below, in respect of the Chapter 11 Debtors and the directors and officers of the Chapter 11 Debtors;

- (iii) Appointing KSV Kofman Inc. (“**KSV**”) as information officer (in such capacity, the “**Information Officer**”) in respect of these proceedings;
- (iv) Granting the DIP ABL Charge (defined below) and affording it the priority set out in the proposed Supplemental Order;
- (v) Granting the Administration Charge (defined below) and affording it the priority set out in the proposed Supplemental Order;
- (vi) Sealing the Confidential Appendix to the proposed Information Officer’s Pre-filing Report (the “**Confidential Appendix**”); and
- (vii) Such further and other relief as this Honourable Court deems just.

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

- (a) The Chapter 11 Debtors, together with their non-debtor affiliates (collectively, “**Hollander**”), are an industry leader in the bedding products market, manufacturing pillows, comforters, and mattress pads, among other bedding products.
- (b) Hollander is headquartered in Boca Raton, Florida. There are 13 Hollander manufacturing facilities in the U.S. and Canada. Hollander employs approximately 2,370 people across North America.
- (c) All of the Chapter 11 Debtors operate on an integrated basis and are incorporated or established under the laws of the United States, with the exception of Hollander Canada, which is incorporated under the laws of British Columbia.

- (d) Hollander Canada operates one (1) manufacturing facility in Toronto and one (1) manufacturing facility in Montreal. Hollander Canada also maintains a sales office in Toronto. As of April 2019, Hollander Canada employed approximately 240 employees, all of whom are located in Canada.
- (e) Substantially all of the management of the Chapter 11 Debtors are located in the U.S. (including all directors of Hollander Canada). Hollander Canada is almost wholly reliant on the U.S. Chapter 11 Debtors for all overhead services including accounting and finance, buying, logistics, marketing, strategic direction, IT and other functions.
- (f) Hollander Canada requires the U.S. Chapter 11 Debtors to survive as a going concern. Among other reasons, all inventory procurement and logistics functions are run out of the U.S. headquarters. Moreover, Hollander Canada is entirely dependent on the U.S. Chapter 11 Debtors for the overwhelming majority of licensing agreements, design partnerships and company-owned brands. All or substantially all of the trademarks and IP are owned by the U.S. Chapter 11 Debtors.
- (g) On a standalone basis, Hollander Canada is not profitable. Hollander Canada's 2018 financial statement reflects a net loss of approximately \$2.6 million and losses have continued for the four month period ended April 30, 2019.
- (h) For the Chapter 11 Debtors, including Hollander Canada, to survive, they must, *inter alia*, (a) obtain immediate incremental liquidity to operate their enterprise and continue paying their debts as they come due, and (b) right size their balance sheet by equitizing amounts owing under the Chapter 11 Debtors' current credit facilities.

- (i) The Chapter 11 Debtors commenced the Chapter 11 Cases to implement a reorganization that is supported by its largest creditor constituents. Through the Chapter 11 Cases, Hollander will, *inter alia*, (i) obtain access to up to \$90 million in new money DIP ABL financing, (ii) obtain access up to \$28 million in new money DIP term loan financing; and (iii) implement a restructuring in accordance with a proposed restructuring support agreement and plan.

The Chapter 11 Cases each constitute a “Foreign Main Proceeding” in which the Applicant is the “Foreign Representative”

- (j) The Chapter 11 Debtors are all currently parties to the Chapter 11 Cases pursuant to petitions filed in the U.S. Court under Chapter 11 of the U.S. Bankruptcy Code.
- (k) The Chapter 11 Cases constitute “foreign proceedings” pursuant to section 45(1) of the CCAA.
- (l) The Applicant has been appointed as “foreign representative” of all of the Chapter 11 Debtors in the Chapter 11 Cases and, as such, falls within the definition of “foreign representative” under section 45(1) of the CCAA.
- (m) Pursuant to section 46(1) of the CCAA, the Foreign Representative may apply to this Court for recognition of the Chapter 11 Cases.
- (n) Pursuant to subsection 47(1) of the CCAA, this Court shall make an order recognizing the Chapter 11 Cases if it is satisfied that the application relates to a “foreign proceeding” and that the Applicant is a “foreign representative”.

- (o) Each of the Chapter 11 Debtors' centre of main interest is located in the U.S. and, as such, the within proceedings are a "foreign main proceeding" for the purposes of section 45(1) of the CCAA.

The Requested Stay is appropriate in the circumstances

- (p) Under section 48 of the CCAA, this Court shall, in the case of a foreign main proceeding, exercise its jurisdiction to prohibit the commencement or furtherance of any action, suit or proceeding against the Chapter 11 Debtors, subject to any terms and conditions it considers appropriate.
- (q) The Requested Stay in Canada is essential to the consolidated efforts of the Chapter 11 Debtors.

Recognition of the First Day Orders is appropriate

- (r) For the purposes of ensuring that all interested parties cooperate in the efforts of the Chapter 11 Debtors, the Applicant requests that the terms of the First Day Orders be recognized by this Court pursuant to section 49 of the CCAA.

Recognition of the DIP Motion is Appropriate

- (s) The Chapter 11 Debtors have negotiated for (i) up to \$90 million in new money debtor-in-possession ABL financing (the "**DIP ABL Facility**") with certain lenders who from time to time are a party thereto (the "**DIP ABL Lenders**"), and (ii) up to \$28 million in new money DIP term loan financing (the "**DIP Term Loan Facility**") and together with the DIP ABL Credit Facility, the "**DIP Facilities**") with certain lenders who from time to time are a party thereto.

- (t) The Chapter 11 Debtors will use the DIP Facilities to, *inter alia*, (a) repay specified prepetition obligations, (b) fund the Chapter 11 Cases, (c) make certain other specified payments, and (d) provide working capital during the Chapter 11 Cases.
- (u) The Chapter 11 Debtors sought, and were unable to obtain, sufficient and otherwise viable financing.
- (v) Without immediate access to the DIP Facilities, the Chapter 11 Debtors, including Hollander Canada on a standalone basis, would be unable to meet payroll and otherwise operate their business, and the Chapter 11 Debtors' ability to preserve and maximize the value of their assets and operations for the benefit of their stakeholders would be irreparably harmed. The DIP Facilities represent the best available option for the Chapter 11 Debtors and will maximize value for all parties in interest.
- (w) Hollander Canada is an obligor and borrower under Hollander's current prepetition ABL credit facility and the assets of Hollander Canada are, as such, encumbered. Hollander Canada is not, however, a guarantor of, nor is it jointly or severally liable for, the U.S. Chapter 11 Debtors' obligations under the prepetition ABL credit facility.
- (x) The DIP ABL Lenders have, among other things, required that, as a condition of granting the DIP ABL Facility, Hollander Canada:
 - (i) be jointly and severally liable for all of the outstanding obligations under the DIP ABL Facility (including those incurred by the U.S. borrowers); and

- (ii) seek super-priority liens and charges (the “**DIP ABL Charge**”) in the Chapter 11 Cases and these proceedings.
- (y) The Chapter 11 Debtors have negotiated certain protections in the DIP ABL Facility to mitigate any material prejudice to creditors of Hollander Canada, including (i) a quasi-marshalling concept; and (ii) priority in the form of a Court ordered charge for any advances that Hollander Canada makes under the DIP ABL Facility to the US Chapter 11 Debtors during the Chapter 11 Cases.

The DIP ABL Charge and Administration Charge are Necessary

- (z) The proposed DIP ABL Charge will constitute a charge on the property of the Chapter 11 Debtors located in Canada and will rank in priority to all unsecured claims, but is subordinate to the proposed Administration Charge and to secured creditors with existing perfected security interests.
- (aa) The DIP ABL Charge is necessary to provide cash flow to the Chapter 11 Debtors, including Hollander Canada, during the restructuring period.
- (bb) A going concern outcome is only available if the relief sought, including the DIP ABL Charge, is granted.
- (cc) The Administration Charge in the amount of \$200,000 is for the benefit of the proposed Information Officer and its legal counsel and is reasonable in the circumstances having regard to the size and complexity of these proceedings.

The Appointment of an Information Officer is Appropriate

- (dd) KSV has consented to act as the Information Officer in the within proceeding, and will assist the Court and Canadian stakeholders of the Chapter 11 Debtors.

General

- (ee) The CCAA, including Part IV; and
- (ff) Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

- (a) Affidavit of Marc Pfefferle sworn May 23, 2019;
- (b) Affidavit of Evan Barz sworn May 23, 2019;
- (c) Consent of KSV to act as the Information Officer;
- (d) Pre-filing report of KSV in its capacity as proposed Information Officer; and
- (e) Such further and other evidence as counsel may advise and this Honourable Court may permit.

May 23, 2019

OSLER, HOSKIN & HARCOURT LLP

Box 50, 1 First Canadian Place
Toronto, Ontario, Canada M5X 1B8

Marc Wasserman (LSO# 44066M)

Tel: 416.862.4908

Email: mwasserman@osler.com

Shawn T. Irving (LSO# 500035U)

Tel: 416.862.4733

Email: sirving@osler.com

Martino Calvaruso (LSO# 57359Q)

Tel: 416.862.6665

mcalvaruso@osler.com

Fax: 416.862.6666

Lawyers for the Applicant

AND IN THE MATTER OF HOLLANDER SLEEP PRODUCTS LLC, HOLLANDER SLEEP PRODUCTS CANADA LIMITED, DREAM II HOLDINGS, LLC, HOLLANDER HOME FASHIONS HOLDINGS, LLC, PACIFIC COAST FEATHER, LLC, HOLLANDER SLEEP PRODUCTS KENTUCKY, LLC, AND PACIFIC COAST FEATHER CUSHION, LLC

APPLICATION OF HOLLANDER SLEEP PRODUCTS LLC UNDER SECTION 46 OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

Ontario
**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

APPLICATION RECORD

OSLER, HOSKIN & HARCOURT, LLP
P.O. Box 50, 1 First Canadian Place
Toronto, ON M5X 1B8

Marc Wasserman (LSO# 44066M)
Tel: 416.862.4908
mwasserman@osler.com

Shawn T. Irving (LSO# 50035U)
Tel: 416.862.4733
sirving@osler.com

Martino Calvaruso (LSO# 57359Q)
Tel: 416.862.6665
mcalvaruso@osler.com
Fax: 416.862.6666

Lawyers for the Applicant

Matter No: 1200852

TAB 2

Court File No. CV-19-620484-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C. C-36, AS AMENDED

AND IN THE MATTER OF HOLLANDER SLEEP PRODUCTS LLC, HOLLANDER SLEEP PRODUCTS CANADA LIMITED, DREAM II HOLDINGS, LLC, HOLLANDER HOME FASHIONS HOLDINGS, LLC, PACIFIC COAST FEATHER, LLC, HOLLANDER SLEEP PRODUCTS KENTUCKY, LLC, AND PACIFIC COAST FEATHER CUSHION, LLC

APPLICATION OF HOLLANDER SLEEP PRODUCTS LLC UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

APPLICANT

AFFIDAVIT OF MARC PFEFFERLE

(Sworn May 23, 2019)

I, Marc Pfefferle, of the Town of Westport, Connecticut, United States of America, **MAKE OATH AND SAY:**

1. I am the Chief Executive Officer (“**CEO**”) of Hollander Sleep Products, LLC (“**Hollander Sleep Products**”) and the six (6)¹ other debtors in possession that recently filed voluntary petitions for relief pursuant to Chapter 11 of the U.S. Bankruptcy Code (the “**Chapter 11 Debtors**”). I am

¹ In addition to Hollander Sleep Products, the other six (6) Chapter 11 Debtors are: Dream II Holdings, LLC; Hollander Home Fashions Holdings, LLC; Pacific Coast Feather, LLC; Hollander Sleep Products Kentucky, LLC; Pacific Coast Feather Cushion, LLC; and Hollander Sleep Products Canada Limited.

a Partner at Carl Marks Advisors (“**Carl Marks**”), an investment bank that provides financial and operational services, and have served as CEO of Hollander Sleep Products since March 28, 2019 when I was retained by the Chapter 11 Debtors and the their Non-Debtor Affiliates (defined below). I have been with Carl Marks since 1992. Before joining Carl Marks, I was a Partner with Marigold Associates, a strategic management consulting firm serving Fortune 100 companies, and before that I worked for Price Waterhouse LLP. I have over thirty years of experience providing restructuring and reorganization services for companies, creditors, and other stakeholders across a variety of industries, including consumer products, retail, manufacturing, and distribution related businesses.

2. As such, I have personal knowledge of the matters to which I depose in this Affidavit, save and except where I refer to matters based on information and belief, in which case I have stated the source of my information and, in all such cases, I believe that information to be true. In preparing this Affidavit, I consulted with the Chapter 11 Debtors’ management team and advisors (including the Carl Marks team working under my supervision) and reviewed relevant documents and information concerning the Chapter 11 Debtors’ operations, financial affairs and restructuring initiatives.

3. I swear this Affidavit in support of an application by Hollander Sleep Products in its capacity as foreign representative of the Chapter 11 Debtors for, *inter alia*:

- (a) recognition of the Chapter 11 Cases (defined below) as foreign main proceedings pursuant to Part IV of the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”);
- (b) recognition of certain First Day Orders (defined below);

- (c) the appointment of KSV Kofman Inc. (“**KSV**”) as Information Officer;
 - (d) the granting of the DIP ABL Charge (defined below); and
 - (e) the granting of the Administration Charge (defined below).
4. All monetary references in this Affidavit are in U.S. dollars unless otherwise stated.

I. Background

5. On May 19, 2019 (the “**Petition Date**”), each of the Chapter 11 Debtors filed voluntary petitions for relief (the “**Petitions**”) pursuant to Chapter 11 of the U.S. Bankruptcy Code with the United States Bankruptcy Court for the Southern District of New York (the “**U.S. Court**”).

6. I am aware that certified copies of the Petitions will be attached to the affidavit of Evan Barz (the “**Barz Affidavit**”), an associate lawyer with the law firm Osler, Hoskin & Harcourt LLP (“**Osler**”), Canadian counsel to the Chapter 11 Debtors, and will be provided to the Court at or before the hearing of this Application.

7. The cases commenced by the Chapter 11 Debtors in the U.S. Court are referred to in this Affidavit as the “**Chapter 11 Cases**”.

8. The Chapter 11 Debtors filed several first day motions (the “**First Day Motions**”) with the U.S. Court on May 19, 2019. On May 21, 2019, the U.S. Court heard the following seven (7) First Day Motions (all defined below), with the remaining First Day Motions to be heard on June 3, 2019 and/or June 13, 2019:

- (a) Foreign Representative Motion;
- (b) Joint Administration Motion;

- (c) Employee Wages Motion;
- (d) Cash Management Motion;
- (e) DIP Motion;
- (f) Critical Vendors and Shippers Motion; and
- (g) Customer Programs Motion.

9. The U.S. Court entered interim and/or final First Day Orders (as defined below) in respect of these seven (7) First Day Motions on May 22 and 23, 2019.

10. Capitalized terms in this Affidavit that are not otherwise defined have the meanings given to them in my declaration filed in support of the First Day Motions attached hereto without exhibits as Exhibit “A” (the “**First Day Declaration**”).

11. I am aware that copies of the First Day Orders will be attached to the Barz Affidavit.

12. In support of the First Day Motions, I submitted my First Day Declaration to the U.S. Court. It provides a comprehensive overview of the Chapter 11 Debtors and their Non-Debtor Affiliates² (collectively, “**Hollander**”) and the events leading to the commencement of the Chapter 11 Cases. As such, this Affidavit provides a more general overview and focuses on giving this Court information to support the finding of the centre of main interest (“**COMI**”) of each of the Chapter 11 Debtors and to support the request for recognition of the Chapter 11 Cases as a “foreign main proceeding”, the recognition of the First Day Orders, the granting of the Administration

² As described in more detail below, the Non-Debtor Affiliates are Hollander Sleep Products Trading (Shanghai) Co., Ltd. and PCF (Shanghai) Quality Management Co., Ltd.

Charge, and the granting of the DIP ABL Charge. I am not aware of any other foreign recognition insolvency proceedings involving the Chapter 11 Debtors.

II. The Business

A. Overview

13. Hollander – an industry leader in the bedding products market – manufactures, among other bedding products, pillows, comforters, and mattress pads. Hollander produces these items for well-known licensed brands, including Ralph Lauren®, Simmons®, Beautyrest®, Nautica®, and Calvin Klein®. Hollander also owns and manufactures bedding products under its own proprietary brands, including Great Sleep®, I AM®, LC®, PCF®, and Restful Nights®. Hollander, in turn, partners with major retailers and hotel chains, including long standing relationships with, among others, Costco, Kohl's, Walmart, Target, and Marriott.

14. The corporate headquarters of Hollander are in Boca Raton, Florida. Hollander has 13 manufacturing facilities throughout the United States and Canada and operates a primary show room in New York City. Hollander employs over 2,300 people across North America and had approximately \$526.9 million in net revenue in its most recent fiscal year ended December 31, 2018. As of the Petition Date, Hollander has approximately \$233 million in funded debt.

15. Core to Hollander's business model is its ability to innovate and provide improved products. Recent innovations include asthma-sensitive natural-fill bedding products, memory foam substitutes with increased flexibility and comfort, and cooling and air-flow technology to help with the heat trapping in certain bedding materials. Investments in product development attract new customers and provide for increased profit margins over time. To support innovation and product development, Hollander utilizes a development team with diverse backgrounds in

industries such as home products, apparel and packaging, who in turn work with graphic designers, sales and marketing professionals and senior management to ensure they are capturing customer needs, product specifications and appropriate costs in developing new products.

16. Hollander also has a competitive advantage because of its well-established global production and shipping processes. Hollander works with a network of suppliers and purchases materials including polyester fibers, fabrics, pillow and comforter shells and certain retail-ready products. A significant portion of these products are purchased from China, Pakistan and India, as well as Indonesia, South Korea, Vietnam, Malaysia and the United Arab Emirates. Hollander consistently monitors and works to develop new sourcing opportunities to maximize quality and minimize inventory procurement costs.

17. Hollander has the industry's largest manufacturing and distribution footprint in North America. Filling, final sewing, packaging, and shipping of finished goods is primarily performed at Hollander's thirteen (13) North American manufacturing facilities, which are strategically located across North America, with locations in Pennsylvania, Kentucky (2), North Carolina (2), Iowa, Georgia, Texas, California (3), Ontario and Québec. This manufacturing and distribution network provides Hollander with significant flexibility in processing and shipping orders, such that shipments can reach almost anywhere in the United States and eastern Canada within a 24-hour period, which is critical for high-volume retailers that rely on Hollander's prompt shipping.

18. Approximately 95% of the Chapter 11 Debtors' sales come from wholesale distribution, including to department stores, mass merchant and clubs, off-price retailers, specialty retailers and hospitality customers. The remaining 5% of the Chapter 11 Debtors' sales are from online sales. Recently, the Chapter 11 Debtors have been working to increase direct-to-customer sales through e-commerce connections, with their own websites, established retailers and online marketers.

B. The Chapter 11 Debtors

19. All of the Chapter 11 Debtors operate on an integrated basis and are incorporated or established under the laws of the United States, with the exception of Hollander Sleep Products Canada Limited (“**Hollander Canada**”), which is amalgamated under the laws of British Columbia and which maintains a registered office located at Suite 1700, Park Place, 666 Burrard Street, Vancouver, B.C. Each of the Chapter 11 Debtors, including Hollander Canada, is a direct or indirect wholly-owned subsidiary of Dream II Holdings, LLC. A copy of the Hollander Organization Chart is attached hereto as Exhibit “B”.

20. For the most recent fiscal year ended December 31, 2018, Hollander generated approximately \$526.9 million in net revenue on a consolidated basis. Canadian sales accounted for approximately 10.7% of Hollander’s net revenue; U.S. sales amounted to approximately 89%.

21. For the most recent fiscal year ended December 31, 2018, the book value of Hollander’s assets and liabilities reflected on its balance sheet was approximately \$350.6 million and \$340.8 million, respectively, on a consolidated basis.

C. The Chapter 11 Debtors’ Non-Debtor Affiliates

22. The Chapter 11 Debtors have two affiliates in China that are not part of the Chapter 11 Cases: Hollander Sleep Products Trading (Shanghai) Co., Ltd. and PCF (Shanghai) Quality Management Co., Ltd. (the “**Non-Debtor Affiliates**”). The Non-Debtor Affiliates provide manufacturing product support services and quality control operations for the Chapter 11 Debtors.

The Non-Debtor Affiliates are not liable for any of the Chapter 11 Debtors' outstanding funded debt obligations.

D. The Financial Position of Hollander Canada

23. There are no stand-alone audited financial statements for Hollander Canada. Hollander Canada's unaudited financial statements have historically been consolidated with Hollander's financial statements, and an audit is performed on a consolidated basis only.

24. On a standalone basis, Hollander Canada is not profitable. Hollander Canada's 2018 financial statement reflects a net loss of approximately \$2.6 million and losses have continued for the four month period ended April 30, 2019. A copy of Hollander Canada's unaudited balance sheet as at April 30, 2019 is attached hereto as Exhibit "C".

25. A review of the information contained in the balance sheet is as follows:

i. Assets

26. As of April 30, 2019, the book value of Hollander Canada's current assets totaled \$16,837,829, which consisted of:

- (a) Cash and Cash Equivalents: \$140,744;
- (b) Third Party Accounts Receivable: \$3,641,985;
- (c) Inventory: \$12,955,335; and
- (d) Prepaid Expenses: \$99,765.

27. As of April 30, 2019, the book value of Hollander Canada's non-current assets was \$8,300,236, which consisted of inter-company receivables owed to Hollander Canada by Hollander Sleep Products. These monies were advanced to Hollander Sleep Products by Hollander Canada principally to help fund the Chapter 11 Debtors' U.S. operations.

28. In addition, as of April 30, 2019, the book value of Hollander Canada's property and equipment was \$1,160,896. This largely represents Hollander Canada's machinery and equipment at its two Canadian production facilities.

ii. Liabilities

29. As of April 30, 2019, Hollander Canada's total liabilities were \$15,873,547, which consisted of:

- (a) Loan payable (under the ABL Facility, defined below): \$5,945,429;
- (b) Accounts payable, Trade: \$8,710,152; and
- (c) Other Accrued Expenses: \$1,217,967.

iii. Employees

30. A detailed description of Hollander's employees, including information on wages and benefits of Hollander Canada, is set out in the Employee Wages Motion (defined below). Hollander employs approximately 2,370 employees in the United States and Canada.

31. As of April 2019, Hollander Canada employed approximately 240 employees, all of whom are located in Canada. Approximately 136 employees work at Hollander Canada's manufacturing facility and sales office in Toronto, of which 81 are full-time employees, 1 is a part-time employee,

40 are presently laid off and 14 are on leave. The remainder of Hollander Canada's 104 employees work at or out of its Montreal manufacturing facility, of which 95 are full time employees, 1 is a part time employee, 1 is presently laid off and 14 are on leave.

32. Employees are typically paid wages or salary. Each of Hollander Canada's manufacturing facilities and sales office process their own payroll, with the assistance of a third-party payroll service provider, ADP Canada Co. Hollander Canada's employees are paid on a weekly basis.

33. Hollander Canada also provides benefits coverage to its full-time employees through a group benefits plan provided by Manulife Financial and administered by The Lesly Group Ltd. (the "**Hollander Group Benefits Plan**"). The Hollander Group Benefits Plan is designed to assist and protect eligible employees and their dependents in the event of a serious illness, accident or death and to help cover the cost of some routine items such as prescription drugs, dental care and vision care.

34. Hollander Canada sponsors a Group Registered Retirement Savings Plan ("**Group RRSP**") administered by the Royal Bank of Canada. Through the Group RRSP, Hollander Canada (i) matches 50 percent for contributions representing up to six (6) percent of the employee's weekly compensation, and (ii) matches three (3) percent for contributions representing more than six (6) percent of the employee's weekly compensation.

35. There is no union representation for any of the Canadian employees. There is no registered defined benefit or defined contribution pension in place for the Canadian employees.

36. As described in more detail in the Employee Wages Motion, the Chapter 11 Debtors are, for the time being, seeking relief to continue to pay and/or perform, as applicable, employee related obligations, including those of Hollander Canada. Hollander Canada pays its priority payables in

the ordinary course, including employee wages, vacation pay, employee source deductions and federal and provincial sales tax. Hollander Canada currently has an accrued vacation pay liability of approximately \$570,000. Hollander Canada currently has approximately \$12,050 in accrued but unpaid Canadian payroll taxes and related amounts. The Chapter 11 Debtors intend to honour vacation entitlements and remit payroll taxes and related deductions to the appropriate authorities in the ordinary course.

iv. Operations in Canada

37. Hollander currently operates two (2) manufacturing facilities in Canada:

- (a) 5415/5435/5445/5455 Cote de Liesse, Montreal, Québec (the “**Montreal Facility**”) which is leased from 2298174 Ontario Inc. The Montreal Facility’s lease is scheduled to expire on May 31, 2023; and
- (b) 724 Caledonia Rd, Toronto, Ontario (the “**Toronto Facility**”), which is leased from Crestpoint Acq. The Toronto Facility’s lease is scheduled to expire on July 21, 2019, however a notice of lease extension has been provided.

38. In addition, Hollander Canada maintains a sales office at 420 Britannia Road, Toronto, Ontario, which is leased from 420-450 Britannia Road East Ltd. (the “**Britannia Lease**”). The Britannia Lease is set to expire on March 31, 2021. The sales office facilitates sales of Hollander’s products to Canadian customers.

39. The primary stakeholders of Hollander Canada include employees, customers, landlords and trade-suppliers. Hollander Canada’s vendor base is largely comprised of offshore inventory suppliers, substantially all of whom supply to all of the Chapter 11 Debtors. Key customers of Hollander Canada include Walmart Canada, Costco Canada and Hudson’s Bay Company.

Together, these three (3) customers account for approximately 87% of Hollander Canada's annual sales.

v. Merchandise and Supplies in Canada Primarily Sourced Through U.S.

40. Hollander Canada's assets principally consist of inventory (merchandise and supplies) used for the manufacturing of its bedding products, the overwhelming majority of which is manufactured in the U.S. and Canada.

41. All inventory procurement and logistics functions for Hollander Canada are run out of the U.S. headquarters in Boca Raton, Florida. Hollander Canada does not independently design its own merchandise or source its own supplies, nor does it generally enter into licensing partnerships that allow the Chapter 11 Debtors to offer their products under their partners' names.³ This integrated approach allows Hollander to generate significant benefits for all of its operating subsidiaries by maximizing efficiencies through an integrated supply chain managed out of Hollander's head office.

42. Hollander's business model depends heavily on the Chapter 11 Debtors' well-established global supply chain, which in turn depends on the Chapter 11 Debtors' longstanding relationships with key suppliers. The suppliers provide fabrics and other materials made to Hollander's specifications (the "**Supply Arrangements**"). Hollander's ability to deliver products in a timely manner is critically important to its financial performance and depends on a seamless interaction with various third-party service and logistics providers who ship products to Hollander.

³ It should be noted that Hollander Canada is a party to a licensing agreement with each of Ralph Lauren® and Simmons®. However, these licensing agreements were negotiated in the U.S. and were approved by head of U.S. sales, for the benefit of Hollander Canada.

vi. Hollander Canada's Integrated Operations with U.S.

43. Hollander Canada's operations are fully integrated with Hollander's U.S. operations. In particular:

- (a) Canadian sales make up approximately 10.7% of Hollander's net revenue.
- (b) All of Hollander Canada's directors reside in the U.S.
- (c) Hollander Canada's books and records are maintained at Hollander's head office in Boca Raton, Florida.
- (d) Hollander Canada is almost wholly reliant on U.S. managerial functions at Hollander's U.S. head office for overhead services, including accounting, finance, buying, logistics, marketing, strategic decisions, IT and other functions. These services are provided for Hollander Canada's benefit by Hollander Sleep Products in the U.S. To compensate Hollander Sleep Products for these services, the Chapter 11 Debtors allocate approximately the total cost of shared services at year end to Hollander Canada. For the most recent fiscal year ended December 31, 2018, pursuant to this arrangement, Hollander Canada paid approximately \$7.36 million to Hollander Sleep Products for shared services.
- (e) Hollander Canada, on its own, does not have sufficient purchasing power or operational infrastructure to replicate the Supply Arrangements; it primarily relies on the purchasing power and supplier relationships of the U.S. Chapter 11 Debtors.
- (f) Hollander Canada is entirely dependent on the U.S. Chapter 11 Debtors for the overwhelming majority of licensing agreements, design partnerships and company-

owned brands. All or substantially all of the trademarks and IP are owned by the U.S. Chapter 11 Debtors.

- (g) Most of the data for the Canadian operations is housed within the same IT systems (located and operated out of the U.S.) that support both the Canadian and U.S. operations.
- (h) The Chapter 11 Debtors and their non-debtor affiliates operate an integrated, centralized cash management system (the “**Cash Management System**”) to collect, transfer and disburse funds generated by their operations, all of which is described in more detail in the Cash Management Motion (defined below). The Cash Management System facilitates cash monitoring, forecasting and reporting and enables the Chapter 11 Debtors to maintain control over the administration of approximately 18 bank accounts, including eight (8) Canadian and U.S. bank accounts (together, the “**Canadian Operations Accounts**”) maintained with Wells Fargo Bank, National Association and the Royal Bank of Canada. The Canadian Operations Accounts were primarily established to facilitate the Chapter 11 Debtors sales and manufacturing operations in Canada. The Cash Management System reflects Hollander’s integrated business, is vital to the Chapter 11 Debtors’ ability to conduct business around the globe and is tailored to meet their operating needs.
- (i) The Chapter 11 Debtors, including Hollander Canada, offer and engage in certain customer promotional programs, including with Hollander Canada’s key customers. Hollander Canada is dependent on the U.S. Chapter 11 Debtors for the establishment, maintenance and administration of these customer promotional programs.

III. The Chapter 11 Debtors' Prepetition Capital Structure and Indebtedness

44. The Chapter 11 Debtors' prepetition capital structure consists of outstanding funded-debt obligations in the aggregate principal amount of approximately \$233 million, including:

- (a) a \$125 million senior secured revolving credit facility (the "**ABL Facility**") by and between Dream II Holdings, LLC, as parent, and Hollander Home Fashions Holdings, LLC, Hollander Sleep Products, Hollander Sleep Products Kentucky, LLC, Hollander Canada, Pacific Coast Feather Company, and Pacific Coast Feather Cushion Co., as borrowers, the lender parties thereto (the "**ABL Lenders**"), and Wells Fargo Bank, National Association, as agent (in such capacity, the "**ABL Agent**"); and
- (b) a \$190 million secured term loan facility (the "**Term Loan Facility**") by and between Dream II Holdings, LLC and Hollander Home Fashions Holdings, LLC, as parent guarantors, Hollander Sleep Products, as borrower, the lenders from time to time party thereto (the "**Term Loan Lenders**") and Barings Finance LLC, as administrative agent (in such capacity, the "**Term Loan Agent**").

45. Each Chapter 11 Debtor is an obligor (either as a borrower or guarantor) under the ABL Facility. Hollander Canada is limited in the amount it can borrow under the ABL Facility to \$40 million and is not jointly or severally liable for the obligations of the U.S. Chapter 11 Debtors under the ABL Facility (however, the U.S. Chapter 11 Debtors are liable for Hollander Canada's obligations under the ABL Facility). With regard to the Term Loan Facility, each Chapter 11 Debtor, except for Hollander Canada, is an obligor (either as a borrower or a guarantor).

A. Prepetition ABL Facility

46. The ABL Facility provides for cash dominion when the excess availability under the ABL Facility is less than either (a) 12.5% of the maximum credit available under the ABL Facility or (b) \$12.5 million for three consecutive business days, at which point the ABL Agent can exercise certain controls over the Chapter 11 Debtors' bank accounts. The Chapter 11 Debtors have triggered cash dominion and the ABL Agent currently sweeps the Chapter 11 Debtors' accounts that are subject to control agreements daily. Substantially all of the Chapter 11 Debtors' cash is subject to control agreements in favour of the ABL Agent. The amount outstanding under the ABL Facility is subject to fluctuations based on daily cash sweeps. The Chapter 11 Debtors estimate that approximately \$61 million in principal was outstanding as of the Petition Date, not including approximately \$5 million in letters of credit (the "**Prepetition ABL Obligations**"). There are presently no issued Canadian letters of credit. The Prepetition ABL Obligations include approximately \$6 million of borrowings by Hollander Canada

47. The Prepetition ABL Obligations are secured by a first lien on certain ABL-priority collateral of the Chapter 11 Debtors, including certain accounts and inventory, Canadian assets, and a second lien in certain collateral on which the prepetition term loan lenders (the "**Term Loan Lenders**") have a first lien. The relative rights and priorities among the ABL Lenders and Term Loan Lenders are governed by an intercreditor agreement.

48. Finally, with regard to the Last Out Loans, the Purchasers (both as defined below) share priority with the ABL Lenders with regard to the Chapter 11 Debtors' collateral but have agreed to subordinate their right to payment to the ABL Lenders until the Prepetition ABL Obligations are paid in full.

B. Prepetition Put Agreement

49. In November 2018, the Chapter 11 Debtors entered into forbearances and an amendment to each of their ABL Credit Agreement and Term Loan Credit Agreement. In connection with these amendments, Sentinel Capital Partners V, L.P., Sentinel Dream Blocker, Inc., and Sentinel Capital Investors V, L.P. (collectively, together with their permitted successors and assigns, the “**Purchasers**”) entered into a Put Agreement, dated as of November 27, 2018 (the “**Put Agreement**”), in favor of the ABL Agent and SunTrust Bank, an ABL Lender.

50. Subject to the terms and conditions set forth in the Put Agreement, upon the occurrence of certain events of default under the ABL Facility, the ABL Agent may cause the Purchasers to execute an agreement to purchase a participation interest in a subordinated last-out loan (the “**Last-Out Loans**”). If the Purchasers fail to purchase their participation interest in the Last-Out Loan in accordance with the Put Agreement, the ABL Agent is permitted to draw from certain standby letters of credit that were posted by the Purchasers.

C. Prepetition Term Loan Facility

51. As of the date hereof, approximately \$166.5 million in aggregate principal amount remains outstanding under the Term Loan Facility. The Term Loan Facility is secured by a first lien on certain collateral of the Chapter 11 Debtors, except for Hollander Canada, and a second lien on certain collateral on which the ABL Lenders have a first lien. Hollander Canada’s assets are not encumbered by the Term Loan Facility; however, the Term Loan Facility is secured by a pledge of 65% of Dream II Holdings, LLC’s equity interest in Hollander Canada.

D. Equity Interests

52. Dream II Holdings, LLC owns directly or indirectly 100% of the residual interests in each of the Chapter 11 Debtors (other than Dream II Holdings, LLC). Investment funds managed by Sentinel Capital Partners, LLC (the “**Sponsor**” or “**Sentinel**”) directly or indirectly hold the majority of the outstanding membership interests in Dream II Holdings, LLC.

E. Hollander Canada Trade Debt

53. Hollander Canada estimates that, as of May 10, 2019, arm’s-length trade creditors are owed approximately \$8.95 million in unsecured trade debt. Of that amount, approximately \$7.2 million is past due.

F. Hollander Canada Intercompany Debt

54. As of April 30, 2019, Hollander Canada is owed approximately \$8.3 million, inclusive of accrued interest, from Hollander Sleep Products, a Chapter 11 Debtor.

IV. Hollander Canada PPSA Searches

55. I am advised by Mr. Martino Calvaruso, a lawyer at Osler, and believe that lien searches were conducted on or about May 16, 2019 against each of the Chapter 11 Debtors under the *Personal Property Security Act* (or equivalent legislation) in Ontario, Québec and British Columbia (the “**PPSA Searches**”). I have been further advised by Mr. Calvaruso and believe that the PPSA Searches indicate, among other things, that Wells Fargo Bank, National Association, has registered a security interest against assets of Hollander Canada in B.C., Ontario and Québec. Barings Finance LLC has registered a security interest against the Chapter 11 Debtors (other than

Hollander Canada) in Ontario. The searches indicate no other registrations against the Chapter 11 Debtors except for a registration in Québec in respect of a photocopier lease.

V. Recent Events

56. In June of 2017, Hollander acquired one of its major competitors, Pacific Coast Feather Company (“PCF”). While this acquisition has been a net positive for operations, the impact of continued integration overhang following the acquisition, and the need to expend additional capital to facilitate the integration, strained Hollander’s cash flows.

57. Shortly after the acquisition of PCF, Hollander was faced with dramatic increases in the price of materials, including fiber, down and feathers. The financial impact of these unanticipated price increases was in excess of \$20 million over the course of approximately one year. At the same time, employee wages increased (as a result of natural wage inflation and the tight job market), as did the cost of freight, duty, and tariff charges. Recently, material prices, particularly fiber, have showed some downward trends, and Hollander is focused on right-sizing production and operational costs and reducing material costs moving forward to re-establish cost parity with its key competitors.

58. Fortunately, the sleep industry as a whole is both healthy and growing. Market trends favor healthy lifestyle sectors, and the basic bedding segment is generally recession resilient. Moreover, management has evaluated Hollander’s position and identified steps that Hollander can take to get back on track, including selective price increases and material efficiencies, continued diligence in cost-effective sourcing, investing in capital and technological advancements, streamlining Hollander’s manufacturing footprint and building Hollander’s e-commerce business.

59. The Chapter 11 Cases provide Hollander with the opportunity to right-size operations and invest in equipment, infrastructure and processes that will allow it to utilize raw material more efficiently, lower its production costs in the long term and re-establish parity with its competitors. Additionally, the infusion of capital proposed as part of the Chapter 11 Cases will facilitate the completion of the PCF integration process and best position Hollander to realize returns on the PCF acquisition.

60. In order to assist with the restructuring process, in April and May 2019, respectively, Matthew R. Kahn was appointed as a disinterested director to the Board of Directors of Dream II Holdings, LLC, as well as the Board of Directors of Hollander Canada, and subsequently granted exclusive authority over conflicts matters. Mr. Kahn has extensive experience serving on boards of managers and boards of directors in distressed situations. Mr. Kahn subsequently directed Hollander to retain Proskauer Rose LLP as independent counsel acting at his direction to assist in the discharge of his duties.

VI. Restructuring Negotiations and Path Forward

61. Beginning in November 2018, the Chapter 11 Debtors engaged with the ABL Lenders and the Term Loan Lenders, resulting in forbearances, amendments to the Chapter 11 Debtors' credit agreements and the Put Agreement. Over the following months, the Chapter 11 Debtors recognized that a more comprehensive solution was required.

62. In February 2019, the Chapter 11 Debtors initiated discussions with the ABL Lenders and the Term Loan Lenders regarding potential balance sheet solutions to their liquidity problems. These discussions preceded the deadline for a March 2019 interest payment under the Term Loan Facility. After exploring out-of-court possibilities, it became apparent that a significant deleveraging would be necessary. In February 2019, the Chapter 11 Debtors retained Kirkland &

Ellis LLP to advise on their restructuring alternatives; in late March the Chapter 11 Debtors retained Carl Marks to provide management services; and in May 2019, the Chapter 11 Debtors retained Houlihan Lokey Capital, Inc. (“**Houlihan**”) as their investment banker.

63. Following further discussions, the Chapter 11 Debtors entered into a restructuring support agreement, dated as of May 19, 2019 (the “**RSA**”), with holders of 100% in principal amount of loans under the Term Loan Facility and Sentinel. The RSA contemplates, and the Chapter 11 Debtors have filed, a comprehensive Chapter 11 plan (the “**Plan**”). The RSA ensures that the Plan will be confirmed in all circumstances and, most importantly, a viable business will continue to operate uninterrupted. A copy of the RSA is attached hereto as Exhibit “D” and a copy of the Plan is attached hereto as Exhibit “E”.

64. The RSA provides a commitment from the Chapter 11 Debtors’ largest creditor constituency to support a substantial deleveraging of the Chapter 11 Debtors’ approximately \$233 million funded debt capital structure. More specifically, and as described in greater detail below under the heading “DIP Motion”, the ABL Lenders and certain Term Loan Lenders have agreed to provide a \$90 million debtor-in-possession (“**DIP**”) asset-based loan facility (the “**DIP ABL Facility**”), and certain term loan lenders have agreed to provide an additional \$28 million term loan facility (the “**DIP Term Loan Facility**”, and together with the DIP ABL Facility, the “**DIP Facilities**”) to fund the administration of the Chapter 11 Cases.

65. Hollander has also secured an agreement to have the DIP Term Loan Facility converted into a \$58 million exit term loan facility upon emergence from the Chapter 11 proceedings, which provides an additional \$30 million in incremental liquidity to fund go-forward operations. With respect to the DIP ABL Facility, it includes a creeping (or gradual) roll-up wherein the Chapter 11 Debtors will use receipts from the Chapter 11 Debtors’ operations to pay down pre-filing

obligations under the ABL Facility pending the final DIP Order, whereupon (and if granted) there will be a deemed draw on the DIP ABL Facility to satisfy the then remaining outstanding prepetition debt under the ABL Facility, if any. Furthermore, Sentinel has agreed to convert its loans, in a last-out position, in any proposed exit asset-based financing facility. The new money term loan exit financing is committed, thus ensuring that Hollander is able to finance its emergence from the Chapter 11 proceedings without the need to raise additional financing.

66. The Plan also includes a sale “toggle” feature, allowing for a potential sale to a third party supported by the secured lenders and accomplished through the Plan. In this regard, Houlihan commenced a marketing process relating to the Chapter 11 Debtors’ assets, including the assets of Hollander Canada, and will continue to actively solicit the market for potential financial and strategic buyers now that the Chapter 11 Cases have formally commenced. Houlihan’s process will not preclude a prospective buyer from submitting bids for the business and assets of Hollander Canada on its own. The Chapter 11 Debtors will be willing to enter into a sale or a combination of sales if the Chapter 11 Debtors believe, in their business judgment, that such transactions will result in higher or otherwise better value to stakeholders than the proposed transaction embodied in the RSA and the Plan. Importantly, the parties to the RSA are active supporters of this market test process.

67. To ensure the least disruption to operations and to minimize the cost of the Chapter 11 Cases, Hollander and its stakeholders have agreed upon an expedited timeline to effectuate its comprehensive restructuring. The proposed timeline is as follows, subject to U.S. Court availability and approval at the final DIP Motion:

Deadline	Proposed Date
Deadline to file Disclosure Statement	June 12, 2019
Preliminary Bid Deadline	July 1, 2019
Disclosure Statement Hearing	July 17, 2019, or as soon thereafter as the Debtors may be heard.
Bid Deadline	July 26, 2019
Auction	August 1, 2019
Plan and Sale Objection and Plan Voting Deadlines	August 19, 2019
Confirmation Hearing	August 26, 2019, or as soon thereafter as the Debtors may be heard.

68. Given that Hollander Canada is not a borrower or guarantor under the Term Loan Facility, the Chapter 11 Debtors have negotiated and incorporated certain protections into the Plan to mitigate against any material prejudice to current creditors of Hollander Canada. More specifically, the Plan provides that, except to the extent that a holder of an allowed unsecured claim in respect of Hollander Canada agrees to less favourable treatment, on the effective date of the Plan, each holder of such a claim will receive its pro rata share of the “Hollander Canada Cash Allocation” up to the full amount of such holder’s claim, in full and final satisfaction, compromise, settlement, release and discharge of and in exchange for such claim. The “Hollander Canada Cash Allocation” is defined to mean (i) in the event that the winning bidder is an entity other than the Term Loan Lenders, any cash proceeds of a winning bidder’s sale transaction, after payment in full of the DIP ABL Claims (as defined therein) and other priority secured claims, allocated to the assets, undertakings and property of Hollander Canada by such winning bidder, in consultation with the Information Officer, or (ii) in the event that the winning bidder is the Term Loan Lenders, the cash proceeds, if any, of any Canadian Acquisition Transaction, if so elected by the Term Loan Lenders, made available to apply against Hollander Canada’s general unsecured claims. A

Canadian Acquisition Transaction is defined to mean one or more transactions to be implemented on or before the Effective Date pursuant to which the Term Loan Lenders may acquire the assets, undertakings and properties of Hollander Canada, which transaction shall be acceptable to the Chapter 11 Debtors, the required Term Loan Lenders and the Information Officer and subject to the approval of the Canadian Court.

69. The provision of consultation rights to the Information Officer in (i) above is designed to ensure that creditors of Hollander Canada are afforded necessary protection with regard to any asset allocation following a sale to a third party. The requirement to obtain Court approval for any Canadian Acquisition Transaction in (ii) above is designed to ensure that interested parties have an opportunity to voice concerns, if any, with respect to such transaction and to provide an opportunity for the Information Officer to make a recommendation to the Canadian Court in respect of any proposed Canadian Acquisition Transaction.

VI. Urgent Need for Relief in Canada

70. Hollander Canada and the other Chapter 11 Debtors are in urgent need of a stay of proceedings and the recognition of the First Day Orders.

71. The Chapter 11 Debtors' cash balance as of the Petition Date was insufficient to operate their enterprise and continue paying their debts as they come due. While the Chapter 11 Debtors have thus far largely been able to maintain the shipment and distribution of products (and thus the continued trust of their customers) notwithstanding their liquidity challenges, the Chapter 11 Debtors, including Hollander Canada on a standalone basis, cannot sustain normal course operations without an immediate infusion of post-petition financing and access to cash collateral. Presently, approximately \$7.2 million of Hollander Canada's \$9 million of accounts payable is past due. Without immediate post-petition financing and access to cash collateral, the Chapter 11

Debtors, including Hollander Canada on a standalone basis, will be unable to pay wages for their employees or the invoices of vendors critical to business operations, preserve and maximize the value of their estates, and administer the Chapter 11 cases, causing irreparable harm to the value of the Chapter 11 Debtors' estates to the detriment of all stakeholders.

72. Furthermore, the DIP ABL Credit Agreement (defined below) requires the Chapter 11 Debtors to obtain an order from this Court recognizing and giving effect to the DIP Order (among other First Day Orders) within three (3) business days of the day that the DIP Order is issued by the U.S. Court. Further, the DIP ABL Facility provides that the DIP Order must be recognized by this Court before any borrowing by Hollander Canada will be permitted. As the Chapter 11 Debtors, including Hollander Canada on a standalone basis, need access to all of the funds available under the DIP Facilities forthwith, it is critical that the Applicant obtain recognition of the First Day Orders as soon as possible to permit the Chapter 11 Debtors to access the liquidity necessary for them to continue as a going concern and to implement the restructuring contemplated by the RSA and the Plan.

73. If the restructuring is implemented, it is anticipated that Hollander Canada will continue as a going concern, resulting in, among other things, the continuing employment of approximately 240 Canadian employees. In addition, it is anticipated that trade creditors, customers, landlords and other third party stakeholders will benefit from the continued operation of Hollander Canada's business.

74. If, however, the restructuring is not implemented, a liquidation of the business and assets of the Chapter 11 Debtors, including Hollander Canada, will be the likely result. In a liquidation scenario, Hollander Canada's unsecured creditors are likely to suffer a substantial or complete shortfall in the recoveries on their claims. The book value of Hollander Canada's current assets is

not reflective of the realizable value of its assets in a liquidation scenario. In addition, Hollander Canada currently has liabilities of approximately \$15.8 million and a large number of additional “off balance sheet” liabilities would arise if Hollander Canada were to cease operations and liquidate, including claims in respect of lease terminations, breach of contract and termination and severance pay for Hollander Canada’s approximately 240 employees.

75. The proposed Information Officer has prepared a liquidation analysis evaluating the impact of a liquidation scenario on creditors of Hollander Canada (the “**Liquidation Analysis**”) and has determined that such a liquidation would result in Hollander Canada’s unsecured creditors receiving nominal recoveries, if any. I understand from the proposed Information Officer that the Liquidation Analysis will be included in a Confidential Appendix to the proposed Information Officer’s Pre-filing Report (the “**Confidential Appendix**”). The Applicant is requesting that a sealing order be granted with respect to the Confidential Appendix, as it contains confidential and commercially sensitive information which would result in material prejudice to the Chapter 11 Debtors, including to the Houlihan sale process, should it be disclosed.

76. In light of the foregoing, a going concern outcome is in the best interests of Hollander Canada and all of its stakeholders. A going concern outcome is only available if the relief sought is granted. The proposed DIP Facilities and Plan are supported by all creditors and key stakeholders with an economic interest in Hollander Canada.

VII. Relief Sought

A. Recognition of Foreign Proceedings

77. The Applicant seeks recognition of the Chapter 11 Cases as “foreign main proceedings” pursuant to Part IV of the CCAA. Other than Hollander Canada, all of the remaining Chapter 11

Debtors are incorporated under U.S. law, have their registered head office and corporate headquarters in the U.S., carry out their business in the U.S. and have all or substantially all of their assets located in the U.S. While Hollander Canada maintains a sales office in Ontario and one manufacturing facility in each of Ontario and Québec, only minimal administrative functions are carried out in Canada – Hollander Canada is, for all intents and purposes, administered and managed out of the United States.

78. As described above, Hollander is managed on a consolidated basis and its Canadian operations are dependent on and integrated with the U.S. operations. Hollander Canada would not be able to function as an independent entity without the corporate functions performed by the Chapter 11 Debtors in the U.S.

B. Recognition of the First Day Orders

79. By operation of the U.S. Bankruptcy Code, the Chapter 11 Debtors obtained the benefit of a stay upon filing the voluntary petitions with the U.S. Court. A stay of proceedings in Canada is essential to protect the efforts of Hollander to proceed with the Chapter 11 Cases and to pursue the Plan.

80. On May 19, 2019, the Chapter 11 Debtors filed certain First Day Motions. On May 21, 2019, the U.S. Court heard several (but not all) of the First Day Motions and entered seven (7) interim or final orders on May 22 and 23, 2019 (the “**First Day Orders**”). Two further court dates have been scheduled with the U.S. Court to hear the remaining First Day Motions and certain anticipated “day two” motions.

81. At this time, the Applicant is seeking recognition of the seven (7) First Day Orders issued by the U.S. Court on May 22 and 23, 2019.

82. The First Day Motions heard by the U.S. Court on May 21, 2019 can be summarized as follows:

- (a) *Debtors' Motion for Entry of an Order (I) Authorizing Hollander Sleep Products to Act as Foreign Representative and (II) Granting Related Relief* (the “**Foreign Representative Motion**”): Pursuant to this motion, Hollander Sleep Products sought an order authorizing Hollander Sleep Products to act as the “foreign representative” in order to seek the relief sought in this Application.
- (b) *Debtors' Motion for Entry of an Order (I) Directing Joint Administration of Chapter 11 Cases; and (II) Granting Related Relief* (the “**Joint Administration Motion**”): This motion sought an order authorizing the joint administration of the various Chapter 11 Cases filed by the Chapter 11 Debtors and related procedural relief.
- (c) *Debtors' Motion Seeking Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Pay Prepetition Wages, Salaries, Other Compensation, and Reimbursable Expenses and (B) Continue Employee Benefits Programs, and (II) Granting Related Relief* (the “**Employee Wages Motion**”): This motion described and sought an order approving the continuation of the Chapter 11 Debtors' prepetition employee obligations in the ordinary course of business, and authority to pay and honour certain prepetition claims relating to, among other things, wages, salaries and other compensation. With respect to Canada in particular, the Chapter 11 Debtors sought authorization, among other things, to: (i) pay all outstanding prepetition amounts on account of unpaid wage and salary obligations for Hollander Canada employees consistent with past practice, and to continue paying such wages

and salary obligations in the ordinary course of business; (ii) pay in a manner consistent with historical practice any unpaid withholding obligations and to continue to honour withholding obligations in the ordinary course of business during the administration of the Chapter 11 Cases; and (iii) to pay all outstanding prepetition amounts incurred by Hollander Canada employees on account of reimbursable expenses, and continue to pay such reimbursable expenses on a post-petition basis.

- (d) *Debtors Motion Seeking Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Continue to Operate their Cash Management System and (B) Honour Certain Prepetition Obligations Related Thereto, (C) Maintain Existing Business Forms, and (D) Continue to Perform Intercompany Transactions, and (II) Granting Related Relief* (the “**Cash Management Motion**”): The Cash Management Motion contained a detailed description of the Chapter 11 Debtors’ cash management system, including the Canadian Operations Accounts, and sought an order authorizing the ongoing use of that system, including access to the Canadian Operations Accounts. It also sought relief to permit intercompany advances.
- (e) *Debtors’ Motion for Entry of Interim and Final Orders (I) Authorizing the Chapter 11 Debtors to Obtain Postpetition Financing, (II) Authorizing the Chapter 11 Debtors to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection to the Prepetition Lenders, (V) Modifying the Automatic Stay, (VI) Scheduling a Final*

Hearing, and (VII) Granting Related Relief (the “**DIP Motion**”). The DIP Motion is described below.

- (f) *Debtors’ Motion Seeking Entry of Interim and Final Orders (I) Authorizing the Debtors to Pay Certain Prepetition Claims of (A) Lien Claimants, (B) Import Claimant (C) Section 503(B)(9) Claimants (D) Foreign Vendors, (E) Critical Vendors, (II) Confirming Administrative Expense Priority of Outstanding Orders, and (III) Granting Related Relief* (the “**Critical Vendors and Shippers Motion**”): This motion described lien claimants, critical vendors, customs brokers and warehousemen, among others, that provide specific services to the Chapter 11 Debtors. Through this motion, the Chapter 11 Debtors sought, among other things, an order authorizing them to pay certain pre-petition amounts to such critical third parties, including third parties who provide services to Hollander Canada, to maintain stability during the opening days of the Chapter 11 Cases and to avoid jeopardizing the Chapter 11 Debtors’ ability to serve their customers going forward.
- (g) *Debtors’ Motion for Entry of Interim and Final Order (A) Authorizing the Debtors to Maintain and Administer Their Existing Customer Programs and Honour Certain Prepetition Obligations Related Thereto and (B) Granting Related Relief* (the “**Customer Programs Motion**”): This motion described and sought the continuation, in the discretion of the Chapter 11 Debtors, of various customer programs that Hollander offers, including markdown allowances, discounts, returns, and cooperative marketing programs. It is essential that Hollander maintain customer loyalty and goodwill by maintaining and honouring the programs.

C. DIP Motion

83. As described in more detail in the DIP Motion, the Chapter 11 Debtors (including Hollander Canada) sought the authority from the U.S. Court to enter into:

- (a) a debtor-in-possession senior secured ABL credit agreement (the “**DIP ABL Credit Agreement**”) with Wells Fargo Bank, National Association as agent (in such capacity, the “**DIP ABL Agent**”) and the lenders who from time to time are a party thereto (the “**DIP ABL Lenders**”) with respect to a senior secured credit facility in an aggregate amount not to exceed \$90 million (as above, the DIP ABL Facility); and
- (b) a DIP senior secured term loan agreement (the “**DIP Term Loan Credit Agreement**” and together with the DIP ABL Credit Agreement, the “**DIP Agreements**”) with Barings Finance LLC, as administrative agent (in such capacity, the “**DIP Term Loan Agent**”), and the financial institutions who from time to time are a party thereto (collectively, the “**DIP Term Loan Lenders**” and together with the DIP ABL Lenders, the “**DIP Lenders**”) in the aggregate amount not to exceed \$28 million (as above, the DIP Term Loan Facility).

84. Full details regarding the Chapter 11 Debtors request for the DIP Facilities are set out in the DIP Motion and are not repeated herein. In addition, matters related to the granting of adequate protection in respect of the DIP ABL Credit Agreement and the DIP Term Loan Credit Agreement are addressed therein.

85. Briefly, some of the significant features of the DIP ABL Facility—the critical facility from the perspective of Hollander Canada—include:

- (a) *Borrowers:* Hollander Home Fashions Holdings, LLC; Hollander Sleep Products; Hollander Sleep Products Kentucky, LLC; Hollander Canada; Pacific Coast Feather, LLC; and Pacific Coast Feather Cushion, LLC.
 - (b) *Guarantors:* Dream II Holdings, LLC.
 - (c) *Amount:* Up to \$90 million. However, Hollander Canada is only entitled to borrow \$20 million under the DIP ABL Facility, less the amount of Hollander Canada's prepetition obligations under the ABL Credit Agreement that are rolled-up into the DIP ABL Facility.
 - (d) *Rate:* Loans will bear interest, at the option of the Borrowers, at one of the following rates: (i) if a US Revolving Loan or Canadian obligation is a Base Rate Loan, the Base Rate + 2.00% and (ii) if a US Revolving Loan or Canadian obligation is a Non-Base Rate Loan, LIBOR + 4.00%.
 - (e) *Security:* all present and after acquired real and personal property of the Chapter 11 Debtors.
 - (f) *Events of Default:* Various events of default as set out therein.
 - (g) *Remedies upon Default:* Upon default, the DIP ABL Lenders, among other things, may terminate their obligations under the DIP ABL Facility and demand immediate repayment of all or part of the borrowers' obligations without further notice.
86. Some of the significant features of the DIP Term Loan Facility include:
- (a) *Borrower:* Hollander Sleep Products.

- (b) *Guarantors:* All Chapter 11 Debtors, excluding Hollander Sleep Products and Hollander Canada.
- (c) *Amount:* Up to \$28 million.
- (d) *Rate:* Loans will bear interest, at the option of the Borrower, at one of the following rates: (i) LIBOR Rate Loans: LIBOR + 7.00% and (ii) Base Rate Loans: Base Rate + 6.00%.
- (e) *Security:* all real and personal property, whether now existing or hereafter arising and wherever located, tangible and intangible of the Chapter 11 Debtors, except for Hollander Canada.
- (f) *Events of Default:* Various events of default as set out therein.
- (g) *Remedies upon Default:* Upon default, the DIP Term Loan Lenders, among other things, may terminate their obligations under the DIP Term Loan Facility and demand immediate repayment of all or part of the borrowers' obligations without further notice.

87. Immediate access to incremental liquidity pursuant to the DIP Facilities is critical to preserving the value of the Chapter 11 Debtors' estates (including Hollander Canada's estate) and maximizing the likelihood of a going-concern reorganization. Ample post-petition financing is necessary to send a strong market signal that the Chapter 11 Cases are well-funded.

88. The ability of the Chapter 11 Debtors, including Hollander Canada, to maintain business relationships with their vendors, suppliers and customers, to pay their employees and otherwise finance their operations requires the availability of working capital from the DIP Facilities. This

is particularly critical at this stage given the upcoming “back to school” season, being the peak selling season for Hollander Canada. The Chapter 11 Debtors, including Hollander Canada on a standalone basis, do not have sufficient available sources of working capital and financing to operate their businesses or maintain their properties in the ordinary course of business without immediate access to the DIP Facilities.

89. In addition, the DIP ABL Lenders have indicated that they are unwilling to make the DIP ABL Facility available to the Chapter 11 Debtors unless Hollander Canada is jointly and severally liable for all of the outstanding obligations under the DIP ABL Facility (including those incurred by the U.S. borrowers). In recognition of, and in response to, the demands for security from Hollander Canada, the Chapter 11 Debtors negotiated several forms of protections in the DIP ABL Facility which are designed to mitigate against any material prejudice to creditors of Hollander Canada. I understand that all of these efforts (and the results therefrom) were supported by the proposed Information Officer and its independent counsel.

90. First, the DIP ABL Lenders have agreed to a provision in the DIP Order pursuant to which the DIP ABL Agent is obligated to first look to proceeds of the Chapter 11 Debtors’ U.S. collateral to satisfy any outstanding obligations of the U.S. Chapter 11 Debtors under the DIP ABL Facility and to the proceeds of the Chapter 11 Debtors’ Canadian collateral to satisfy any outstanding obligations of Hollander Canada under the DIP ABL Facility. Only once the collateral in the U.S. has been exhausted can the DIP ABL Lenders look to the proceeds of Canadian assets to satisfy any outstanding U.S. obligations.

91. Second, the DIP ABL Facility, the Term DIP Facility and the DIP Order have been structured such that if the Chapter 11 Debtors (other than Hollander Canada) require access to the Canadian collateral for additional borrowings, Hollander Canada will borrow such amounts under

the DIP ABL Facility (up to the Canadian Maximum Revolver Amount) and then lend such borrowed amounts to the applicable Chapter 11 Debtor on a superpriority administrative expense basis. The superpriority “intercompany” charge would rank junior to the DIP ABL Lenders and ABL Lenders but senior to the Term DIP Loan Lenders and Term Loan Lenders on the ABL Priority Collateral and junior to the Term DIP Loan Lenders, the Term Loan Lenders, the DIP ABL Lenders and the ABL Lenders on the Term Priority Collateral. Amounts for shared services provided to Hollander Canada by the U.S. Chapter 11 Debtors will be offset against any such intercompany loans.

92. As described further in the DIP Motion, the Chapter 11 Debtors have determined, in the exercise of their business judgment, that the terms of the DIP ABL Facility are reasonable and appropriate in the circumstances. Without immediate access to the DIP Facilities, the Chapter 11 Debtors, including Hollander Canada on a standalone basis, would be unable to operate their business and maintain business relationships with their vendors, suppliers and customers, pay their employees or otherwise finance their operations, and their ability to preserve and maximize the value of their assets would be irreparably harmed.

93. Should the above occur, it would have a disastrous effect on Hollander Canada and Hollander more generally. To survive as a going concern, Hollander Canada requires the Chapter 11 Debtors in the U.S. to remain as a going concern. Hollander Canada depends on its U.S. counterparts to source and obtain high quality, low cost supplies from Hollander’s partners, and to access Hollander’s licensing agreements, design partnerships and company-owned brands, and other trademarks and IP (substantially all of which are owned or controlled by the U.S. Chapter 11 Debtors).

94. The amount actually borrowed by the Chapter 11 Debtors under the DIP ABL Credit Facility is proposed to be secured by, among other things, a Court-ordered charge on Hollander Canada's property and the property of the other Chapter 11 Debtors in Canada, if any, that ranks in priority to all unsecured claims, but is subordinate to the proposed Administration Charge (defined below) and to secured creditors with existing perfected security interests (the "**DIP ABL Charge**").

VIII. U.S. Court Hearing

95. On May 23, 2019, the U.S Court entered the interim DIP Order, in addition to other interim and final First Day Orders entered on May 22nd and 23rd. A copy of each of the First Day Orders are attached to the Barz Affidavit as Exhibit "O".

IX. Appointment of Information Officer

96. As part of its application, the Applicant is seeking to appoint KSV as the information officer (the "**Information Officer**") in this proceeding. KSV is a licensed trustee in bankruptcy in Canada and its principals have acted as an information officer in several previous ancillary proceedings (both under Part IV of the CCAA as well as the former section 18.6 of the CCAA).

97. KSV has consented to acting as Information Officer in this proceeding. A copy of KSV's consent to act as Information Officer is attached hereto as Exhibit "F".

98. The Chapter 11 Debtors propose to grant the proposed Information Officer and its legal counsel an administration charge with respect to their fees and disbursements in the maximum amount of US\$200,000 (the "**Administration Charge**") on Hollander Canada's property in Canada. The U.S. Chapter 11 Debtors do not have any assets in Canada. I believe the amount of the charge to be reasonable in the circumstances, having regard to the size and complexity of these

proceedings and the roles that will be required of the proposed Information Officer and its legal counsel.

X. Proposed Next Hearing

99. As set out above, Hollander Sleep Products, as the Foreign Representative, is seeking recognition of the above-noted “interim orders” including the DIP Order.

100. Hollander Sleep Products intends to seek a further hearing for recognition of any corresponding “final orders” if and when issued by the U.S. Court and would expect to address any other matters at that time. As noted above, Hollander Sleep Products also intends to seek a further hearing for recognition of the Final DIP Order (as defined in the First Day Declaration) if and when issued by the U.S. Court.

XI. Notice

101. This application has been brought on notice to the DIP Lenders and the proposed Information Officer. The major stakeholders of the Chapter 11 Debtors are located in the U.S. and notice will be given to them within the Chapter 11 Cases.

102. The information regarding these proceedings will be provided to Hollander Canada’s stakeholders by and through the Information Officer. If the Orders sought are granted, Hollander Canada proposes that a notice of the recognition orders be published for two consecutive weeks in

- 38 -

The Globe and Mail (National Edition) pursuant to the CCAA and all Canadian Court materials in these proceedings will be available on the Information Officer's website.

SWORN BEFORE ME at the City of New York in the State of New York on May 23, 2019.

James F. Hickey SS: N.Y.

JAMES F. HICKEY
Notary Public, State of New York
Registration #01HI6340819
Qualified In Queens County
Commission Expires April 25, 2020



MARC PFEFFERLE

THIS IS EXHIBIT "A" REFERRED TO IN THE
AFFIDAVIT OF MARC PFEFFERLE SWORN
ON MAY 23, 2019.

James F. Hickey SS: N.Y.

JAMES F. HICKEY
Notary Public, State of New York
Registration #01HI6340819
Qualified In Queens County
Commission Expires April 25, 2020



Joshua A. Sussberg, P.C.
Christopher T. Greco, P.C.
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

Joseph M. Graham (*pro hac vice* pending)
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
300 North LaSalle
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Proposed Counsel to the Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:	)	Chapter 11
HOLLANDER SLEEP PRODUCTS, LLC, <i>et al.</i> , ¹	)	Case No. 19-11608 (___)
Debtors.	)	(Joint Administration Requested)

**DECLARATION OF MARC PFEFFERLE,
CHIEF EXECUTIVE OFFICER OF HOLLANDER SLEEP PRODUCTS, LLC,
IN SUPPORT OF DEBTORS' CHAPTER 11 PETITIONS AND FIRST DAY MOTIONS**

I, Marc Pfefferle, Chief Executive Officer of the above-captioned debtors and debtors in possession (collectively, "Hollander," the "Company," or the "Debtors"), hereby declare under penalty of perjury:

1. I am a Partner at Carl Marks Advisors. Carl Marks was retained by Hollander on March 28, 2019, and I was appointed CEO on the same day. I have been with Carl Marks since 1992. Before joining Carl Marks, I was a Partner with Marigold Associates, a strategic management consulting firm serving Fortune 100 companies, and before that I worked for

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors' service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

Price Waterhouse LLP. I have over thirty years of experience providing restructuring and reorganization services for companies, creditors, and other stakeholders across a variety of industries, including consumer products, retail, manufacturing, and distribution related businesses.

2. I am familiar with the Debtors' day-to-day operations, business and financial affairs, and books and records. I submit this declaration in support of the Debtors' chapter 11 petitions and certain motions and applications filed today. Following a brief introduction, this declaration is separated into four parts, answering three key questions and providing the evidentiary support for the Debtors' first day relief: **Part I** "Who is Hollander?"; **Part II** "How did we get here?"; **Part III** "Where do we go from here?"; and **Part IV** evidentiary support for each of the motions and pleadings filed contemporaneously herewith.²

3. Except as otherwise indicated, all facts in this declaration are based upon my personal knowledge, my discussions with the Debtors' management team and advisors (including the Carl Marks team working under my supervision), my review of relevant documents and information concerning the Debtors' operations, financial affairs, and restructuring initiatives, or my opinions based upon my experience and knowledge. I am over the age of 18 and authorized to submit this declaration on behalf of the Debtors. If called upon to testify, I could and would testify competently to the facts set forth in this declaration.

Introduction³

4. Hollander—an industry leader in the bedding products market—manufactures, among other bedding products, pillows, comforters, and mattress pads. Hollander produces these

² The exhibits attached hereto set out certain additional information about the Debtors, including the information required by rule 1007-2 of the Local Bankruptcy Rules for the Southern District of New York (the "**Local Rules**").

³ Terms capitalized but not defined herein shall have the meanings ascribed to them in the *Debtors' Motion for Entry of Interim and Final Orders (A) Authorizing the Debtors to Obtain Postpetition Financing, (B) Authorizing the Debtors to Use Cash Collateral, (C) Granting Liens and Providing Superpriority Administrative Expense*

items for well-known licensed brands, including Ralph Lauren®, Simmons®, Beautyrest®, Nautica®, and Calvin Klein®. Hollander also owns and manufactures bedding products under its own proprietary brands, including Great Sleep®, I AM®, LC®, PCF®, and Restful Nights®. Hollander, in turn, partners with major retailers and hotel chains, including long-standing relationships with, among others, Costco, Kohl's, Walmart, Target, and Marriott.

5. Recent substantial price increases on materials have significantly reduced Hollander's profit margins for many products, which are generally sold on low profit margins to begin with. The Company has also been integrating the operations of Pacific Coast Feather Company ("PCF"), which was acquired in 2017. This has necessitated the expenditure of additional capital, notwithstanding that the acquisition itself has otherwise been a net positive for operations. And with \$233 million of outstanding indebtedness and limited access to credit, the Company is facing severe liquidity constraints. In fact, the Debtors have only \$523,000 in cash on hand.

6. These circumstances necessitated the commencement of comprehensive restructuring negotiations with the Company's stakeholders (and ultimately these chapter 11 cases) to ensure access to capital and the preservation of business operations for years to come. These discussions were successful.

7. The Company has reached agreement with its secured lenders and Sentinel Capital Partners, LLC, a lender and majority equityholder, on a comprehensive restructuring process that will ensure the viability of the business.⁴ More specifically, the Company, 100% of the secured

Status, (D) Granting Adequate Protection to the Prepetition Secured Parties, (E) Modifying the Automatic Stay, (F) Scheduling a Final Hearing, and (G) Granted Related Relief, filed contemporaneously herewith.

⁴ As discussed more fully below, in addition to being the Company's primary equityholder, Sentinel is required to purchase participation interests in a last-out loan subject to the terms and conditions of the Put Agreement (as defined herein).

term loan lenders, and Sentinel entered into a restructuring support agreement, dated as of May 19, 2019 (the “RSA”), a copy of which is attached hereto as Exhibit A. The RSA contemplates, and the Debtors have filed, a comprehensive chapter 11 plan (the “Plan”).

8. Hollander’s asset-based secured lenders have agreed to provide a \$90 million debtor-in-possession asset-based loan facility and certain term loan lenders are providing an additional \$28 million term loan facility to fund these chapter 11 cases. Hollander has also secured an agreement to have the debtor-in-possession term loan facility convert into a \$58 million exit term loan facility upon emergence, which provides an additional \$30 million in incremental liquidity to fund go-forward operations. Sentinel has agreed to support the Plan, including rolling its participation interests in the prepetition asset-based financing facility and converting its loans, in a last-out position, in any proposed exit asset-based financing facility. The new money term loan exit financing is committed, thus ensuring that the Company is able to finance its emergence from chapter 11 without the need to raise additional financing. The agreed-upon restructuring transactions provide a clear path to emergence and result in a substantial deleveraging of approximately \$166.5 million.

9. The Plan also includes a sale “toggle” feature, allowing for a potential sale to a third party supported by the secured lenders and accomplished through the Plan. Thus, in all circumstances, and as contemplated in the RSA, the term loan lenders have agreed to support confirmation of the Plan. The Company has filed a motion to establish bidding procedures associated with any potential sale transaction to be implemented through the Plan.

10. To ensure the least disruption to operations and minimize the cost of these cases, Hollander and its stakeholders have agreed upon an expedited timeline to effectuate this comprehensive restructuring. The proposed timeline is as follows, subject to Court availability:

Deadline	Proposed Date
Deadline to file Disclosure Statement	June 12, 2019
Preliminary Bid Deadline	July 1, 2019
Disclosure Statement Hearing	July 17, 2019, or as soon thereafter as the Debtors may be heard.
Bid Deadline	July 26, 2019
Auction	August 1, 2019
Plan and Sale Objection and Plan Voting Deadlines	August 19, 2019
Confirmation Hearing	August 26, 2019, or as soon thereafter as the Debtors may be heard.

These deadlines were heavily negotiated, and I am confident that the Debtors will be able to move forward and achieve their goals in these cases.

Part I. **Who Is Hollander?**

I. Hollander's Corporate History.

11. In 1953, Bernard Hollander started selling pillows door-to-door, operating out of his garage under the name Hollander Home Fashions. Shortly thereafter, Hollander purchased a vacant manufacturing plant to expand its operations.



A second generation of Hollanders later opened additional factories in Chicago and Los Angeles. Over the next several decades, the Company experienced significant growth, both organically and through the acquisition of competitors. This included licensing arrangements for several well-known brands, including Ralph Lauren®, and the acquisition of Louisville Bedding Company (“LBC”) in May 2013 and PCF in June 2017. The Company also developed its own brands, including Live Comfortably® and its associated sub-brands.

12. The Hollander family sold the business to HGGC, LLC in 2009. In October 2014, Sentinel purchased the Company from HGGC, LLC, and has been the Company's controlling equityholder ever since. Today, the Company is headquartered in Boca Raton, Florida, operates a primary show room in New York City, and has thirteen manufacturing facilities throughout the United States and Canada. In addition to its North American operations, the Debtors' non-debtor affiliates maintain a sourcing, product development, and quality control office in China. The Company generated approximately \$526.9 million in net revenue in fiscal year 2018 and currently employs more than 2,300 people across the United States and Canada. The Company has approximately \$233 million in funded debt.

A. Business Segments.

13. Hollander designs, manufactures, markets, and distributes a variety of basic bedding products, including pillows, mattress pads, comforters, and foam. Over the last few years, Hollander has expanded into additional segments of the sleep market, such as the natural-fill, hospitality, and cushion segments, and has extended its reach into the segments in which it has always operated, both through strategic acquisitions of competitors and through brand and product development.

14. Hollander maintains seven entities operating two primary business segments: the top-of-bed segment and the cushion (or furniture) segment. Approximately 95% of the Debtors' sales come from wholesale distribution, including to department stores, mass merchants and clubs, off-price retailers, specialty retailers, and hospitality customers. Approximately 5% of the Debtors' sales are from online sales. Recently, the Debtors have been working to increase their direct-to-consumer sales through e-commerce connections with their own websites, established retailers, and online marketers.

i. The Top-of-Bed Segment.

15. Before the PCF acquisition, Hollander’s products were segmented into four primary categories, all of which fall within the “top of bed” segment of the overall basic bedding market: (a) bed pillows, (b) mattress pads and toppers, (c) comforters, and (d) foam.



16. **Bed Pillows.** Hollander is the largest bed pillow manufacturer in the world, producing over 75 million pillows annually. The Company maintains an estimated 35% share of the \$1 billion bed pillow market.⁵ Historically, the bed pillow segment has been the most profitable and predictable segment within the basic bedding category, and bed pillows represent Hollander’s largest product category.

17. The Company sells bed pillows across its brand portfolio, including proprietary brands, licensed brands, and retail partner brands. Selling a variety of brands of bed pillows has allowed the Company to effectively address the entire market: mass/club (51% of the Company’s sales), department store (8%), specialty (13%), and discount (15%) sales channels at leading

⁵ All references to a “market” refer to the brick-and-mortar wholesale channel and do not include online retailers.

retailers such as Walmart, Costco, Bed Bath & Beyond, Kohl's, Target, Bloomingdale's, and Macy's. In recent years, the Company has also worked on developing its hospitality business (8% of sales) and its online sales (5%). The Company primarily sells synthetic pillows, but also sells natural pillows. Generally, raw materials are shipped from suppliers—including foreign suppliers in China, India, Pakistan, Indonesia, and South Korea—to the Company's manufacturing facilities in North America, where they are filled and sewed.

18. ***Mattress Pads/Toppers.*** The Company's acquisition of LBC allowed it to become a more significant provider of mattress pads. The Company maintains an estimated 15% share of the \$400 million mattress pad market. The Company offers synthetic mattress pads under a variety of brands, in various design options, to reach the entire market. While some labor-intensive mattress pads are sourced retail-ready from China, the Company generally sources raw materials from its Asian vendors and processes, manufactures, and sews the majority of mattress pads in its Montreal, Canada and Munfordville, Kentucky facilities. Similarly, mattress toppers, containing feathers, down, and synthetic fibers, are filled and sewed in North America from foreign-sourced materials.

19. ***Comforters.*** The Company also has a significant share of the comforter market, maintaining an estimated 10% share of the \$450 million comforter market. Comforters are a natural product extension in the basic bedding market and are sold to the same customer base as pillows and mattress toppers. The Company sources and/or produces both down-alternative comforters and down comforters, which are sold primarily through major retailers and department stores.

20. ***Foam.*** The Company's acquisition of LBC paved its entry into the billion-dollar foam market. Foam products are a natural product extension in the basic bedding market and are sold to the same customer base as bed pillows and mattress pads, furthering the Company's goal

of being a one-stop-shop for sleep solutions. Foam products are made in the United States, Canada, and Asia with foam sourced from several providers around the globe, and are sold primarily through mass/club, department, specialty, and discount sales channels at leading retailers.

ii. The Cushion Segment.

21. The 2017 PCF acquisition strengthened the Company's position in the bed pillow, comforter, and mattress pad sub-segments and allowed the Company to enter the cushion and furniture segment. Today, the Company is the largest provider of natural-fill cushions in the United States with an estimated 33–35% market share.

22. Unlike the rest of Hollander's business, the cushion business is a manufacturer-to-manufacturer business and does not focus on bed dressings or accessories. The Company's cushion segment is a stable and profitable standalone business, but it does rely upon Hollander for accounting, human resources, IT, and other support services. Products are manufactured in dedicated plants in Pico, California and High Point, North Carolina. Finished products are sold directly to furniture producers for use as component parts in chairs, couches, and similar products. While the end products produced in the cushion segment are not closely related to the Company's other products, the fill material required to produce cushions is substantially the same as the fill material required to produce top-of-bed products. The cushion segment has been, and remains, one of the Company's most reliable profit contributors.

B. Canadian Proceedings.

23. Debtor Hollander Sleep Products Canada Limited ("Hollander Canada") will commence proceedings (the "Canadian Proceedings") under the Companies' Creditors Arrangement Act (the "CCAA") in Canada. Hollander Canada will request that the Canadian Court treat Hollander Canada's chapter 11 case as a "foreign main proceeding" under the applicable provisions of the CCAA—similar to the chapter 15 process under the Bankruptcy Code.

To commence the Canadian Proceedings, Hollander Canada has filed a motion with the Court requesting authority for Hollander Sleep Products, LLC to act as Hollander Canada's "foreign representative," as required under the CCAA. Hollander Canada will file a similar corresponding motion in the Canadian Proceedings shortly after the hearing on the First Day Motions (as defined herein). The Canadian Proceedings will be ancillary in nature to these chapter 11 cases, which will be the focus of the Debtors' restructuring efforts.

C. The Debtors' Non-Debtor Affiliates.

24. The Debtors have two affiliates in China that are not part of these chapter 11 cases. These non-debtor entities provide manufacturing product support services and quality control operations for the Debtors. The non-debtor affiliates are not liable for any of the Debtors' outstanding funded debt obligations.

II. The Debtors' Cost Structure.

A. Design.

25. Basic bedding products do not experience rapid change or technological advancements, but industry players compete to innovate and provide improved products, such as cooling treatments, eco-friendly products, and high-performance foam. Investments in product development attract new customers and provide for increased profit margins over time. Hollander has a strong industry track record for delivering new technologies and enhanced products.

26. Hollander utilizes a development team with diverse backgrounds in industries such as home products, apparel, and packaging who in turn work with graphic designers, sales and marketing professionals, and senior management to ensure they are capturing customer needs, product specifications, and appropriate costs in developing new products. There are three different development processes the Company uses to develop new products and enhancements: (a) developing products based on specifications provided by retailers; (b) evaluating trends in the

industry and attempting to develop innovative products to match them; and (c) working with suppliers to commercialize supplier-pitched innovations into viable products.

27. On average, it takes at least six months from the generation of an idea to begin shipping a product to customers. After innovations have been rolled out, the Company's development team continues the dialogue with the relevant parties to obtain feedback and potentially begin developing new products. Recent innovations include (a) asthma-sensitive natural-fill bedding products, (b) memory foam substitutes with increased flexibility and comfort (without the excess heat and odors associated with memory foam), (c) a patent pending comforter for hotels, which will ease housekeeping, and (d) cooling and air-flow technology to help with the heat trapping in certain bedding materials.

28. Costs attributed to the design function are primarily labor related. In 2018, the Debtors' design function generated annual costs of approximately \$3.7 million.

B. Production and Shipping.

29. The Debtors' production and shipping process is geographically dispersed around the world. The Company works with a network of suppliers and purchases materials including polyester fibers, fabrics, pillow and comforter shells, and certain retail-ready products. A significant portion of these products are purchased from China, Pakistan, and India, as well as Indonesia, South Korea, Vietnam, Malaysia, and the United Arab Emirates. The Company consistently monitors and works to develop new sourcing opportunities to maximize quality and minimize purchase costs. The Company maintains a Shanghai office to manage overseas production, quality, and inspection, and to establish and maintain supplier relationships, and employs two individuals in Mumbai to assist with similar tasks in India and Pakistan.

30. The Company has the industry's largest manufacturing and distribution footprint in North America. Filling, final sewing, packaging, and shipping of finished goods is performed at

the Company's thirteen North American factories, which are strategically placed across the United States, with locations in Pennsylvania, Kentucky (two), North Carolina (two), Iowa, Georgia, Texas, and California (three), and Canada, with locations in Montreal and Toronto. This manufacturing and distribution network provides the Company with significant flexibility in processing and shipping orders, and shipments can reach almost anywhere in the United States and eastern Canada within a 24-hour period, which is important for high-volume retailers that rely on the Company's prompt shipping. In 2018, the Debtors' plants generated annual costs, excluding materials, of approximately \$130 million.

C. Advertising and Marketing.



31. The Company's advertising and marketing team arranges for a multi-faceted marketing plan that works to promote the Company's products and brands through "pull" marketing—which focuses on establishing multiple touch points directly with consumers through the Company's website and social media accounts on Facebook, Twitter, and Instagram—and trade advertising. The Company utilizes innovative packaging and end-cap placement in retail stores, participates in trade shows, and promotes its products in related publications.

D. Sales.

32. The Company has established a sales and marketing strategy centered on a customer-by-customer approach, rather than emphasizing products by category.

Additionally, various departments within the Company collaborate to support the sales department's efforts, including the forecasting department, the merchandising department, and the production department. The goal is for the Company to present each one of its customers with a comprehensive proposal to address all of its sleep solution needs.

33. The sales department includes two different groups of employees: its internal sales force and its customer support service team.

34. ***Internal Sales Force.*** The Company has developed an internal sales force, which, in turn, has developed strong, longstanding relationships throughout the industry. These relationships with key mass/club, department store, specialty, and discount retailers, and with hospitality distributors, have been built to such a point that the sales force serves as a consultant or category advisor to certain customers in addition to serving as a supplier. The sales force also has the responsibility of working internally with each department in the Company (merchandising, marketing, finance, forecasting, supply chain, quality, and manufacturing), to ensure customers' expectations are exceeded.

35. ***Customer Support Service Team.*** Sales representatives double as customer liaisons, working with others within the Company to gather materials to present retail customers with consumer research, competitive products analysis, and product education. This includes not only macro-level trends but also a micro-level analysis based on real-time, item-level data regarding the sales, costs, and margins of various products, as well as "what if" analyses of possible scenarios. The Company's sales team also provides in-store merchandising support and customer support programs, such as promotional coupons, back-to-school promotions, Black Friday promotions, and other periodic special promotions. The sales team also assists with retail "sleep schools," where a sales representative teaches the retail staff about the Company's products, facilitating effective sales to consumers.

E. The Debtors' Employees.

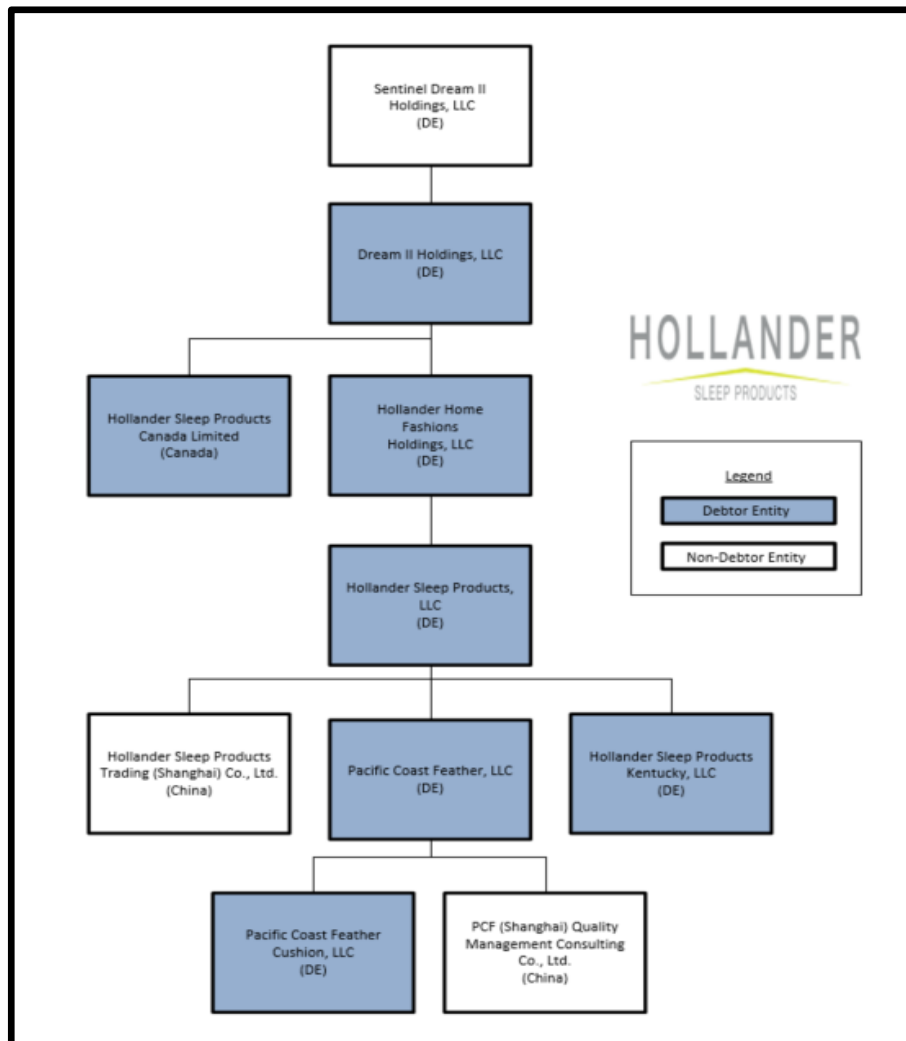
36. The Debtors employ approximately 2,370 people in the United States and Canada. Five hundred and eleven of the Debtors' employees in the United States are employed pursuant to the terms of a collective bargaining agreement.

F. Real Estate Obligations.

37. The Company owns one warehouse in Henderson, North Carolina and leases the remainder of its plants, warehouses, show rooms, and office spaces. The Debtors are reviewing and evaluating their real estate portfolio as part of these chapter 11 cases.

III. The Debtors' Prepetition Corporate and Capital Structure.

38. The below chart depicts the Debtors' current corporate structure:



39. Each Debtor is a direct or indirectly wholly-owned subsidiary of Debtor Dream II Holdings, LLC. The Company's two Chinese entities, Hollander Sleep Products Trading (Shanghai) Co., Ltd. and PCF (Shanghai) Quality Management Consulting Co., Ltd., will not be commencing chapter 11 cases.

40. The Debtors' capital structure consists of outstanding funded-debt obligations in the aggregate principal amount of approximately \$233 million, including a \$125 million senior secured revolving credit facility (the "ABL Facility") and a \$190 million secured term loan facility (the "Term Loan Facility"). Each Debtor is an obligor (either as a borrower or guarantor) under the ABL Facility and each Debtor, except for Hollander Canada, is an obligor (either as a borrower or a guarantor) under the Term Loan Facility.

A. Prepetition ABL Facility.

41. The ABL Facility provides for cash dominion when the excess availability under the ABL Facility is less than either (a) 12.5% of the maximum credit available under the ABL Facility or (b) \$12.5 million for three consecutive business days, at which point the ABL Agent can exercise certain controls over the Debtors' bank accounts. The Debtors have triggered cash dominion, and the ABL Agent currently sweeps the Debtors' accounts that are subject to control agreements daily. Substantially all of the Debtors' cash is subject to control agreements in favor of the ABL Agent. The amount outstanding under the ABL Facility is subject to fluctuations based on daily cash sweeps. The Debtors estimate that approximately \$61 million in principal will be outstanding as of the date hereof, not including approximately \$5 million in letters of credit (the "Prepetition ABL Obligations").

42. These Prepetition ABL Obligations are secured by a first lien on certain ABL-priority collateral of the Debtors, including certain accounts and inventory, Canadian assets, and a second lien on certain collateral on which the prepetition Term Loan Lenders have a first lien.

The relative rights and priorities among the ABL Lenders and Term Loan Lenders are governed by an intercreditor agreement.

B. Prepetition Put Agreement.

43. In November 2018, the Debtors entered into forbearances and an amendment to their ABL Credit Agreement and Term Loan Credit Agreement. In connection with these amendments, Sentinel Capital Partners V, L.P., Sentinel Dream Blocker, Inc., and Sentinel Capital Investors V, L.P. (collectively, together with their permitted successors and assigns, the “Purchasers”) entered into a Put Agreement, dated as of November 27, 2018 (the “Put Agreement”), in favor of the ABL Agent and SunTrust Bank, an ABL Lender. Subject to the terms and conditions set forth in the Put Agreement, upon the occurrence of certain events of default under the ABL Credit Agreement, the ABL Agent may cause the Purchasers to execute an agreement to purchase a participation interest in a subordinated last-out loan (the “Last-Out Loan”).

44. If the Purchasers fail to purchase their participation interest in the Last-Out Loan in accordance with the Put Agreement, the ABL Agent is permitted to draw from certain standby letters of credit that were posted by the Purchasers. The Purchasers share priority with the ABL Lenders with regard to the Debtors’ collateral but have agreed to subordinate their right to payment to the ABL Lenders until the Prepetition ABL Obligations are paid in full.

C. Prepetition Term Loan Facility.

45. As of the date hereof, approximately \$166.5 million in aggregate principal amount remains outstanding under the Term Loan Facility. The Term Loan Facility is secured by a first lien on certain collateral of the Debtors, except for Hollander Canada, and a second lien on certain collateral on which the ABL Lenders have a first lien. Hollander Canada’s assets are not

encumbered by the Term Loan Facility; however, the Term Loan Facility is secured by a pledge of 65% of Dream II Holdings, LLC's equity interest in Hollander Canada.

D. Equity Interests.

46. Debtor Dream II Holdings, LLC owns directly or indirectly 100% of the residual interests in each of the Debtors. Investment funds managed by Sentinel directly or indirectly hold the majority of the outstanding membership interests in Dream II Holdings, LLC.

Part II.
How Did We Get Here?

I. Factors Causing the Debtors' Performance Decline.

47. Material and other significant cost increases combined with continued integration overhang following the PCF acquisition have caused severe liquidity constraints. And considering the relentless competition in the overall marketplace, Hollander has been operating on its heels for the last several months.

48. More specifically, shortly after the PCF acquisition, the price of materials, including fiber, down, and feathers, increased dramatically. The financial impact of these unanticipated price increases was in excess of \$20 million over the course of approximately one year. At the same time, employee wages increased (as a result of natural wage inflation and the tight job market), as did the cost of freight, duty, and tariff charges. The Company, which relies on a substantial amount of low-margin sales to keep its sales volume at projected levels, was hesitant or otherwise unable to increase prices in response to these increased production costs. Recently, material prices, particularly in fiber, have showed some downward trends, and the Company is focused on right-sizing production and operational costs moving forward to reestablish cost parity with its key competitors.

49. Fortunately, the sleep industry as a whole is both healthy and growing. Market trends favor healthy lifestyle sectors, and the basic bedding segment is generally recession

resilient. Moreover, management has evaluated the Company's position and identified steps the Company can take to get back on track, including selective price increases and material efficiencies, continued diligence in cost-effective sourcing, investing in capital and technological advancements, streamlining the Company's manufacturing footprint, and building the Company's e-commerce business.

50. These chapter 11 cases provide the Company with the opportunity to right-size operations and invest in equipment and processes that will allow it to utilize raw material more efficiently, lower its production costs in the long term, and re-establish parity with its competitors. Additionally, the infusion of capital proposed as part of these chapter 11 cases will facilitate the completion of the PCF integration process and best position Hollander to realize returns on the PCF acquisition.

II. Governance.

51. In April and May 2019, respectively, Matthew R. Kahn was appointed as a disinterested director to the Board of Directors of Dream II Holdings, LLC and Hollander Canada, and subsequently granted exclusive authority over conflicts matters. Mr. Kahn has extensive experience serving on boards of managers and boards of directors in distressed situations. Mr. Kahn subsequently directed the Company to retain Proskauer Rose LLP as independent counsel acting at his direction to assist in the discharge of his duties.

Part III.

Where Do We Go From Here?

I. Restructuring Negotiations and Path Forward.

52. Beginning in November 2018, the Debtors engaged with the ABL Lenders and Term Loan Lenders, resulting in forbearances, amendments to the Debtors' credit agreements, and the Put Agreement. Over the following months, the Debtors recognized that a more comprehensive solution was required.

53. In February 2019, the Debtors initiated discussions with their ABL Lenders and Term Loan Lenders regarding potential balance sheet solutions to their liquidity problems. These discussions preceded the deadline for a March interest payment under the Term Loan Agreement. After exploring out-of-court possibilities, it became apparent that a significant deleveraging would be necessary. In February 2019, the Debtors retained Kirkland & Ellis LLP to advise on their restructuring alternatives; in late March the Debtors retained Carl Marks to provide management services; and in May, the Debtors retained Houlihan Lokey Capital, Inc. (“Houlihan”) as their financial advisor and investment banker.

54. Following significant back and forth, on May 19, 2019, the Debtors entered into the RSA with holders of over 100% in principal amount of loans under the Term Loan Facility and Sentinel. The RSA provides a commitment from the Debtors’ largest creditor constituency to support a substantial deleveraging of the Debtors’ approximately \$233 million funded debt capital structure. The RSA ensures that a chapter 11 plan will be confirmed in all circumstances and, most importantly, a viable business will continue to operate uninterrupted. To that end, securing committed exit financing was critical from the Company’s perspective, and Hollander was successful.

55. Houlihan also commenced a marketing process relating to the Debtors’ assets and will continue to actively solicit the market for potential financial and strategic buyers now that these cases have formally commenced. Any such sale would be implemented through the Plan. The Debtors will be willing to enter into a sale or a combination of sales if the Debtors believe, in their business judgment, that such transactions are higher or otherwise better than the proposed transaction embodied in the RSA and the Plan. Importantly, the parties to the RSA are active supporters of this market test process.

II. The Debtors' Need for Liquidity and the Proposed DIP Financing.

56. The Debtors have thus far largely been able to maintain the shipment and distribution of products (and thus the continued trust of their customers) notwithstanding their liquidity challenges, but the Debtors project they will run out of money as early as next week without an immediate infusion of post-petition financing and access to cash collateral, leaving the Debtors unable to pay wages for their employees or the invoices of vendors critical to business operations. Further, access to ample post-petition financing is necessary to send a strong market signal that these chapter 11 cases are well-funded. Accordingly, access to committed financing at the outset of these chapter 11 cases is necessary not only to operate, but also to quell uncertainty throughout the Debtors' supply chain that the Debtors will have the liquidity necessary to preserve and maximize the value of their estates and successfully emerge from chapter 11.

Part IV. **First Day Motions**

57. The Debtors have filed the following motions (collectively, the "First Day Motions") seeking relief that the Debtors believe is necessary to enable them to efficiently administer their estates with minimal disruption and loss of value during the chapter 11 cases:

- *Debtors' Motion for Entry of an Order (A) Directing Joint Administration of Chapter 11 Cases and (B) Granting Related Relief;*
- *Debtors' Motion for Entry of Interim and Final Orders (A) Authorizing the Debtors to Obtain Postpetition Financing, (B) Authorizing the Debtors to Use Cash Collateral, (C) Granting Liens and Providing Superpriority Administrative Expense Status, (D) Granting Adequate Protection to the Prepetition Lenders, (E) Modifying the Automatic Stay, (F) Scheduling a Final Hearing, and (G) Granting Related Relief;*
- *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Continue to Operate Their Cash Management System, (B) Honor Certain Prepetition Obligations Related Thereto, (C) Maintain Existing Business Forms, and (D) Continue to Perform Intercompany Transactions, and (II) Granting Related Relief;*

- *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Pay Prepetition Wages, Salaries, Other Compensation, and Reimbursable Expenses and (B) Continue Employee Benefits Programs, and (II) Granting Related Relief;*
- *Debtors' Motion for Entry of Interim and Final Orders (A) Authorizing the Debtors to Maintain and Administer Their Existing Customer Programs and Honor Certain Prepetition Obligations Related Thereto and (B) Granting Related Relief;*
- *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Pay Prepetition Claims of (A) Lien Claimants, (B) Import Claimant, (C) 503(b)(9) Claimants, (D) Foreign Vendors, and (E) Critical Vendors, (II) Confirming Administrative Expense Priority of Outstanding Orders, and (III) Granting Related Relief;*
- *Debtors' Motion for Entry of and Order (I) Authorizing the Debtors to (A) Continue Insurance Coverage Entered into Prepetition and Satisfy Prepetition Obligations Related Thereto, (B) Renew, Supplement, Modify, or Purchase Insurance Coverage, and (C) Continue to Pay Brokerage Fees, and (II) Granting Related Relief;*
- *Debtors' Motion for Entry of and Order (A) Authorizing the Debtors to Continue and Renew Their Surety Bond Program and (B) Granting Related Relief;*
- *Debtors' Motion for Entry of Interim and Final Orders (A) Authorizing the Payment of Certain Prepetition Taxes and Fees and (B) Granting Related Relief;*
- *Debtors' Motion for Entry of an Order (I) Authorizing the Debtors to (A) Prepare a List of Creditors in Lieu of Submitting a Formatted Mailing Matrix and (B) File a Consolidated List of the Debtors' 50 Largest Unsecured Creditors, (II) Authorizing the Debtors to Redact Certain Personal Identification Information for Individual Creditors, (III) Approving the Form and Manner of Notifying Creditors of Commencement of These Chapter 11 Cases, and (IV) Granting Related Relief;*
- *Debtors' Motion for Entry of an Order (A) Extending Time to File Schedules of Assets and Liabilities, Schedules of Current Income and Expenditures, Schedules of Executory Contracts and Unexpired Leases, Statements of Financial Affairs, and Rule 2015.3 Financial Reports, and (B) Granting Related Relief; and*
- *Debtors Motion for Entry of an Order (A) Authorizing Hollander Sleep Products, LLC to Act as Foreign Representative and (B) Granting Related Relief.*

58. I believe that the relief requested in the motions is necessary to give the Debtors an opportunity to work toward successful chapter 11 cases that will benefit all of the Debtors' stakeholders.

59. Several of these motions request authority to pay certain prepetition claims. I understand that Rule 6003 of the Federal Rules of Bankruptcy Procedure provides, in relevant part, that the Court shall not consider motions to pay prepetition claims during the first 20 days following the filing of a chapter 11 petition, “except to the extent relief is necessary to avoid immediate an irreparable harm.” In light of this requirement, the Debtors have narrowly tailored their requests for immediate authority to pay certain prepetition claims to those circumstances where the failure to pay such claims would cause immediate and irreparable harm to the Debtors and their estates. Other relief will be deferred for consideration at a later hearing.

60. I am familiar with the content and substance of the First Day Motions, and the factual background of each is incorporated herein by reference. In my opinion, approval of the relief sought in each of the motions is critical to successfully implementing the Debtors’ chapter 11 strategy efficiently and with minimal disruption to their business operations, thereby permitting the Debtors to preserve and maximize value for the benefit of all stakeholders.

61. If asked to testify as to the facts supporting each of the First Day Motions, I would testify to the facts as set forth in such motions.

* * * * *

III. Information Required by Local Rule 1007-2.

62. Local Rule 1007-2 requires certain information related to the Debtors, which I have provided in the exhibits attached hereto as **Exhibit B** through **Exhibit M**. Specifically, these exhibits contain the following information with respect to the Debtors (on a consolidated basis, unless otherwise noted):⁶

⁶ The information contained in **Exhibit B** through **Exhibit M** attached to this declaration does not constitute an admission of liability by, nor is it binding on, the Debtors. The Debtors reserve all rights to assert that any debt or claim listed herein is a disputed claim or debt and to challenge the priority, nature, amount, or status of any such claim or debt.

- **Exhibit B.** Pursuant to Local Rule 1007-2(a)(3), provides the names and addresses of the members of, and attorneys for, any committee organized prior to the order for relief in these chapter 11 cases, and a brief description of the circumstances surrounding the formation of the committee and the date of the formation.
- **Exhibit C.** Pursuant to Local Rule 1007-2(a)(4), provides the following information with respect to each of the holders of the Debtors' fifty largest unsecured claims, excluding claims of insiders: the creditors name; the address (including the number, street, apartment, or suite number, and zip code, if not included in the post office address); the telephone number; the name(s) of the person(s) familiar with the Debtors' account; the nature and approximate amount of the claim; and an indication of whether the claim is contingent, unliquidated, disputed, or partially secured.
- **Exhibit D.** Pursuant to Local Rule 1007-2(a)(5), provides the following information with respect to each of the holders of the five largest secured claims against the Debtors: the creditor's name; address (including the number, street, apartment, or suite number, and zip code, if not included in the post office address); the amount of the claim; a brief description of the claim; an estimate of the value of the collateral securing the claim; and an indication of whether the claim or lien is disputed at this time.
- **Exhibit E.** Pursuant to Local Rule 1007-2(a)(6), provides a summary of the Debtors' assets and liabilities.
- **Exhibit F.** Pursuant to Local Rule 1007-2(a)(7), provides a summary of the publicly held securities of the Debtors.
- **Exhibit G.** Pursuant to Local Rule 1007-2(a)(8), provides the following information with respect to any property in possession or custody of any custodian, public officer, mortgagee, pledge, assignee of rents, or secured creditors, or agent for such entity: the name; address; and telephone number of such entity and the court in which any proceeding relating thereto is pending.
- **Exhibit H.** Pursuant to Local Rule 1007-2(a)(9), provides a list of property comprising the premises owned, leased, or held under other arrangement from which the Debtors operate their business.
- **Exhibit I.** Pursuant to Local Rule 1007-2(a)(10), sets forth the location of the Debtors' substantial assets, the location of their books and records, and the nature, location, and value of any assets held by the Debtors outside the territorial limits of the U.S.

- **Exhibit J.** Pursuant to Local Rule 1007-2(a)(11), provides a list of the nature and present status of each action or proceeding, pending or threatened, against the Debtors or their property where a judgment or seizure of their property may be imminent.
- **Exhibit K.** Pursuant to Local Rule 1007-2(a)(12), sets forth a list of the names of the individuals who comprise the Debtors' existing senior management, their tenure with the Debtors, and a brief summary of their relevant responsibilities and experience.
- **Exhibit L.** Pursuant to Local Rule 1007-2(b)(1)–(2)(A), provides the estimated amount of payroll to the Debtors' employees (not including officers, directors, and equityholders) and the estimated amounts to be paid to officers, equityholders, directors, and financial and business consultants retained by the Debtors, for the 30-day period following the Petition Date.
- **Exhibit M.** Pursuant to Local Rule 1007-2(b)(3), provides a schedule, for the 30-day period following the Petition Date, of estimated cash receipts and disbursements, net gain or loss, obligations and receivables expected to accrue but remain unpaid, other than professional fees, for the 30-day period following the filing of the chapter 11 cases, and any other information relevant to an understanding of the foregoing.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

Dated: May 19, 2019
New York, New York



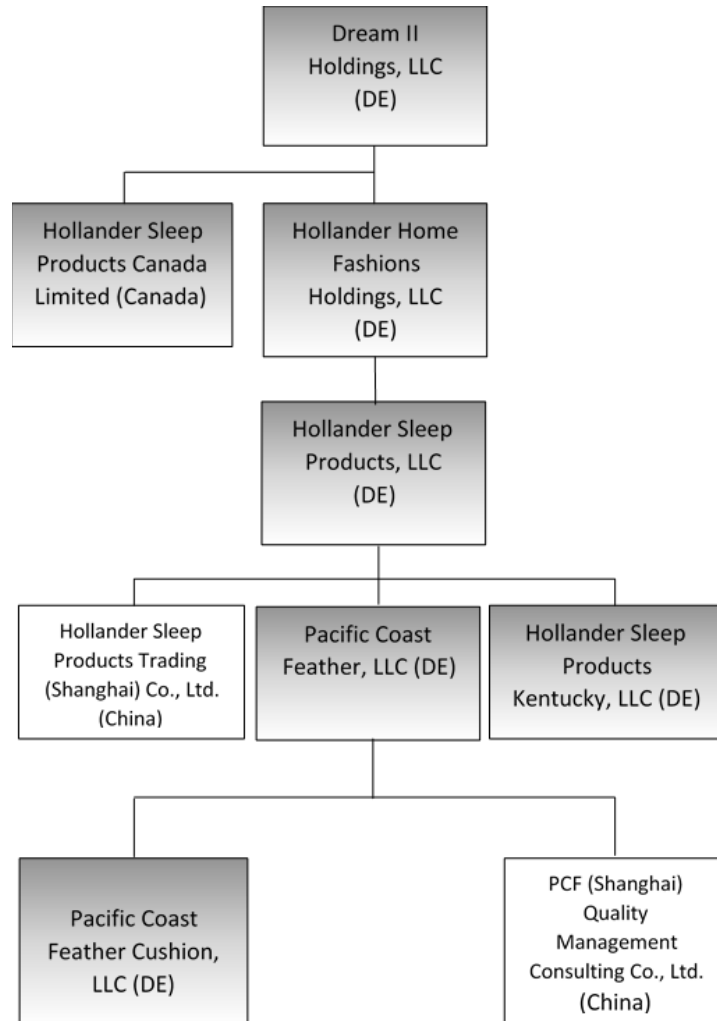
Name: Marc Pfefferle
Title: Chief Executive Officer
Hollander Sleep Products, LLC

**THIS IS EXHIBIT "B" REFERRED TO IN THE
AFFIDAVIT OF MARC PFEFFERLE SWORN
ON MAY 23, 2019.**

James F. Heiby SS: N.Y.



HOLLANDER ORGANIZATION CHART



*The shaded entities represent the Chapter 11 Debtors.

THIS IS EXHIBIT "C" REFERRED TO IN THE
AFFIDAVIT OF MARC PFEFFERLE SWORN
ON MAY 23, 2019.

James F. Hickey

JAMES F. HICKEY
Notary Public, State of New York
Registration #01HI6340819
Qualified In Queens County
Commission Expires April 25, 2020



APR-19

**HOLLANDER SLEEP
PRODUCTS CAN**

ASSETS

Current Assets

Cash & Cash Equivalents	\$	140,744
Accounts Receivable, Gross	\$	4,496,057
Allow for Doubtful Accounts & Revenue Reserve:	\$	(854,072)
Accounts Receivable, Net	\$	3,641,985
Inventory, Gross	\$	12,080,430
Inventory In-transit	\$	708,437
Inventory Reserve	\$	166,468
	\$	12,955,335
Prepaid Expenses and Other	\$	99,765
Total Current Assets	\$	16,837,829
Deferred Loan costs	\$	-
Property and Equipment	\$	1,160,896

Other Assets

Investment - Montreal	\$	-
Interco - Shanghai	\$	-
Interco - HSP Canada	\$	-
Interco - HSP LLC	\$	8,311,416
Interco - PCF	\$	-
Interco - PCF	\$	(11,180)
Deposits	\$	-
Goodwill	\$	-
Favorable Leasehold Interest	\$	-
Trade Name	\$	-
Customer Relationships	\$	-
License Agreements	\$	-
Total Other Assets	\$	8,300,236
Total Assets	\$	26,298,961

LIABILITIES & SHAREHOLDERS' EQUITY

Current Liabilities

Loan Payable	\$	5,945,429
Accounts Payable	\$	8,710,152
Corp Income Tax Payable	\$	-
Term Dbt	\$	-
Accrued expenses and other	\$	1,217,967
Total Current Liabilities	\$	15,873,547

Other Liabilities

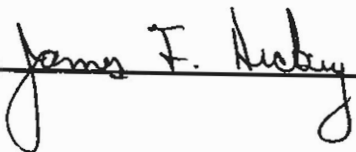
Accrued Expense-LT	\$	-
Term Debt	\$	-
Total Other Liabilities	\$	-

Shareholder's Equity (Deficiency)

Members Equity-Dream II Holdings LLC	\$	-
Member's Equity	\$	-
Equity from Org 004	\$	14,046,308
Distributions	\$	-
OCI	\$	(2,809,816)
Retained earnings	\$	(811,078)
Total Stockholders Equity (Deficiency)	\$	10,425,413

Total Liabilities & Equity	\$	26,298,961
---------------------------------------	----	------------

**THIS IS EXHIBIT "D" REFERRED TO IN THE
AFFIDAVIT OF MARC PFEFFERLE SWORN
ON MAY 23, 2019.**

_____

JAMES F. HICKEY
Notary Public, State of New York
Registration #01HI6340819
Qualified In Queens County
Commission Expires April 25, 2020



RESTRUCTURING SUPPORT AGREEMENT

This RESTRUCTURING SUPPORT AGREEMENT (as may be amended, restated, supplemented, or otherwise modified from time to time in accordance with the terms hereof, and including the exhibits hereto, this “Agreement”), dated as of May 19, 2019, is entered into by and among the following parties (each, a “Party” and, collectively, the “Parties”):

- i. Dream II Holdings, LLC together with certain of its direct and indirect subsidiaries (collectively, the “Company”);
- ii. the undersigned holders of claims (and together with their respective successors and permitted assigns, the “Consenting Term Loan Lenders”) under the Term Loan Credit Agreement (as defined herein); and
- iii. Sentinel Capital Partners, LLC, on behalf of itself and each of its affiliated investment funds or investment vehicles managed or advised by it, and its affiliates that directly or indirectly hold interests in the Company (collectively, the “Sponsor”).

RECITALS

WHEREAS, the Parties have engaged in good faith, arm’s-length negotiations regarding certain restructuring transactions (the “Restructuring Transactions”) pursuant to the terms and conditions set forth in this Agreement and the *Debtors’ Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* attached hereto as **Exhibit A** (including all exhibits thereto, and as may be amended, restated, supplemented, or otherwise modified from time to time in accordance with its terms, the “Plan”).

WHEREAS, it is anticipated that the Restructuring Transactions will be implemented through jointly administered voluntary cases commenced by the Company (the “Chapter 11 Cases”) under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”), pursuant to the Plan, which will be filed by the Company in the Chapter 11 Cases.

WHEREAS, the Parties have agreed to support the Plan and the Restructuring Transactions contemplated by the Plan, including the conversion of all of the Term Loan Claims (as defined herein) into equity in the reorganized Company in full and final satisfaction of such Term Loan Claims, as provided for in the Plan.

WHEREAS, certain Consenting Term Loan Lenders, their affiliates, managed funds, or customer accounts (in their capacities as such, the “DIP Term Loan Lenders”) have committed to provide a debtor-in-possession term loan credit facility (the “DIP Term Loan Credit Facility”) and otherwise extend credit to the Company during the pendency of the Chapter 11 Cases and have agreed to the Company’s use of cash collateral, which DIP Term Loan Credit Facility and use of cash collateral shall be on terms consistent with the commitment letter that is attached hereto as **Exhibit B** (the “DIP Term Loan Commitment Letter”) and otherwise pursuant to the DIP Orders and the DIP Term Loan Credit Agreement (each as defined herein).

WHEREAS, certain Consenting Term Loan Lenders, their affiliates, managed funds, or customer accounts (in their capacities as such, the “Exit Term Loan Lenders”) have committed to provide a new money term loan credit facility (the “Exit Term Loan Credit Facility”) to the Company upon consummation of the Plan on terms, and in accordance with, the commitment letter attached hereto as **Exhibit C** (the “Exit Term Loan Commitment Letter”).

WHEREAS, as of the date hereof, the Sponsor, either directly or indirectly, is controlling equity holder of Dream II Holdings, LLC (the “Sponsor Prepetition Equity Interests”).

WHEREAS, Sentinel Capital Partners V, L.P., Sentinel Dream Blocker, Inc., and Sentinel Capital Investors V, L.P., as the Put Purchasers (as defined herein), entered into the Put Agreement (as defined herein) with the ABL Agent and SunTrust Bank (each as defined herein), pursuant to which the Put Purchasers agreed, upon the terms and conditions set forth therein, to purchase a participation in the Last Out Loans (as defined in the ABL Credit Agreement (as defined herein)) (the “Last Out Loans”).

WHEREAS, the Put Purchasers have agreed to “roll” their participation in the Last Out Loans into a participation in the Last Out Loans in the DIP ABL Credit Facility (as defined herein) (such Last Out Loans under the DIP ABL Credit Agreement, the “DIP Last Out Loans”), and further agreed that, upon the terms and conditions set forth in the Participation Agreement (as defined in the DIP ABL Credit Agreement), such participation in the DIP Last Out Loans would elevate into an assignment of such DIP Last Out Loans pursuant to which the Put Purchasers would become a direct lender of such DIP Last Out Loans, and further agreed that the amounts owed to them on account of their secured claims will, upon the effective date of a Plan, become part of the Exit ABL Facility (as defined herein) with the same priority with respect to the ABL Priority Collateral and the Term Loan Priority Collateral (each as defined herein) as existed under the Intercreditor Agreement (as defined herein).

WHEREAS, each Party has reviewed the Plan, has agreed to the terms of the Restructuring Transactions on the terms set forth therein, and agrees that the following sets forth the agreement among the Parties concerning their respective rights and obligations in respect of the Restructuring Transactions.

NOW, THEREFORE, in consideration of the promises, mutual covenants, and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of the Parties, intending to be legally bound, hereby agrees as follows:

AGREEMENT

1. **Definitions.** The following terms shall have the following definitions:

“ABL Agent” means Wells Fargo Bank, National Association, in its capacity as agent under the ABL Credit Agreement, solely in its capacity as such.

“ABL Credit Agreement” means that certain Third Amended and Restated Credit Agreement, dated as of June 9, 2017, by and among Hollander Home Fashions, LLC, Hollander

Sleep Products, LLC, Hollander Sleep Products Kentucky, LLC, Hollander Sleep Products Canada Limited, Pacific Coast Feather Company, and Pacific Coast Feather Cushion Co., as borrowers, Dream II Holdings, LLC, as parent, the lenders party thereto, and the ABL Agent, as modified and amended on August 31, 2017, October 19, 2018, and November 27, 2018, and as may be further amended, modified, restated, or supplemented from time to time.

“ABL Priority Collateral” has the meaning given to such term as defined in the Intercreditor Agreement.

“Agreement” has the meaning set forth in the preamble hereof and includes all of the exhibits attached hereto.

“Agreement Effective Date” means the date upon which this Agreement shall become effective and binding upon each of the Parties pursuant to the terms of Section 2 hereof.

“Alternative Transaction” means any dissolution, winding up, liquidation, reorganization, recapitalization, assignment for the benefit of creditors, merger, transaction, consolidation, business combination, joint venture, partnership, sale of assets (other than in ordinary course sales or sales of *de minimis* assets), financing (debt or equity), plan proposal, or restructuring of the Company (including any chapter 11 plan that is not the Plan, but not including, for the avoidance of doubt, any amendments, modifications, or supplements to the Plan related to effectuating a Sale Transaction (as defined in the Plan) as contemplated by the Plan, if applicable), other than the Restructuring Transactions.

“Bankruptcy Code” has the meaning set forth in the recitals hereof.

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

“Canadian Court” means the Ontario Superior Court of Justice (Commercial List).

“CCAA” means Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended.

“Chapter 11 Cases” has the meaning set forth in the recitals hereof.

“Company” has the meaning set forth in the preamble hereof.

“Company Advisors” means, collectively, Kirkland & Ellis LLP, Houlihan Lokey Capital, Inc., and Carl Marks Advisors.

“Confirmation Order” means the order entered by the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

“Consenting Term Loan Lenders” has the meaning set forth in the preamble hereof.

“Consenting Term Loan Released Parties” has the meaning set forth in Section 15(b) hereof.

“Consenting Term Loan Releasing Parties” has the meaning set forth in Section 15(a) hereof.

“Debtors” means, collectively, (a) Dream II Holdings, LLC, (b) Hollander Home Fashions Holdings, LLC, (c) Hollander Sleep Products, LLC, (d) Hollander Sleep Products Kentucky, LLC, (e) Pacific Coast Feather, LLC, (f) Pacific Coast Feather Cushion, LLC, and (g) Hollander Sleep Products Canada Limited.

“Definitive Documentation” means the definitive documents and agreements governing the Restructuring Transactions, including the documents listed in Section 4 hereof and any and all other documentation necessary to effectuate the Restructuring Transactions or that is contemplated by the Plan. “Definitive Document” shall have a correlative meaning.

“DIP ABL Agent” means the administrative agent under the DIP ABL Credit Agreement, solely in its capacity as such.

“DIP ABL Credit Agreement” means that certain debtor-in-possession credit agreement by and among the Company, the administrative agent thereunder, and the DIP ABL Lenders, as may be amended, modified, restated, or supplemented from time to time.

“DIP ABL Credit Facility” means the senior secured revolving credit facility provided for under the DIP ABL Credit Agreement.

“DIP ABL Lenders” means the banks, financial institutions, and other lenders party to the DIP ABL Credit Agreement from time to time.

“DIP Last Out Loans” has the meaning set forth in the recitals hereof.

“DIP Orders” means, collectively, the interim and final orders authorizing the use of cash collateral and approving the DIP Term Loan Credit Facility and the DIP ABL Credit Facility, each on terms materially consistent with the DIP Term Loan Commitment Letter.

“DIP Term Loan Agent” means Barings Finance LLC, in its capacity as administrative agent under the DIP Term Loan Credit Agreement, solely in its capacity as such, and any successor agent thereto.

“DIP Term Loan Claims” means any and all claims derived from or based upon the DIP Term Loan Credit Facility.

“DIP Term Loan Commitment Letter” has the meaning set forth in the recitals hereof.

“DIP Term Loan Credit Agreement” means that certain debtor-in-possession credit agreement by and among the Debtors, the DIP Term Loan Agent, and the DIP Term Loan Lenders, as may be amended, modified, restated, or supplemented from time to time, the form of which is attached as **Exhibit A** to the DIP Term Loan Commitment Letter.

“DIP Term Loan Credit Facility” has the meaning set forth in the recitals hereof.

“DIP Term Loan Lenders” has the meaning set forth in the recitals hereof.

“Disclosure Statement” means the disclosure statement (and all exhibits thereto) with respect to the Plan.

“Exit ABL Agent” means the administrative agent under the Exit ABL Credit Agreement, solely in its capacity as such.

“Exit ABL Credit Agreement” means that certain credit agreement by and among the Reorganized Debtors, the Exit ABL Agent, and the Exit ABL Lenders.

“Exit ABL Documents” means the Exit ABL Credit Agreement and all other agreements, documents, and instruments related thereto, including any guaranty agreements, pledge and collateral agreements, intercreditor agreements, and other security agreements.

“Exit ABL Facility” means the asset-based revolving credit facility provided for under the Exit ABL Credit Agreement.

“Exit ABL Lenders” means the banks, financial institutions, and other lenders party to the Exit ABL Credit Agreement from time to time, solely in their capacity as such.

“Exit Facility Documents” means, collectively, the Exit ABL Documents and the Exit Term Loan Documents.

“Exit Term Loan Agent” means the administrative agent under the Exit Term Loan Credit Agreement, solely in its capacity as such.

“Exit Term Loan Commitment Letter” has the meaning set forth in the recitals hereof.

“Exit Term Loan Credit Agreement” means that certain credit agreement by and among the Reorganized Debtors, the Exit Term Loan Agent, and the Exit Term Loan Lenders.

“Exit Term Loan Credit Facility” has the meaning set forth in the recitals hereof.

“Exit Term Loan Documents” means the Exit Term Loan Credit Agreement and all other agreements, documents, and instruments related thereto, including any guaranty agreements, pledge and collateral agreements, intercreditor agreements, and other security agreements.

“Exit Term Loan Lenders” has the meaning set forth in the recitals hereof.

“Intercreditor Agreement” means that certain Amended and Restated Intercreditor Agreement by and among the ABL Agent and the Term Loan Agent, as may be amended, modified, restated, or supplemented from time to time.

“Last Out Loans” has the meaning set forth in the recitals hereof.

“Milestones” means the milestones set forth in the form of the DIP Term Loan Credit Agreement attached as **Exhibit A** to the DIP Term Loan Commitment Letter.

“Party” and “Parties” have the meanings set forth in the preamble hereof.

“Petition Date” means the date the Company commences the Chapter 11 Cases.

“Plan” has the meaning set forth in the recitals hereof.

“Plan Supplement” means the compilation of documents and forms of documents, schedules, and exhibits to the Plan that will be filed by the Company with the Bankruptcy Court, and which shall include the Exit Facility Documents and any other necessary documentation related to the Restructuring Transactions.

“Plan Support Period” means the period commencing on the date hereof and ending on the Termination Date.

“Put Agreement” means that certain put agreement, dated as of November 27, 2018, by and between the Put Purchasers, as purchasers, the ABL Agent, and SunTrust Bank.

“Put Purchasers” means Sentinel Capital Partners V, L.P., Sentinel Dream Blocker, Inc., and Sentinel Capital Investors V, L.P.

“Release” means the release of claims set forth in Section 15 hereof.

“Release Revocation Event” has the meaning set forth in Section 16(b) hereof.

“Release Revocation Notice” has the meaning set forth in Section 16(a) hereof.

“Releasing Parties” has the meaning set forth in Section 15(b) hereof.

“Reorganized Debtors” means the Debtors, as reorganized pursuant to and under the Plan, or any successor or assign thereto, by merger, amalgamation, consolidation, or otherwise, on or after the effective date of the Plan, including reorganized Dream II Holdings, LLC.

“Required Consenting Term Loan Lenders” means the Consenting Term Loan Lenders who hold, in the aggregate, at least 66.67 percent in principal amount outstanding of all Term Loan Claims held by Consenting Term Loan Lenders.

“Required DIP Term Loan Lenders” means the DIP Term Loan Lenders who hold, in the aggregate, more than 50.0% percent in principal amount outstanding of all DIP Term Loan Claims held by DIP Term Loan Lenders.

“Restructuring Support Parties” means, collectively, the Consenting Term Loan Lenders and the Sponsor.

“Restructuring Transactions” has the meaning set forth in the recitals hereof.

“Retention Order” means an order of the Bankruptcy Court, consistent with the engagement letter between the Company and the respective Company Advisor, authorizing the Company to retain and employ the respective Company Advisor.

“Revocation Cure Period” has the meaning set forth in Section 16(a) hereof.

“Solicitation Materials” means the ballots and other related materials drafted in connection with the solicitation of acceptances of the Plan.

“Solicitation Order” means the order of the Bankruptcy Court approving the Disclosure Statement and the Solicitation Materials.

“Sponsor” has the meaning set forth in the preamble hereof.

“Sponsor Counsel” means Kramer Levin Naftalis & Frankel LLP.

“Sponsor Prepetition Equity Interests” has the meaning set forth in the recitals.

“Sponsor Released Parties” has the meaning set forth in Section 15(a) hereof.

“Sponsor Releasing Parties” has the meaning set forth in Section 15(b) hereof.

“Sponsor Termination Event” has the meaning set forth in Section 10 hereof.

“Term Loan Agent” means Barings Finance LLC, in its capacity as administrative agent under the Term Loan Credit Agreement, solely in its capacity as such, and any successor agent thereto.

“Term Loan Agent Counsel” means King & Spalding LLP.

“Term Loan Claims” means any and all claims derived from or based upon the term loan facility provided for under the Term Loan Credit Agreement.

“Term Loan Credit Agreement” means that certain term loan credit agreement dated as of June 9, 2017, by and among the Company, as borrower, Dream II Holdings, LLC and Hollander Home Fashions Holdings, LLC, as guarantors, the Term Loan Lenders, and the Term Loan Agent, as amended, modified, restated, or supplemented from time to time prior to the Petition Date.

“Term Loan Lenders” means the banks, financial institutions, and other lenders party to the Term Loan Credit Agreement from time to time, each solely in their capacity as such.

“Term Loan Priority Collateral” has the meaning given to such term as defined in the Intercreditor Agreement.

“Termination Date” means the date on which termination of this Agreement in accordance with the terms herein is effective.

“Transfer” means to sell, transfer, assign, pledge, grant a participation interest in, or otherwise dispose of, directly or indirectly, in whole or in part, a Party’s right, title, or interest in respect of any of such Party’s claims (including Term Loan Claims) against, or interests in, the Company, or the deposit of any of such Party’s claims against or interests in the Company, as

applicable, into a voting trust, or the grant of any proxies, or entry into a voting agreement with respect to any such claims or interests.

“Transferee Joinder” means a transferee joinder substantially in the form attached hereto as **Exhibit D**.

“Transferor” means the Restructuring Support Party making a Transfer.

Capitalized terms used but not defined herein shall have the meanings given to such terms in the DIP Term Loan Commitment Letter or the Plan, as applicable. Unless otherwise specified, references in this Agreement to any Section or clause refer to such Section or clause as contained in this Agreement. The words “herein,” “hereof,” and “hereunder” and other words of similar import in this Agreement refer to this Agreement as a whole, and not to any particular Section or clause contained in this Agreement. Wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and neuter genders. The words “including,” “includes,” and “include” shall each be deemed to be followed by the words “without limitation”. Wherever the consent or the written consent of a Party is required, the other Parties may rely on email correspondence from counsel to such Party.

2. **Agreement Effective Date.** The Agreement Effective Date shall occur immediately upon delivery to the Parties of executed and released signature pages for this Agreement from (i) the Company, (ii) Consenting Term Loan Lenders holding, in aggregate, at least two thirds in principal amount and more than one half in number of all Term Loan Claims, and (iii) the Sponsor. Upon the Agreement Effective Date, this Agreement shall be deemed effective and thereafter the terms and conditions herein may only be amended, modified, waived, or otherwise supplemented as set forth in Section 30 hereof.

3. **Incorporation by Reference.** The DIP Term Loan Commitment Letter, the Exit Term Loan Commitment Letter, and the Plan, along with each of the exhibits attached hereto and any schedules to such exhibits, are expressly incorporated herein and made a part of this Agreement, and all references to this Agreement shall include the DIP Term Loan Commitment Letter, the Exit Term Loan Commitment Letter, and the Plan and all other such exhibits and schedules to such exhibits. In the event of any inconsistency between this Agreement (excluding the DIP Term Loan Commitment Letter, the Exit Term Loan Commitment Letter, and the Plan) and the DIP Term Loan Commitment Letter, the Exit Term Loan Commitment Letter, or the Plan, the DIP Term Loan Commitment Letter, the Exit Term Loan Commitment Letter, or the Plan shall govern, as applicable.

4. **Definitive Documentation.**

(a) The Definitive Documentation shall include:

- (i) the Plan;
- (ii) the Plan Supplement and the documents contained therein;
- (iii) the Confirmation Order;

- (iv) the Disclosure Statement, the motion seeking approval of the Disclosure Statement, the Solicitation Materials, and the Solicitation Order;
 - (v) the DIP Orders, the DIP Term Loan Credit Agreement, and the DIP ABL Credit Agreement;
 - (vi) the Exit Facility Documents; and
 - (vii) organizational documents of the reorganized Company, including any stockholders' agreement, operating agreement, limited liability company agreement, or other similar agreement setting forth the rights and obligations of the holders of the equity of the reorganized Company following the effective date of the Plan.
- (b) Except as set forth herein, the Definitive Documentation (and any modifications, restatements, supplements, or amendments to any of them) will, after the Agreement Effective Date, remain subject to negotiation and shall, upon completion, contain terms, conditions, representations, warranties, and covenants consistent in all material respects with the terms of this Agreement and otherwise be in form and substance reasonably satisfactory in all material respects to each of the Company, the Required Consenting Term Loan Lenders, and the Sponsor, with reasonableness determined based on the economic and non-economic interest such Party has with respect to such Definitive Document, *except* that the DIP Orders and the DIP Term Loan Credit Agreement must be acceptable to the Required DIP Term Loan Lenders and the Exit Facility Documents must be acceptable to a majority of the Exit Term Loan Lenders by commitment amount.

5. **Milestones.** The Company shall implement the Restructuring Transactions in accordance with the Milestones. The Company may extend a Milestone only with the express prior written consent of the Required Consenting Term Loan Lenders.

6. **Commitment of the Restructuring Support Parties.** Each Restructuring Support Party shall (severally and not jointly) during the Plan Support Period:

- (a) support the Restructuring Transactions in accordance with the terms and conditions of this Agreement and take all actions reasonably necessary to support consummation of the Restructuring Transactions, by: (i) when properly solicited to do so, voting all of its claims (including all of its Term Loan Claims) against, or interests in, as applicable, the Company now or hereafter owned by such Restructuring Support Party (or for which such Restructuring Support Party now or hereafter serves as the nominee, investment manager, or advisor for holders thereof) to accept the Plan; (ii) timely returning a duly-executed ballot in connection therewith; (iii) supporting and not "opting out" of any releases under the Plan and

affirmatively opting into such releases if required to do so; (iv) negotiating in good faith the Exit Term Loan Documents in accordance with the Exit Term Loan Commitment Letter; and (v) negotiating in good faith the Exit ABL Documents by no later than 90 days following the Petition Date (or to the extent there is a Sale Transaction (as defined in the Plan), supporting, and not objecting to, or materially delaying or impeding, or taking any other action that would be reasonably expected to materially interfere, directly or indirectly, with such Sale Transaction, and at all times supporting the payment of all allowed administrative and priority claims pursuant to such Sale Transaction).

- (b) not seek, support, or solicit an Alternative Transaction;
- (c) not withdraw, amend, or revoke (or cause to be withdrawn, amended, or revoked) its tender, consent, or vote with respect to the Plan;
- (d) support, and not object to, or materially delay or impede, or take any other action that would be reasonably expected to materially interfere, directly or indirectly, with the Restructuring Transactions;
- (e) support, and not object to, or materially delay or impede, or take any other action that would be reasonably expected to materially interfere, directly or indirectly, with the entry by the Bankruptcy Court of any of the DIP Orders, and shall (a) not propose, support, or file a pleading with the Bankruptcy Court seeking entry of an order authorizing, directly or indirectly, any use of cash collateral or debtor-in-possession financing other than as proposed in each of the DIP Orders or (b) not direct the Term Loan Agent to propose, file, support, or file a pleading with the Bankruptcy Court seeking entry of an order authorizing, directly or indirectly, any use of cash collateral or debtor-in-possession financing other than as proposed in each of the DIP Orders and, to the extent the Term Loan Agent proposes, files, supports or files such a pleading, shall direct the Term Loan Agent to withdraw such proposal, support, or pleading;
- (f) not file or support, and not direct the Term Loan Agent to file or support, any motion or pleading with the Bankruptcy Court that is not materially consistent with this Agreement;
- (g) to the extent any legal or structural impediment arises that would prevent, hinder, or delay the consummation of the Restructuring Transactions, negotiate in good faith appropriate additional or alternative provisions to address any such impediment; and
- (h) not object to, or otherwise contest, any application filed with the Bankruptcy Court seeking: (i) entry of the Retention Orders, authorizing the Company to retain and employ such Company Advisors who have

entered into engagement letters with the Company that are in effect as of the Agreement Effective Date; or (ii) allowance of any completion, transaction, or success fee (or similar fee) set forth in the respective Company Advisor's engagement letter with the Company so long as such completion, transaction, or success fee (or similar fee) is consistent with the terms of the applicable Company Advisor's Retention Order.

Notwithstanding the foregoing, nothing in this Agreement and neither a vote to accept the Plan by any Restructuring Support Party nor the acceptance of the Plan by any Restructuring Support Party shall (x) be construed to prohibit any Restructuring Support Party from contesting whether any matter, fact, or thing is a breach of, or is inconsistent with, this Agreement or the Definitive Documentation, or exercising rights or remedies specifically reserved herein; (y) be construed to prohibit or limit any Restructuring Support Party from appearing as a party-in-interest in any matter to be adjudicated in the Chapter 11 Cases, so long as, during the Plan Support Period, such appearance and the positions advocated in connection therewith are not materially inconsistent with this Agreement, are not prohibited by this Agreement and are not for the purpose of hindering, delaying, or preventing the consummation of the Restructuring Transactions; or (z) limit the ability of a Restructuring Support Party to sell or enter into any transactions in connection with its claims (including all of its Term Loan Claims) against, or interests in, as applicable, the Company now or hereafter owned by such Restructuring Support Party, subject to Section 18 of this Agreement.

7. **Sponsor Commitments.** In addition to the obligations set forth in Section 6 hereof, the Sponsor shall, during the Plan Support Period:

- (a) not challenge, or support any party that challenges, the validity, enforceability, or priority of the Term Loan Credit Agreement or any portion of the Term Loan Claims; and
- (b) cause the Put Purchasers to direct the ABL Agent to (i) convert all revolving commitments under the Last Out Loans into commitments under the DIP ABL Credit Facility consistent with the terms of the DIP Term Loan Commitment Letter, (ii) upon the effective date of the Plan, convert all revolving commitments under the DIP ABL Credit Facility into commitments under the Exit ABL Facility on the same terms and conditions and with the same priority with respect to the ABL Priority Collateral and the Term Loan Priority Collateral as existed under the Intercreditor Agreement (or to the extent there is a Sale Transaction (as defined in the Plan), support, and not object to, or materially delay or impede, or take any other action that would be reasonably expected to materially interfere, directly or indirectly, with such Sale Transaction), and (iii) support a Plan that provides that the Sponsor receives no distribution of any kind on account of the Sponsor Prepetition Equity Interests unless a Sale Transaction (as defined in the Plan) provides sufficient cash to repay all Claims (as defined in the Plan) in accordance with the Plan.

8. **Commitment of the Company.** Subject to Section 17 hereof, the Company shall, during the Plan Support Period:

- (a) timely (i) file the motion seeking entry, and seek entry by the Bankruptcy Court of each, of the DIP Orders, (ii) file the Disclosure Statement and the motion seeking entry of the Solicitation Order and seek entry by the Bankruptcy Court of the Solicitation Order, and (iii) file the Plan and seek entry by the Bankruptcy Court of the Confirmation Order;
- (b) (i) support and use commercially reasonable efforts to execute and complete the Restructuring Transactions set forth in the Plan and this Agreement, (ii) negotiate in good faith all Definitive Documentation that is subject to negotiation as of the Agreement Effective Date and take any and all necessary and appropriate actions in furtherance of the Plan and this Agreement, and (iii) consult in good faith with the Consenting Term Loan Lenders and the Sponsor on each of the foregoing provisos;
- (c) if applicable, take all reasonable actions necessary to consummate a sale of assets as contemplated by the Plan;
- (d) provide the Consenting Term Loan Lenders and their advisors with, and direct their employees, officers, advisors, and other representatives to provide the Consenting Term Loan Lenders and their advisors with, (i) reasonable access to the Company's books and records, (ii) reasonable access to the management and advisors of the Company (including Carl Marks and Houlihan Lokey Capital, Inc.) for the purposes of evaluating the Company's assets, liabilities, operations, businesses, finances, strategies, prospects, and affairs, and (iii) reasonable responses to all reasonable diligence requests within a reasonable timeline based on the applicable circumstances to such diligence requests;
- (e) timely file (and diligently prosecute) a formal objection to any motion filed with the Bankruptcy Court by a party-in-interest seeking the entry of an order (i) directing the appointment of a trustee or examiner (with expanded powers beyond those set forth in section 1106(a)(3) and (4) of the Bankruptcy Code), (ii) converting any of the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code, or (iii) dismissing any of the Chapter 11 Cases;
- (f) timely file (and diligently prosecute) a formal objection to any motion filed with the Bankruptcy Court by a party-in-interest seeking the entry of an order modifying or terminating the Company's exclusive right to file and/or solicit acceptances of a chapter 11 plan, as applicable;
- (g) timely file (and diligently prosecute) a formal objection to any motion, application, or adversary proceeding challenging the validity, enforceability, perfection, or priority of, or seeking avoidance or

subordination of, (i) the Prepetition Term Loan Credit Agreement and any portion of the Term Loan Claims or (ii) the Put Agreement or the transactions contemplated thereby and/or any portion of the Last Out Loans or DIP Last Out Loans;

- (h) not challenge, or support any party that challenges, the validity, enforceability, or priority of the (i) Prepetition Term Loan Credit Agreement or any portion of the Term Loan Claims or (ii) the Put Agreement or the transactions contemplated thereby and/or any portion of the Last Out Loans or DIP Last Out Loans;
- (i) maintain their good standing under the laws of the states in which they are incorporated or organized;
- (j) timely comply with all Milestones;
- (k) seek a Confirmation Order that becomes effective and enforceable immediately upon its entry and seek to have the period in which an appeal thereto must be filed commence immediately upon its entry;
- (l) use their commercially reasonable efforts to (i) preserve intact in all material respects their current business organizations, (ii) keep available the services of their current officers and material employees (in each case, other than voluntary resignations, terminations for cause, or terminations consistent with applicable fiduciary duties), and (iii) preserve in all material respects their relationships with customers, sales representatives, suppliers, distributors, and others, in each case, having material business dealings with the Company (other than terminations for cause or consistent with applicable fiduciary duties);
- (m) to the extent that any legal or structural impediment arises that would prevent, hinder, or delay the consummation of the transactions contemplated in this Agreement or the Plan, negotiate in good faith appropriate additional or alternative provisions to address any such impediment, in consultation with the Sponsor, and any such provisions to be reasonably acceptable to the Required Consenting Term Loan Lenders and the Sponsor with respect to the Last Out Loans and DIP Last Out Loans;
- (n) as soon as reasonably practicable, notify the Consenting Term Loan Lenders and the Sponsor of any governmental or third party complaints, litigations, investigations, or hearings (or communications indicating that the same may be contemplated or threatened) that would prevent, hinder, or delay the consummation of the transactions contemplated in this Agreement or the Plan of which the Company Advisors have actual knowledge by furnishing written notice to the Consenting Term Loan

Lenders and the Sponsor within two business days of actual knowledge of such event;

- (o) as soon as reasonably practicable, notify the Consenting Term Loan Lenders and the Sponsor of any breach by the Company of which the Company Advisors have actual knowledge in respect of any of the obligations, representations, warranties, or covenants set forth in this Agreement by furnishing written notice to the Consenting Term Loan Lenders and the Sponsor promptly and, in any event, within two business days of actual knowledge of such breach;
- (p) pay in cash (i) prior to the Petition Date, all reasonable fees and expenses accrued prior to the Petition Date by the Term Loan Agent Counsel, (ii) after the Petition Date, all reasonable fees and expenses of the Term Loan Agent Counsel incurred on and after the Petition Date from time to time in accordance with the DIP Orders, and (iii) on and after the effective date of the Plan, all reasonable fees and expenses incurred by the Term Loan Agent Counsel in connection with the Restructuring Transactions;
- (q) comply with the terms and conditions of the DIP Orders in respect of the treatment of any claims the Sponsor has accrued for its reasonable and documented fees and expenses relating to the Last Out Loans or DIP Last Out Loans and the transactions contemplated thereby, including the Put Agreement, whether arising before or after the Petition Date;
- (r) provide draft copies of all material pleadings, including “first day” and other motions (excluding retention applications) that the Company intends to file with the Bankruptcy Court in any of the Chapter 11 Cases or with the Canadian Court in any recognition proceedings of the Company under the CCAA to the Term Loan Agent Counsel and the Sponsor Counsel at least two business days (or as soon as is reasonably practicable under the circumstances) prior to the date when the Company intends to file such document, and shall consult in good faith with such counsel regarding the form and substance of any such proposed filing (provided that any of the foregoing relating to the DIP Term Loan Credit Facility, the Plan, and the Exit Term Loan Documents shall be deemed material); and
- (s) not seek, solicit, or support any Alternative Transaction.

9. **Consenting Term Loan Lenders Termination Events.** The Required Consenting Term Loan Lenders shall have the right, but not the obligation, upon notice to the other Parties provided in accordance with Section 28 hereof, to terminate this Agreement as to all Parties upon the occurrence of any of the following events, unless waived, in writing, by the Required Consenting Term Loan Lenders on a prospective or retroactive basis:

- (a) the failure to meet any of the Milestones unless such Milestone is extended in accordance with Section 5 of this Agreement; *provided* that, if

such failure is the result of any act, omission, or delay on the part of a Consenting Term Loan Lender in violation of such Consenting Term Loan Lender's obligations under this Agreement, such Consenting Term Loan Lender may not be among the Required Consenting Term Loan Lenders exercising their termination right with respect thereto under this Section 9(a);

- (b) the occurrence of a breach of this Agreement (including any representation, warranty, or covenant contained herein) in any respect that adversely affects the Consenting Term Loan Lenders' interests in connection with the Restructuring Transactions, the Plan, or this Agreement, by the Company or by the Sponsor that has not been cured (if susceptible to cure) before five business days after written notice to the Company and the Sponsor in accordance with Section 28(a) hereof, which notice must include a description of such breach from the Required Consenting Term Loan Lenders;
- (c) the conversion of one or more of the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code;
- (d) the dismissal of one or more of the Chapter 11 Cases without the prior written consent of the Required Consenting Term Loan Lenders;
- (e) the appointment of a trustee, receiver, or examiner with expanded powers beyond those set forth in section 1106(a)(3) and (4) of the Bankruptcy Code in one or more of the Chapter 11 Cases;
- (f) notice of an "Event of Default" (as defined in the DIP Term Loan Credit Agreement or the DIP ABL Credit Agreement, as applicable) has been given or declared under either the DIP Term Loan Credit Facility or the DIP ABL Credit Facility and has not been waived or timely cured in accordance therewith;
- (g) the Definitive Documentation is not in form and substance satisfactory to the Required Consenting Term Loan Lenders in accordance with Section 4(b) hereof; *provided* that the Required Consenting Term Loan Lenders must provide five business days' written notice to the Company and the Sponsor in accordance with Section 28(a) hereof of any such proposed termination and the Company shall have such time to amend or modify such Definitive Documentation such that the applicable Definitive Documentation shall be in form and substance reasonably satisfactory to the Required Consenting Term Loan Lenders;
- (h) the Company (i) files or announces that it will proceed with an Alternative Transaction or (ii) withdraws or announces its intention not to support the Plan;

- (i) the Company or the Sponsor supports any person or entity seeking to take, or that takes, any of the actions set forth in the foregoing subsections (c)–(h) of this Section 9;
- (j) the issuance by any governmental authority, including the Bankruptcy Court, any regulatory authority, or any other court of competent jurisdiction, of any ruling or order enjoining the substantial consummation of any of the Restructuring Transactions or a final, non-appealable ruling or order preventing the consummation of a material portion of the Restructuring Transaction; *provided* that, only to the extent that such ruling or order may be reasonably remedied, the Company shall have five business days after the issuance of such ruling or order to obtain relief that would allow consummation of the applicable Restructuring Transactions in a manner that (i) does not reasonably prevent or diminish in a material way compliance with the terms of the Plan and this Agreement and (ii) is reasonably acceptable to the Required Consenting Term Loan Lenders;
- (k) the Bankruptcy Court enters a final order disallowing, invalidating, subordinating, recharacterizing, or declaring unenforceable the claims, liens, or interests held by the Consenting Term Loan Lenders, including any Term Loan Claims;
- (l) termination of the commitments or acceleration of the obligations under the DIP Term Loan Credit Facility or DIP ABL Credit Facility pursuant to their respective terms;
- (m) the Company files a motion seeking entry of an order approving any key employee incentive plan, employee retention plan, or comparable plan, except as provided in the Plan, without the prior written consent of the Required Consenting Term Loan Lenders, which shall not be unreasonably withheld, conditioned, or delayed;
- (n) the Bankruptcy Court enters an order modifying or terminating the Company’s exclusive right to file and/or solicit acceptances of a plan of reorganization (including the Plan) without the Term Loan Agent and Term Loan Lenders consent; or
- (o) the Company files a motion, application, or adversary proceeding (or the Company supports any such motion, application, or adversary proceeding filed or commenced by any third party, provided that it is acknowledged and agreed that cooperation with any investigation into such claims is not “support” for such motion, application, or adversary proceeding) challenging the validity, enforceability, perfection, or priority of, or seeking avoidance or subordination of, any portion of the Term Loan Credit Agreement and Term Loan Claims or asserting any other cause of action against and/or with respect or relating to such claims or the prepetition liens securing such claims.

10. **Sponsor Termination Events.** The Sponsor shall have the right, but not the obligation, upon notice to the other Parties provided in accordance with Section 28 hereof, to terminate this Agreement as to all Parties upon the occurrence of any of the following events, unless waived, in writing, by the Sponsor on a prospective or retroactive basis:

- (a) the occurrence of a breach of this Agreement (including any representation, warranty, or covenant contained herein) in any respect that adversely affects the Sponsor's interests in connection with the Restructuring Transactions, the Plan, or this Agreement by the Company (unless such action has been caused by or otherwise supported by the Sponsor) or by one or more Consenting Term Loan Lenders holding Term Loan Claims in an aggregate outstanding principal amount such that non-breaching Consenting Term Loan Lenders hold less than 66.67 percent of the aggregate outstanding principal amount of Term Loan Claims that has not been cured (if susceptible to cure) before five business days after written notice to the Company in accordance with Section 28(a) hereof of such material breach by the Company or Consenting Term Loan Lender or Lenders, as applicable, asserting such termination, which notice must include a description of such breach;
- (b) the conversion of one or more of the Chapter 11 Cases to a case under chapter 7 of the Bankruptcy Code (other than any such conversion supported or caused by the Sponsor);
- (c) the dismissal of one or more of the Chapter 11 Cases without the prior written consent of the Sponsor (other than any such dismissal supported or caused by the Sponsor);
- (d) the appointment of a trustee, receiver, or examiner with expanded powers beyond those set forth in section 1106(a)(3) and (4) of the Bankruptcy Code in one or more of the Chapter 11 Cases;
- (e) notice of an "Event of Default" (as defined in the DIP Term Loan Credit Agreement or the DIP ABL Credit Agreement, as applicable) has been given or declared under either the DIP Term Loan Credit Facility or the DIP ABL Credit Facility and has not been waived or timely cured in accordance therewith;
- (f) the Definitive Documentation is not in form and substance reasonably satisfactory to the Sponsor in accordance with Section 4(b) hereof; *provided* that the Sponsor must provide five business days' written notice to the Company in accordance with Section 28(a) hereof of any such proposed termination and the Company shall have such time to amend or modify such Definitive Documentation such that the applicable Definitive Documentation shall be in form and substance reasonably satisfactory to the Sponsor;

- (g) unless such action has been caused by or otherwise supported by the Sponsor, the Company (i) files or announces that it will proceed with an Alternative Transaction or (ii) withdraws or announces its intention not to support the Plan;
- (h) the issuance by any governmental authority, including the Bankruptcy Court, any regulatory authority, or any other court of competent jurisdiction, of any ruling or order enjoining the substantial consummation of any of the Restructuring Transactions; *provided* that the Company shall have five business days after the issuance of such ruling or order to obtain relief that would allow consummation of the applicable Restructuring Transactions in a manner that (i) does not prevent or diminish in a material way compliance with the terms of the Plan and this Agreement or (ii) is reasonably acceptable to the Sponsor;
- (i) the Company or any Restructuring Support Party files a motion, application, or adversary proceeding (or the Company or any Restructuring Support Party supports any such motion, application, or adversary proceeding filed or commenced by any third party, provided that it is acknowledged and agreed that cooperation with any investigation into such claims is not “support” for such motion, application, or adversary proceeding) challenging the validity, enforceability, perfection, or priority of, or seeking avoidance or subordination of, any portion of the Last Out Loans or DIP Last Out Loans or asserting any other cause of action against and/or with respect or relating to such claims or the prepetition liens securing such claims, or any Party (other than the Sponsor) brings any claims or proceedings against the Sponsor. For the avoidance of doubt, if any Party (other than the Sponsor) brings claims or proceedings against the Sponsor or with respect to the Last Out Loans or DIP Last Out Loans, or any claims against the Sponsor are included on the Schedule of Retained Causes of Action (as defined in the Plan), the Put Purchasers shall have no obligation to “roll” their participation in the DIP Last Out Loans into the Exit ABL Facility, as contemplated in the recitals hereof; or
- (j) (i) the amendment or modification of the DIP Intercreditor Agreement (as defined in the Plan) in any respect that adversely affects the Sponsor’s interests in connection with the Restructuring Transactions, the Plan, or this Agreement without its consent (such consent not to be unreasonably withheld), or (ii) the DIP ABL Credit Agreement is amended or modified, or the DIP ABL Agent or DIP ABL Lenders take actions, in violation of the Participation Agreement (as defined in the DIP ABL Credit Agreement).

11. **The Company’s Termination Events.** The Company may, upon notice to the Restructuring Support Parties, terminate this Agreement as to all Parties upon the occurrence of

any of the following events, unless waived, in writing, by the Company on a prospective or retroactive basis:

- (a) the occurrence of a breach of this Agreement in any respect that adversely affects, in any material respect, the Company's interests in connection with the Restructuring Transactions, the Plan, or this Agreement, by the Sponsor or by Consenting Term Loan Lenders holding Term Loan Claims in an aggregate outstanding principal amount such that non-breaching Consenting Term Loan Lenders hold less than 66.67 percent of the aggregate outstanding principal amount of Term Loan Claims that has not been cured (to the extent curable) before five business days after notice to all Restructuring Support Parties given in accordance with Section 28 hereof of such breach;
- (b) any of the Definitive Documentation (including any amendment or modification thereof) is filed with the Bankruptcy Court or otherwise finalized, or has become effective, that is not materially consistent with this Agreement or otherwise reasonably satisfactory to the Company, and such inconsistency has not been cured before five business days after notice to all Restructuring Support Parties given in accordance with Section 28 hereof of such breach;
- (c) the issuance by any governmental authority, including the Bankruptcy Court, any regulatory authority, or any other court of competent jurisdiction, of any ruling or order enjoining the substantial consummation of the Restructuring Transactions in a way that cannot be reasonably remedied by the Company in a manner that is reasonably satisfactory to the Required Consenting Term Loan Lenders and the Sponsor or a final, non-appealable ruling or order preventing the consummation of a material portion of the Restructuring Transactions; or
- (d) following the Company determining, upon advice of outside counsel, that proceeding with the Restructuring Transactions contemplated by this Agreement would be inconsistent with the continued exercise of its fiduciary duties as set forth in Section 17 hereof; *provided* that notwithstanding any provision of this Agreement to the contrary, upon such determination, the Company shall be entitled, but not required, to terminate this Agreement immediately upon written notice to each Restructuring Support Party delivered in accordance with Section 28 hereof.

12. **Mutual Termination; Automatic Termination.** This Agreement and the obligations of all Parties hereunder may be terminated by mutual written agreement by and among Dream II Holdings, LLC, on behalf of the Company, the Required Consenting Term Loan Lenders, and the Sponsor. Notwithstanding anything in this Agreement to the contrary, this Agreement shall terminate automatically without further required action upon the occurrence of the effective date of the Plan.

13. **Automatic Stay.** The Company acknowledges and agrees and shall not dispute that after the commencement of the Chapter 11 Cases, the giving of notice of termination of this Agreement by any Party pursuant to this Agreement shall not be a violation of the automatic stay of section 362 of the Bankruptcy Code (and the Company hereby waives, to the fullest extent permitted by law, the applicability of the automatic stay as it relates to any such notice being provided); *provided* that nothing herein shall prejudice any Party's rights to argue that the giving of notice of default or termination was not proper under the terms of this Agreement.

14. **Effect of Termination.** Upon the termination of this Agreement, this Agreement shall be of no further force or effect with respect to any Restructuring Support Party, and each Restructuring Support Party shall: (a) be released from its commitments, undertakings, and agreements under or related to this Agreement; (b) have the rights and remedies that it would have had, had it not entered into this Agreement; and (c) be entitled to take all actions, whether with respect to the Restructuring Transactions or otherwise, that it would have been entitled to take had it not entered into this Agreement. Any and all consents tendered by any Restructuring Support Party prior to such termination shall be deemed, for all purposes, to be null and void *ab initio*, shall not be considered or otherwise used in any manner by the Parties in connection with the Restructuring Transactions, the Plan, and this Agreement or otherwise and such consents may be changed or resubmitted; *provided* that if the approval of the Bankruptcy Court shall be required under applicable law in order for a Restructuring Support Party to change or resubmit such consents, then the Company shall not oppose any attempt by such Restructuring Support Party to terminate, change, or resubmit the consent under this Section 14. The termination of this Agreement shall not relieve or absolve any Restructuring Support Party of any liability for any breaches of this Agreement that preceded the termination of the Agreement. Notwithstanding anything to the contrary in this Agreement, the foregoing shall not be construed to prohibit the Company or any Restructuring Support Party from contesting whether any such termination is in accordance with its terms or to seek enforcement of any rights under this Agreement that arose or existed before the Termination Date. Except as expressly provided in this Agreement, nothing in this Agreement is intended to, or does, in any manner waive, limit, impair, or restrict any right or ability of any Restructuring Support Party to protect and preserve its rights (including rights under this Agreement), remedies, and interests, including its claims against any other Restructuring Support Party.

15. **Release.**

- (a) On the Agreement Effective Date, each Consenting Term Loan Lender, and subject in all respects to Section 16 hereof, on behalf of itself and its predecessors, successors and assigns, subsidiaries, affiliates, managed accounts or funds, current and former officers, directors, principals, shareholders, members, partners, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors, and other professionals, in each case in their capacity as such (collectively, the "Consenting Term Loan Releasing Parties"), expressly and generally releases, acquits, and discharges (i) the Sponsor, (ii) the Sponsor's respective predecessors, successors and assigns, subsidiaries, affiliates (in each case of the foregoing, except the Company), managed accounts or

funds or investment vehicles, and each of such entities' respective current and former officers, directors, principals, shareholders, members, partners, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors, and other professionals of the Sponsor, and (iii) the current and former directors of the Company and its subsidiaries (including any Sponsor appointed directors and the Company's disinterested director), in each case in the foregoing (i) through (iii), in their capacity as such (collectively, the "Sponsor Released Parties"), from any and all claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, including any derivative claims asserted or assertable on behalf of the Company, any claims asserted or assertable on behalf of any holder of any claim against or interest in the Company and any claims asserted or assertable on behalf of any other entity, whether known or unknown, foreseen or unforeseen, matured or unmatured, in law, equity, contract, tort, or otherwise, by statute or otherwise, that such Consenting Term Loan Releasing Parties (whether individually or collectively) ever had, now has, or may have, based on or relating to, or in any manner arising from, in whole or in part, the Company (including the purchase, sale, rescission, or any other transaction relating to any security of or debt in the Company, or any other transaction) or the negotiation, formulation, or preparation of the Restructuring Transactions, in each case, arising on or before the execution of this Agreement.

- (b) On the Agreement Effective Date, the Sponsor, subject in all respects to Section 16 hereof, on behalf of itself and its predecessors, successors and assigns, subsidiaries, affiliates (in each case of the foregoing, except the Company), managed accounts or funds or investment vehicles, and each of such entities' respective current and former officers, directors, principals, shareholders, members, partners, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors, and other professionals of the Sponsor, in each case in their capacity as such (collectively, the "Sponsor Releasing Parties" and, together with the Consenting Term Loan Releasing Parties, the "Releasing Parties"), expressly and generally releases, acquits, and discharges (i) the other applicable Sponsor Released Parties, (ii) each Consenting Term Loan Lender and the Term Loan Agent, and (iii) each Consenting Term Loan Lender's and Term Loan Agent's respective predecessors, successors and assigns, subsidiaries, affiliates, managed accounts or funds, and each of such entities' respective current and former officers, directors, principals, shareholders, members, partners, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors, and other professionals of the Term Loan Agent and each Consenting Term Loan Lender, in each case in the foregoing (i) through (iii), in their

capacity as such (collectively, the “Consenting Term Loan Released Parties”), from any and all claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, including any derivative claims asserted or assertable on behalf of the Company, any claims asserted or assertable on behalf of any holder of any claim against or interest in the Company and any claims asserted or assertable on behalf of any other entity, whether known or unknown, foreseen or unforeseen, matured or unmatured, in law, equity, contract, tort, or otherwise, by statute or otherwise, that such Sponsor Releasing Parties (whether individually or collectively) ever had, now has, or may have, based on or relating to, or in any manner arising from, in whole or in part, the Company (including the purchase, sale, rescission, or any other transaction relating to any security of or debt in the Company) or the negotiation, formulation, or preparation of the Restructuring Transactions, in each case, arising on or before the execution of this Agreement.

- (c) For the avoidance of doubt, nothing in this Section 15 or otherwise in this Agreement (except as provided for in the Plan) shall operate as a release of or by the Company or any of its subsidiaries, including of any and all potential claims and causes of action which are or may be subject to investigation by the Company’s disinterested director; *provided* that, subject to (a) the completion of the investigation by the Company’s disinterested director, and (b) the disinterested director’s determination that the grant of a release is appropriate, all such claims or causes of action against the Sponsor or any Sponsor Released Party are released as of the Agreement Effective Date.
- (d) Subject to Section 16 hereof, each of the Releasing Parties knowingly grants this Release notwithstanding that each Releasing Party may hereafter discover facts in addition to, or different from, those which either such Releasing Party now knows or believes to be true, and without regard to the subsequent discovery or existence of such different or additional facts, and each Releasing Party expressly waives any and all rights that such Releasing Party may have under any statute or common law principle which would limit the effect of the Release to those claims actually known or suspected to exist as of before the Agreement Effective Date.
- (e) Subject to Section 16 hereof, in connection with their agreement to the foregoing Release, the Releasing Parties knowingly and voluntarily waive and relinquish any and all provisions, rights, and benefits conferred by any law of the United States or any state or territory of the United States, or principle of common law, which governs or limits a person’s release of unknown claims, comparable or equivalent to California Civil Code § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO

EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

- (f) Each of the Releasing Parties hereby represents and warrants that it has access to adequate information regarding the terms of this Agreement, the scope and effect of the Release, and all other matters encompassed by this Agreement to make an informed and knowledgeable decision with regard to entering into this Agreement. Each of the Releasing Parties further represents and warrants that it has not relied upon any other Party in deciding to enter into this Agreement and has instead made its own independent analysis and decision to enter into this Agreement.

16. Revocation of Release.

- (a) Subject to Section 16(c) hereof, a Release provided in Section 15 hereof shall be deemed revoked if any Party receives a notice from any other Party (each, a “Release Revocation Notice”) of the occurrence of a Release Revocation Event (as defined herein) and the recipient(s) of the Release Revocation Notice fails to cure such Release Revocation Event within five business days of receipt of such Release Revocation Notice (the “Revocation Cure Period”) or such Release Revocation Notice is not otherwise rescinded; *provided* that in the event the recipient(s) of a Release Revocation Notice disputes either the occurrence of a Release Revocation Event or the failure of the recipient(s) to cure the Release Revocation Event within the Revocation Cure Period, such recipient(s) shall have five business days from the expiration of the Revocation Cure Period to seek a determination by the Bankruptcy Court or such other court of competent jurisdiction having jurisdiction over such claim in accordance with this Agreement as to whether a Release Revocation Event occurred and was not cured within the Revocation Cure Period.
- (b) Release Revocation Event. For the purposes of this Agreement, a “Release Revocation Event” means any of the following:
 - (i) a breach by any Party (other than the Releasing Party seeking to revoke the Release) of any material representation, warranty, covenant, or other provision of this Agreement that gives rise to a termination right under this Agreement;
 - (ii) this Agreement is terminated with respect to the Company, including as a result of the Company’s determination pursuant to Section 11(d) hereof; and

- (iii) any Party brings an action or claim against the Sponsor or any Sponsor Released Party (including any action or claim pursuant to Section 15(c) hereof).

Notwithstanding the foregoing subsections (i) and (ii) of this Section 16(b), if the economic outcome for the Required Consenting Term Loan Lenders, the timing of the effective date of the Plan, and all other material terms as contemplated herein are substantially preserved, in each case as determined by the Required Consenting Term Loan Lenders, the foregoing subsections (i) and (ii) shall not constitute a Release Revocation Event (other than with respect to a breach of this Agreement by the Sponsor).

(c) Effect of Revocation of Release.

- (i) Revocation of a Release as a result of a Release Revocation Event as contemplated in subsections (ii), (iii), and (iv) of this Section 16(c) shall result in a full and complete restoration of any and all claims, liabilities, and causes of action subject to such Release, and such Release shall be void *ab initio*, in each case, to the extent contemplated in subsections (ii), (iii), and (iv) of this Section 16(c).
- (ii) In the case of a Release Revocation Event under subsection (i) of Section 16(b) hereof, if the breaching Party is a Sponsor, the Release in Section 15(a) hereof shall be revoked with respect to all of the Sponsor Released Parties (and such Sponsor Released Parties shall no longer have the benefit of such Release), and if the breaching Party is a Consenting Term Loan Lender, the Releases in Section 15(b) hereof shall be revoked solely with respect to such breaching Consenting Term Loan Lender and its respective Consenting Term Loan Released Parties (and such Consenting Term Loan Released Parties shall no longer have the benefit of such Release). Other than as set forth in this subsection (ii) of Section 16(c) hereof, the revocation of any Release under subsection (i) of Section 16(b) hereof shall not operate as a revocation of, nor otherwise impair or affect, any other Release.
- (iii) In the case of a Release Revocation Event under subsection (ii) of Section 16(b) hereof, the Releases in Section 15(a) and Section 15(b) hereof shall be revoked in their entireties.
- (iv) In the case of a Release Revocation Event under subsection (iii) of Section 16(b) hereof, the Releases granted by the Sponsor Releasing Parties in Section 15(b) hereof shall be revoked in their entireties and the Put Purchasers shall have no obligation to “roll”

their participation in the DIP Last Out Loans into the Exit ABL Facility.

17. **Fiduciary Duties.** Notwithstanding anything to the contrary herein, nothing in this Agreement shall require the Company, or any directors, officers, or employees of the Company (in such person's capacity as a director, officer, or employee) to take any action, or to refrain from taking any action, to the extent that the Company or its board of directors or officers determines in good faith, upon advice of counsel, that taking such action or refraining from taking such action may be inconsistent with its or their fiduciary obligations under applicable law, and any such exercise of such fiduciary duties shall not be deemed to constitute a breach of the terms of this Agreement; *provided* that the effect of any such action or inaction (and to the extent the Company does not terminate this Agreement in accordance with this Section 17 and Section 11(d) hereof), shall provide the Consenting Term Loan Lenders and the Sponsor the ability to take actions in accordance with Section 9 or Section 10 hereof, respectively, to terminate this Agreement. The Company, in its sole discretion, may (but shall not be required to) terminate this Agreement in accordance with Section 11(d) hereof, and specific performance shall not be available as a remedy if this Agreement is terminated in accordance with this Section 17 and Section 11(d) hereof. All Consenting Term Loan Lenders reserve all rights they may have, including the right (if any) to challenge any exercise by the Company of its ability to terminate this Agreement under Section 11(d) hereof pursuant to this Section 17.

18. **Transfers of Claims and Interests.** During the Plan Support Period, subject to the terms and conditions hereof, each Restructuring Support Party shall not make a Transfer, unless such Transfer is to another Restructuring Support Party or any other entity that first agrees in writing to be bound by the terms of this Agreement by executing and delivering to the Company the Transferee Joinder. Upon compliance with the foregoing, the Transferor shall be deemed to relinquish its rights (and be released from its obligations, except for any claim for breach of this Agreement that occurs prior to such Transfer) under this Agreement to the extent of such transferred rights and obligations. Any Transfer made in violation of this Section 18 shall be deemed null and void *ab initio* and of no force or effect, regardless of any prior notice provided to the Company and/or any Restructuring Support Party, and shall not create any obligation or liability of the Company or any other Restructuring Support Party to the purported transferee.

19. **Further Acquisition of Claims or Interests.** Except as set forth in Section 18 hereof, nothing in this Agreement shall be construed as precluding any Consenting Term Loan Lender or any of its affiliates from acquiring additional DIP Term Loan Claims or Term Loan Claims or interests in the instruments underlying the DIP Term Loan Claims or Term Loan Claims; *provided* that any such additional DIP Term Loan Claims or Term Loan Claims acquired by any Consenting Term Loan Lender or by any of its affiliates shall automatically be subject to the terms and conditions of this Agreement. Upon any such further acquisition by a Consenting Term Loan Lender or any of its affiliates, such Consenting Term Loan Lender shall promptly notify counsel to the Company.

20. Consents and Acknowledgments.

- (a) Each Party irrevocably acknowledges and agrees that this Agreement is not and shall not be deemed to be a solicitation for acceptances of the Plan for purposes of sections 1125, 1126, and 1127 of the Bankruptcy Code or otherwise. Any such offer or solicitation will be made only in compliance with all applicable securities laws and provisions of the Bankruptcy Code.
- (b) By executing this Agreement, each Restructuring Support Party (including, for the avoidance of doubt, any entity that may execute this Agreement or a Transferee Joinder after the Agreement Effective Date) consents to the Company's use of its cash collateral and incurrence of debtor-in-possession financing expressly as authorized by, and subject to the terms of, the DIP Orders.
- (c) By executing this Agreement, each Restructuring Support Party (including, for the avoidance of doubt, any entity that may execute this Agreement or a Transferee Joinder after the Agreement Effective Date) forbears from exercising remedies with respect to any Default or Event of Default (as defined under the Term Loan Credit Agreement) that is caused by the Company's entry into this Agreement or the other documents related to this Agreement and the transactions contemplated in this Agreement, and agrees to direct the Term Loan Agent to not exercise remedies to the extent that any other Term Loan Lender directs it to exercise such remedies.

21. Representations and Warranties.

- (a) Each Restructuring Support Party hereby represents and warrants on a several and not joint basis for itself and not any other person or entity that the following statements are true, correct, and complete, to the best of its actual knowledge, as of the date hereof:
 - (i) it has the requisite organizational power and authority to enter into this Agreement and to carry out the transactions contemplated by, and perform its respective obligations under, this Agreement;
 - (ii) the execution and delivery of this Agreement and the performance of its obligations hereunder have been duly authorized by all necessary corporate or other organizational action on its part;
 - (iii) to the extent it is a Consenting Term Loan Lender or the Sponsor, the execution and delivery by it of this Agreement does not violate its certificates of incorporation, or bylaws, or other organizational documents;
 - (iv) the execution, delivery, and performance by it of this Agreement does not require any registration or filing with, the consent or

approval of, notice to, or any other action with any federal, state, or other governmental authority or regulatory body, except (i) any of the foregoing as may be necessary and/or required for disclosure by the Securities and Exchange Commission and applicable state securities or “blue sky” laws, (ii) any of the foregoing as may be necessary and/or required in connection with the Chapter 11 Cases, including the approval of the Disclosure Statement and confirmation of the Plan, (iii) filings of amended certificates of incorporation or articles of formation or other organizational documents with applicable state authorities, and other registrations, filings, consents, approvals, notices, or other actions that are reasonably necessary to maintain permits, licenses, qualifications, and governmental approvals to carry on the business of the Company, and (iv) any other registrations, filings, consents, approvals, notices, or other actions, the failure of which to make, obtain or take, as applicable, would not be reasonably likely, individually or in the aggregate, to materially delay or materially impair the ability of any Party hereto to consummate the transactions contemplated hereby;

- (v) this Agreement is its legally valid and binding obligation, enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar laws relating to or limiting creditors’ rights generally, or by equitable principles relating to enforceability;
- (vi) it is an “accredited investor” within the meaning of Rule 501 of Regulation D promulgated under the Securities Act of 1933, as amended, with sufficient knowledge and experience to evaluate properly the terms and conditions of this Agreement, the Disclosure Statement, the Plan, and any other Definitive Documentation, and it has made its own analysis and decision to enter into this Agreement; and
- (vii) it (A) either (1) is the sole owner of the claims and interests identified below its name on its signature page hereof and in the amounts set forth therein, or (2) has all necessary investment or voting discretion with respect to the principal amount of claims and interests identified below its name on its signature page hereof, and has the power and authority to bind the owner(s) of such claims and interests to the terms of this Agreement; (B) is entitled (for its own accounts or for the accounts of such other owners) to all of the rights and economic benefits of such claims and interests; and (C) to the knowledge of the individuals working on the Restructuring Transactions, does not directly or indirectly own any

Term Loan Claims, other than as identified below its name on its signature page hereof.

- (b) Each Company entity hereby represents and warrants on a joint and several basis (and not any other person or entity other than each Company entity) that the following statements are true, correct, and complete, to the best of its actual knowledge, as of the date hereof:
 - (i) it has the requisite corporate or other organizational power and authority to enter into this Agreement and to carry out the transactions contemplated by, and perform its respective obligations under, this Agreement;
 - (ii) the execution and delivery of this Agreement and the performance of its obligations hereunder have been duly authorized by all necessary corporate or other organizational action on its part, including approval of each of the independent directors of each of the corporate entities that comprise the Company;
 - (iii) the execution and delivery by it of this Agreement does not (A) violate its certificates of incorporation, or bylaws, or other organizational documents, or those of any of its affiliates in any material respect, or (B) result in a breach of, or constitute (with due notice or lapse of time or both) a default (other than, for the avoidance of doubt, a breach or default that would be triggered as a result of the Company undertaking to implement the Restructuring Transactions through the Chapter 11 Cases) under any material contractual obligation to which it or any of its affiliates is a party;
 - (iv) the execution and delivery by it of this Agreement does not require any registration or filing with, the consent or approval of, notice to, or any other action with any federal, state, or other governmental authority or regulatory body, other than, for the avoidance of doubt, the actions with governmental authorities or regulatory bodies required in connection with implementation of the Restructuring Transactions;
 - (v) subject to the provisions of sections 1125 and 1126 of the Bankruptcy Code, this Agreement is its legally valid and binding obligation, enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar laws relating to or limiting creditors' rights generally, or by equitable principles relating to enforceability; and
 - (vi) it has sufficient knowledge and experience to evaluate properly the terms and conditions of the Plan and this Agreement, and has been

afforded the opportunity to consult with its legal and financial advisors with respect to its decision to execute this Agreement, and it has made its own analysis and decision to enter into this Agreement and otherwise investigated this matter to its full satisfaction.

22. **Relationship Among Parties.** Notwithstanding anything herein to the contrary, (i) the duties and obligations of the Parties under this Agreement shall be several, not joint; (ii) no Party shall have any responsibility by virtue of this Agreement for any trading by any other entity; (iii) no prior history, pattern, or practice of sharing confidences among or between the Parties shall in any way affect or negate this Agreement; (iv) the Parties hereto acknowledge that this Agreement does not constitute an agreement, arrangement, or understanding with respect to acting together for the purpose of acquiring, holding, voting, or disposing of any equity securities of the Company, the Parties do not constitute a “group” within the meaning of Rule 13d-5 under the Securities Exchange Act of 1934, as amended, and no action taken by any Party pursuant to this Agreement shall be deemed to create a presumption that the Parties are, in any way, acting as a “group”; and (v) none of the Restructuring Support Parties shall have any fiduciary duty, any duty of trust or confidence in any form, or other duties or responsibilities in any kind or form to each other, the Company or any of the Company’s other lenders or stakeholders, including as a result of this Agreement or the transactions contemplated hereby.

23. **Remedies.** It is understood and agreed by the Parties that breach of this Agreement would give rise to irreparable damage for which monetary damages may not be an adequate remedy and each non-breaching Party shall be entitled to seek specific performance and injunctive or other equitable relief as a remedy of any such breach of this Agreement, including an order of the Bankruptcy Court or other court of competent jurisdiction requiring any Party to comply promptly with any of its obligations hereunder, *provided* specific performance shall not be an available remedy against the Company if the Company validly terminates this Agreement in accordance with, and subject to, Section 11(d) hereof. The Parties agree that such relief will be their only remedy against the applicable breaching Party or Parties with respect to any such breach, and that in no event will any Party be liable for monetary damages under or in connection with this Agreement.

24. **Governing Law & Jurisdiction.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to such state’s choice of law provisions which would require the application of the law of any other jurisdiction, except where preempted by the Bankruptcy Code. By its execution and delivery of this Agreement, each Party irrevocably and unconditionally agrees for itself that any legal action, suit, or proceeding against it with respect to any matter arising under or arising out of or in connection with this Agreement or for recognition or enforcement of any judgment rendered in any such action, suit, or proceeding, may be brought in the United States District Court for the Southern District of New York, and by executing and delivering this Agreement, each of the Parties irrevocably accepts and submits itself to the exclusive jurisdiction of such court, generally and unconditionally, with respect to any such action, suit or proceeding. Notwithstanding the foregoing consent to New York jurisdiction, if the Chapter 11 Cases are commenced, each Party agrees that the Bankruptcy Court shall have exclusive jurisdiction of all matters arising out of or in connection with this Agreement. By executing and delivering this

Agreement, and upon commencement of the Chapter 11 Cases, each of the Parties irrevocably and unconditionally submits to the personal jurisdiction of the Bankruptcy Court solely for purposes of any action, suit, proceeding, or other contested matter arising out of or relating to this Agreement, or for recognition or enforcement of any judgment rendered or order entered in any such action, suit, proceeding, or other contested matter.

25. **Waiver of Right to Trial by Jury.** Each of the Parties waives any right to have a jury participate in resolving any dispute, whether sounding in contract, tort or otherwise, between any of the Parties arising out of, connected with, relating to, or incidental to the relationship established between any of them in connection with this Agreement. Instead, any disputes resolved in court shall be resolved in a bench trial without a jury.

26. **Successors and Assigns.** Except as otherwise provided in this Agreement, this Agreement is intended to bind and inure to the benefit of each of the Parties and each of their respective permitted successors, assigns, heirs, executors, administrators, and representatives.

27. **No Third-Party Beneficiaries.** Unless expressly stated herein, this Agreement shall be solely for the benefit of the Parties and no other person or entity shall be a third-party beneficiary of this Agreement.

28. **Notices.** All notices (including any notice of termination or breach) and other communications from any Party hereunder shall be in writing and shall be deemed to have been duly given if personally delivered by courier service, messenger, email, or facsimile to the other Parties at the applicable addresses below, or such other addresses as may be furnished hereafter by notice in writing. Any notice of termination or breach shall be delivered to all other Parties.

(a) If to the Company:

Hollander Sleep Products, LLC
901 Yamato Road
Suite 250
Boca Raton, Florida 33431
Attn: Marc. L. Pfefferle
Email: mpfefferle@carlmarks.com

With a copy to:

Kirkland & Ellis LLP
300 North LaSalle
Chicago, Illinois 60654
Attn: Joseph M. Graham
Laura Krucks
Email: joe.graham@kirkland.com
laura.krucks@kirkland.com

(b) If to the Sponsor:

Sentinel Capital Partners
330 Madison Avenue, 27th Floor
New York, New York 10017
Attn: Vincent E. Taurassi
Email: Taurassi@sentinelpartners.com

With a copy to:

Kramer Levin Naftalis & Frankel LLP
1177 Avenue of the Americas
New York, NY 10036
Attn: Adam Rogoff
Email: arogoff@kramerlevin.com

(c) If to the Consenting Term Loan Lenders:

To each Consenting Term Loan Lender at the addresses or e-mail addresses set forth below the Consenting Term Loan Lender's signature page to this Agreement (or to the signature page to a Transferee Joinder as the case may be).

With a copy to:

King & Spalding LLP
1180 Peachtree Street, NE Suite 1600
Atlanta, GA 30309
Attn: W. Austin Jowers
Email: ajowers@kslaw.com

and

King & Spalding LLP
1185 Avenue of the Americas
34th Floor
New York, NY 10036
Attn: Christopher Boies
Stephen M. Blank
Email: sboies@kslaw.com
sblank@kslaw.com

29. **Entire Agreement.** This Agreement (including each of the exhibits hereto and any schedules to such exhibits) constitutes the entire agreement of the Parties with respect to the subject matter of this Agreement, and supersedes all prior negotiations, agreements, and understandings, whether written or oral, among the Parties with respect to the subject matter of this Agreement.

30. **Amendments.** Except as otherwise provided herein, this Agreement may not be modified, amended, or supplemented without the prior written consent of the Company, the Required Consenting Term Loan Lenders, and the Sponsor (but only with respect to this Agreement, not the DIP Term Loan Commitment Letter or the Exit Term Loan Commitment Letter unless such amendments, modifications, or supplements have an adverse effect on the Sponsor or the treatment of the Last Out Loans or DIP Last Out Loans); *provided* that any modification, amendment, or change to (a) the definition of Required Consenting Term Loan Lenders or the threshold of Consenting Term Loan Lenders set forth in Section 9 hereof shall also require the written consent of each Consenting Term Loan Lender, (b) this Section 30 shall require the written consent of the Company, each Consenting Term Loan Lender, and the Sponsor, or (c) this Agreement that treats or affects any Consenting Term Loan Lender in a manner that is disproportionately adverse, on an economic or non-economic basis, to the treatment of other holders of Term Loan Claims, shall also require the written consent of such Consenting Term Loan Lender.

31. **Reservation of Rights.** Subject to and except as expressly provided in this Agreement or in any amendment thereof agreed upon by the Parties pursuant to the terms hereof, nothing herein is intended to, or does, in any manner waive, limit, impair or restrict the ability of each of the Parties to protect and preserve its rights, remedies and interests, including its claims against any of the other Parties (or their respective affiliates or subsidiaries) or its full participation in the Chapter 11 Cases. Without limiting the foregoing sentence in any way, if the Restructuring Transactions are not consummated, or if this Agreement is terminated for any reason, nothing in this Agreement shall be construed as a waiver by any Party of any or all of such Party's rights, remedies, claims and defenses, and the Parties expressly reserve any and all of their respective rights, remedies, claims and defenses. This Agreement shall in no event be construed as, or be deemed to be, evidence of an admission or concession on the part of any Party of any claim or fault or liability or damages whatsoever. Any waiver shall not be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent default, misrepresentation, or breach of warranty or covenant. Each of the Parties denies any and all wrongdoing or liability of any kind and does not concede any infirmity in the claims or defenses which it has asserted or could assert. This Agreement is part of a proposed settlement of matters that could otherwise be the subject of litigation among the Parties hereto. Pursuant to Federal Rule of Evidence 408 and any applicable state rules of evidence, all negotiations relating to this Agreement shall not be admissible into evidence in any proceeding other than a proceeding to enforce the terms of this Agreement.

32. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which, when so executed, shall constitute the same instrument, and the counterparts may be delivered by facsimile transmission or by electronic mail in portable document format (.pdf).

33. **Disclosures.** The Company shall (a) submit drafts to the Term Loan Agent Counsel and Sponsor Counsel of any press releases and public documents that constitute the disclosure of the existence or terms of this Agreement or any amendment to the terms of this Agreement at least two business days or as soon as reasonably practicable prior to making any such disclosure and (b) consult with the Term Loan Agent Counsel and Sponsor Counsel in good faith regarding the form and substance of such disclosure(s), including consideration of inclusion

of any comments reasonably requested by the Term Loan Agent Counsel or Sponsor Counsel. Except as required by law or otherwise permitted under the terms of any other agreement between the Company, on the one hand, and the Term Loan Lenders, on the other hand (including the DIP Term Loan Agreement and related documents), this Agreement, as well as its terms, its existence, and the existence of the negotiation of its terms are expressly subject to any existing confidentiality agreements executed by and among any of the Parties as of the date hereof (including any such provisions in the Term Loan Credit Agreement); *provided* that (i) such information may be disclosed to Term Loan Lenders not party hereto, subject to the confidentiality provisions in the Term Loan Credit Agreement, and (ii) after the Petition Date, the Parties may disclose the existence of, or the terms of, this Agreement or any other material term of the transaction contemplated herein without the express written consent of the other Parties; *provided, further*, that no Party or its advisors shall disclose to any person or entity (including, for the avoidance of doubt, any other Party), other than advisors to the Company, the principal amount or percentage of any claims, loans, or other interests held by the Consenting Term Loan Lenders or the Sponsor, in each case, without the prior written consent of such Consenting Term Loan Lender or the Sponsor, as applicable.

34. **Headings.** The section headings of this Agreement are for convenience of reference only and shall not, for any purpose, be deemed a part of this Agreement.

35. **Interpretation.** This Agreement is the product of negotiations among the Parties, and the enforcement or interpretation hereof, is to be interpreted in a neutral manner, and any presumption with regard to interpretation for or against any Party by reason of that Party having drafted or caused to be drafted this Agreement or any portion hereof, shall not be effective in regard to the interpretation hereof.

36. **Representation by Counsel.** Each Party acknowledges that it has had the opportunity to be represented by counsel in connection with this Agreement and the transactions contemplated hereunder. Accordingly, any rule of law or any legal decision that would provide any Party with a defense to the enforcement of the terms of this Agreement against such Party based upon lack of legal counsel shall have no application and is expressly waived.


37. **Consideration.** The Parties hereby acknowledge that no consideration, other than that specifically described herein, shall be due or paid to any Party for its agreement to vote to accept the Plan in accordance with the terms and conditions of this Agreement.

38. **Computation of Time.** Rule 9006(a) of the Federal Rules of Bankruptcy Procedure applies in computing any period of time prescribed or allowed herein only to the extent such period of time governs a Milestone pertaining to the entry of an order by the Bankruptcy Court in the Chapter 11 Cases.

[Signatures and exhibits follow.]

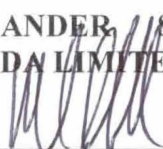
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date and year first written above.

DREAM II HOLDINGS, LLC,



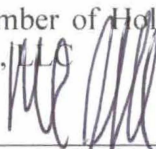
Name: Marc Pfefferle
Title: Chief Executive Officer

**HOLLANDER SLEEP PRODUCTS
CANADA LIMITED (CANADA)**



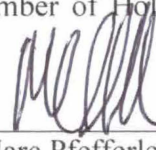
Name: Marc Pfefferle
Title: Chief Executive Officer

DREAM II HOLDINGS, LLC,
Sole Member of Hollander Home Fashions
Holdings, LLC



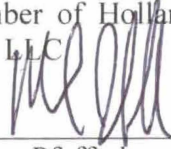
Name: Marc Pfefferle
Title: Chief Executive Officer

**HOLLANDER HOME FASHIONS
HOLDINGS, LLC,**
Sole Member of Hollander Sleep Products,
LLC



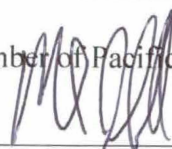
Name: Marc Pfefferle
Title: Chief Executive Officer

**HOLLANDER SLEEP PRODUCTS,
LLC,**
Sole Member of Hollander Sleep Products
Kentucky, LLC



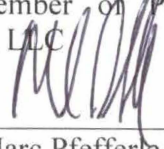
Name: Marc Pfefferle
Title: Chief Executive Officer

**HOLLANDER SLEEP PRODUCTS,
LLC,**
Sole Member of Pacific Coast Feather, LLC



Name: Marc Pfefferle
Title: Chief Executive Officer

PACIFIC COAST FEATHER, LLC,
Sole Member of Pacific Coast Feather
Cushion, LLC



Name: Marc Pfefferle
Title: Chief Executive Officer

Exhibit A to the Restructuring Support Agreement

Plan

[To Be Filed Separately]

Exhibit B to the Restructuring Support Agreement

DIP Term Loan Commitment Letter

[Omitted]

Exhibit C to the Restructuring Support Agreement

Exit Term Loan Commitment Letter

[Omitted]

Exhibit D to the Restructuring Support Agreement

Form of Transferee Joinder

Form of Transferee Joinder

This joinder (this “Joinder”) to the Restructuring Support Agreement (the “Agreement”), dated as of May 19, 2019, by and among: (i) Dream II Holdings, LLC together with certain of its direct and indirect subsidiaries (collectively, the “Company”); (ii) the Consenting Term Loan Lenders; and (iii) the Sponsor, is executed and delivered by [_____] (the “Joining Party”) as of [_____]. Each capitalized term used herein but not otherwise defined shall have the meaning ascribed to it in the Agreement.

39. Agreement to Be Bound. The Joining Party hereby agrees to be bound by all of the terms of the Agreement, a copy of which is attached to this Joinder as Annex 1 (as the same has been or may be hereafter amended, restated, or otherwise modified from time to time in accordance with the provisions thereof). The Joining Party shall hereafter be deemed to be a Party for all purposes under the Agreement and one or more of the entities comprising the Restructuring Support Parties.

40. Representations and Warranties. The Joining Party hereby represents and warrants to each other Party to the Agreement that, as of the date hereof, such Joining Party (a) is the legal or beneficial holder of, and has all necessary authority (including authority to bind any other legal or beneficial holder) with respect to, the Term Loan Claims identified below its name on the signature page hereof, and (b) makes, as of the date hereof, the representations and warranties set forth in Section 21 of the Agreement to each other Party.

41. Governing Law. This Joinder shall be governed by and construed in accordance with the internal laws of the State of New York without regard to any conflicts of law provisions which would require the application of the law of any other jurisdiction.

42. Notice. All notices and other communications given or made pursuant to the Agreement shall be sent to:

To the Joining Party at:

[JOINING PARTY]

[ADDRESS]

Attn:

Facsimile:

Email:

IN WITNESS WHEREOF, the Joining Party has caused this Joinder to be executed as of the date first written above.

[JOINING PARTY]

By: _____
Name:
Title:

Principal Amount of Term Loan Claims: \$_____

Notice Address:

Fax:
Attention:
Email:

Annex 1 to the Form of Transferee Joinder

**THIS IS EXHIBIT "E" REFERRED TO IN THE
AFFIDAVIT OF MARC PFEFFERLE SWORN
ON MAY 23, 2019.**

James F. Hickey SS: N.Y.

JAMES F. HICKEY
Notary Public, State of New York
Registration #01HI6340819
Qualified In Queens County
Commission Expires April 25, 2020



UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

HOLLANDER SLEEP PRODUCTS, LLC, *et al.*,¹

Debtors.

)
) Chapter 11
)

) Case No. 19-11608 (____)
)

) (Joint Administration Requested)
)

DEBTORS' JOINT PLAN OF REORGANIZATION
PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE

Joshua A. Sussberg, P.C.
Christopher T. Greco, P.C.
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

Joseph M. Graham (*pro hac vice* pending)
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
300 North LaSalle
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Proposed Counsel to the Debtors and Debtors in Possession

Dated: May 19, 2019

Nothing contained herein shall constitute an offer, acceptance, or a legally binding obligation of the Debtors or any other party in interest and this Plan is subject to approval by the Bankruptcy Court and other customary conditions. This Plan is not an offer with respect to any securities. YOU SHOULD NOT RELY ON THE INFORMATION CONTAINED IN, OR THE TERMS OF, THIS PLAN FOR ANY PURPOSE PRIOR TO THE CONFIRMATION OF THIS PLAN BY THE BANKRUPTCY COURT.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors' service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

TABLE OF CONTENTS

ARTICLE I. DEFINED TERMS, RULES OF INTERPRETATION, COMPUTATION OF TIME AND GOVERNING LAW	1
A. Defined Terms	1
B. Rules of Interpretation	14
C. Computation of Time	15
D. Governing Law	15
E. Reference to Monetary Figures	15
F. Non-Consolidated Plan	15
ARTICLE II. ADMINISTRATIVE CLAIMS, DIP CLAIMS AND PRIORITY TAX CLAIMS	16
A. Administrative Claims	16
B. Professional Fee Claims	16
C. DIP Claims	18
D. Priority Tax Claims	19
ARTICLE III. CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS	19
A. Classification of Claims and Interests	19
B. Treatment of Claims and Interests	20
C. Special Provision Governing Unimpaired Claims	24
D. Confirmation Pursuant to Sections 1129(a)(10) and 1129(b) of the Bankruptcy Code	24
E. Subordinated Claims	24
F. Elimination of Vacant Classes; Presumed Acceptance by Non-Voting Classes	24
G. Intercompany Interests	24
H. Controversy Concerning Impairment	25
ARTICLE IV. MEANS FOR IMPLEMENTATION OF THE PLAN	25
A. General Settlement of Claims and Interests	25
B. Restructuring Transactions	25
C. Reorganized Debtors	25
D. Sources of Consideration for Plan Distributions	26
E. Sale Transaction	27
F. Corporate Existence	27
G. Vesting of Assets in the Reorganized Debtors	27
H. Cancellation of Existing Securities and Agreements	27
I. Corporate Action	28
J. New Organizational Documents	28
K. Directors, Managers, and Officers of the Reorganized Debtors	28
L. Effectuating Documents; Further Transactions	29
M. Exemption from Securities Act Registration	29
N. Exemption from Certain Taxes and Fees	29
O. Preservation of Causes of Action	29
ARTICLE V. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES	30
A. Assumption and Rejection of Executory Contracts and Unexpired Leases	30
B. Claims Based on Rejection of Executory Contracts or Unexpired Leases	31
C. Cure of Defaults for Assumed Executory Contracts and Unexpired Leases	31
D. Preexisting Obligations to the Debtors under Executory Contracts and Unexpired Leases	31
E. Insurance Policies and Surety Bonds	32
F. Director, Officer, Manager, and Employee Liability Insurance	32
G. Indemnification Obligations	32
H. Employee and Retiree Benefits	33

I.	Collective Bargaining Agreements	33
J.	Workers Compensation Program	33
K.	Modifications, Amendments, Supplements, Restatements, or Other Agreements	33
L.	Reservation of Rights.....	34
M.	Nonoccurrence of Effective Date.....	34
N.	Contracts and Leases Entered Into After the Petition Date.....	34
ARTICLE VI. PROVISIONS GOVERNING DISTRIBUTIONS		34
A.	Timing and Calculation of Amounts to Be Distributed	34
B.	Distributions on Account of Obligations of Multiple Debtors.....	34
C.	Disbursing Agent	35
D.	Rights and Powers of Disbursing Agent	35
E.	Delivery of Distributions and Undeliverable or Unclaimed Distributions.....	35
F.	Distributions on Account of Claims or Interests Allowed After the Effective Date	37
G.	Compliance with Tax Requirements	37
H.	Allocations Between Principal and Accrued Interest.....	37
I.	No Postpetition Interest on Claims	37
J.	Foreign Currency Exchange Rate	38
K.	Setoffs and Recoupment	38
L.	Claims Paid or Payable by Third Parties.....	38
ARTICLE VII. PROCEDURES FOR RESOLVING CONTINGENT, UNLIQUIDATED, AND DISPUTED CLAIMS.....		39
A.	Allowance of Claims.....	39
B.	Claims Administration Responsibilities.....	39
C.	Estimation of Claims.....	39
D.	Adjustment to Claims Without Objection.....	39
E.	Time to File Objections to Claims	40
F.	Disallowance of Claims	40
G.	Amendments to Claims	40
H.	No Distributions Pending Allowance.....	40
I.	Distributions After Allowance	40
ARTICLE VIII. SETTLEMENT, RELEASE, INJUNCTION, AND RELATED PROVISIONS.....		41
A.	Discharge of Claims and Termination of Interests.....	41
B.	Release of Liens	41
C.	Debtor Release.....	41
D.	Third-Party Release.....	42
E.	Exculpation.....	43
F.	Injunction.....	44
G.	Protections Against Discriminatory Treatment.....	44
H.	Document Retention	44
I.	Reimbursement or Contribution.....	44
J.	Term of Injunctions or Stays.....	45
K.	Subordination Rights.....	45
ARTICLE IX. CONDITIONS PRECEDENT TO CONSUMMATION OF THE PLAN.....		45
A.	Conditions Precedent to the Effective Date	45
B.	Waiver of Conditions	46
C.	Substantial Consummation	46
D.	Effect of Failure of Conditions	46

ARTICLE X. MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE PLAN	46
A. Modification and Amendments	46
B. Effect of Confirmation on Modifications	46
C. Revocation or Withdrawal of Plan	47
ARTICLE XI. RETENTION OF JURISDICTION	47
ARTICLE XII. MISCELLANEOUS PROVISIONS	49
A. Immediate Binding Effect	49
B. Additional Documents	49
C. Payment of Statutory Fees	49
D. Statutory Committee and Cessation of Fee and Expense Payment	49
E. Reservation of Rights	49
F. Successors and Assigns	49
G. Notices	50
H. Entire Agreement	51
I. Exhibits	51
J. Non-Severability of Plan Provisions	51
K. Votes Solicited in Good Faith	51
L. Closing of Chapter 11 Cases	52
M. Conflicts	52

INTRODUCTION

Hollander Sleep Products, LLC and its Debtor affiliates in the above-captioned Chapter 11 Cases propose this joint chapter 11 plan pursuant to chapter 11 of the Bankruptcy Code. Capitalized terms used and not otherwise defined shall have the meanings ascribed to such terms in Article I.A. This Plan constitutes a separate chapter 11 plan for each Debtor and, unless otherwise set forth herein, the classifications and treatment of Claims and Interests apply to each individual Debtor.

Holders of Claims and Interests should refer to the Disclosure Statement for a discussion of the Debtors' history, businesses, assets, results of operations, and historical financial information, projections, and future operations, as well as a summary and description of this Plan and certain related matters. Each Debtor is a proponent of the Plan contained herein within the meaning of section 1129 of the Bankruptcy Code.

ARTICLE I. DEFINED TERMS, RULES OF INTERPRETATION, COMPUTATION OF TIME AND GOVERNING LAW

A. Defined Terms

As used in this Plan, capitalized terms have the meanings ascribed to them below.

1. “**ABL Agent**” means Wells Fargo Bank, National Association, in its capacity as agent under the ABL Credit Agreement, solely in its capacity as such.

2. “**ABL Claims**” means any and all Claims relating to, arising out of, arising under, or arising in connection with the ABL Credit Facility.

3. “**ABL Credit Agreement**” means that certain Third Amended and Restated Credit Agreement, dated as of June 9, 2017, by and among Hollander Home Fashions, LLC, Hollander Sleep Products, LLC, Hollander Sleep Products Kentucky, LLC, Hollander Sleep Products Canada Limited, Pacific Coast Feather Company, and Pacific Coast Feather Cushion Co., as borrowers, Dream II, as parent, the lenders party thereto, and the ABL Agent, as modified and amended on August 31, 2017, October 19, 2018, and November 27, 2018, and as may be further amended, modified, restated, or supplemented from time to time.

4. “**ABL Credit Facility**” means, collectively, the senior secured revolving credit facility, swing loans, and letters of credit provided for by the ABL Credit Agreement.

5. “**ABL Lenders**” means the banks, financial institutions, and other lenders party to the ABL Credit Agreement from time to time, each letter of credit issuer thereunder, and each bank product provider thereunder, each solely in their capacity as such.

6. “**ABL Priority Collateral**” has the meaning set forth in the DIP Intercreditor Agreement.

7. “**Administration Charge**” means the charge granted by the Canadian Court in the Recognition Proceedings on the Canadian Assets to secure the professional fees and disbursements of the Information Officer and its counsel, in each case incurred in respect of the Recognition Proceedings.

8. “**Administrative Claim**” means a Claim for the costs and expenses of administration of the Estates under sections 503(b), 507(a)(2), 507(b), or 1114(e)(2) of the Bankruptcy Code, including: (a) the actual and necessary costs and expenses incurred on or after the Petition Date of preserving the Estates and operating the businesses of the Debtors; (b) Allowed Professional Fee Claims in the Chapter 11 Cases; and (c) amounts owing pursuant to the DIP Orders.

9. “**Administrative Claim Bar Date**” means the deadline for filing requests for payment of Administrative Claims (other than (x) Professional Fee Claims, (y) Administrative Claims arising in the ordinary

course of business, or (z) Claims arising pursuant to section 503(b)(9) of the Bankruptcy Code, which are required to be filed in accordance with the Bar Date Order), which shall be 30 days after the Effective Date.

10. “**Administrative Claim Objection Bar Date**” means the deadline for filing objections to requests for payment of Administrative Claims (other than requests for payment of Professional Fee Claims), which shall be the later of (a) 60 days after the Effective Date and (b) 60 days after the Filing of the applicable request for payment of the Administrative Claims; *provided* that the Administrative Claim Objection Bar Date may be extended by the Bankruptcy Court after notice and a hearing.

11. “**Affiliate**” has the meaning set forth in section 101(2) of the Bankruptcy Code.

12. “**Allowed**” means with respect to any Claim, except as otherwise provided in the Plan: (a) a Claim that is evidenced by a Proof of Claim Filed by the Bar Date (or for which Claim under the Plan, the Bankruptcy Code, or pursuant to a Final Order a Proof of Claim is not or shall not be required to be Filed); (b) a Claim that is listed in the Schedules as not contingent, not unliquidated, and not disputed, and for which no Proof of Claim, as applicable, has been timely Filed; or (c) a Claim Allowed pursuant to the Plan or a Final Order of the Bankruptcy Court; *provided* that with respect to a Claim described in clauses (a) and (b) above, such Claim shall be considered Allowed only if and to the extent that, with respect to such Claim, no objection to the allowance thereof has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or such an objection is so interposed and the Claim, as applicable, shall have been Allowed by a Final Order. Except as otherwise specified in the Plan or any Final Order, and except for any Claim that is Secured by property of a value in excess of the principal amount of such Claims, the amount of an Allowed Claim shall not include interest on such Claim from and after the Petition Date. For purposes of determining the amount of an Allowed Claim, there shall be deducted therefrom an amount equal to the amount of any Claim that the Debtors may hold against the Holder thereof, to the extent such Claim may be offset, recouped, or otherwise reduced under applicable law. Any Claim that has been or is hereafter listed in the Schedules as contingent, unliquidated, or disputed, and for which no Proof of Claim is or has been timely Filed, is not considered Allowed and shall be expunged without further action by the Debtors and without further notice to any party or action, approval, or order of the Bankruptcy Court. Notwithstanding anything to the contrary herein, no Claim of any Entity subject to section 502(d) of the Bankruptcy Code shall be deemed Allowed unless and until such Entity pays in full the amount that it owes such Debtor or Reorganized Debtor, as applicable. For the avoidance of doubt: (x) a Proof of Claim Filed after the Bar Date shall not be Allowed for any purposes whatsoever absent entry of a Final Order allowing such late-filed Claim; and (y) the Debtors may affirmatively determine to deem Unimpaired Claims Allowed to the same extent such Claims would be allowed under applicable non-bankruptcy law. “Allow” and “Allowing” shall have correlative meanings.

13. “**Auction**” means the auction, if any, for some or all of the Debtors’ assets, conducted in accordance with the Bidding Procedures.

14. “**Bankruptcy Code**” means title 11 of the United States Code, 11 U.S.C. §§ 100–1532, as now in effect or hereafter amended, and the rules and regulations promulgated thereunder.

15. “**Bankruptcy Court**” means the United States Bankruptcy Court for the Southern District of New York, having jurisdiction over the Chapter 11 Cases and, to the extent of the withdrawal of reference under section 157 of the Judicial Code and/or the General Order of the District Court pursuant to section 151 of the Judicial Code, the United States District Court for the Southern District of New York.

16. “**Bankruptcy Rules**” means the Federal Rules of Bankruptcy Procedure, as applicable to the Chapter 11 Cases, promulgated under section 2075 of the Judicial Code and the general, local, and chambers rules of the Bankruptcy Court.

17. “**Bar Date Order**” means the [Order (A) Setting Bar Dates for Filing Proofs of Claim, (B) Approving Procedures for Submitting Proofs of Claim, (C) Approving Notice Thereof, and (D) Granting Related Relief] [Docket No. ●], entered by the Bankruptcy Court on [●].

18. **“Bidding Procedures”** means the procedures governing the Auction and sale of all or substantially all of the Debtors’ assets, as approved by the Bankruptcy Court and as may be amended from time to time in accordance with their terms.

19. **“Business Day”** means any day, other than a Saturday, Sunday, or “legal holiday” (as defined in Bankruptcy Rule 9006(a)(6)).

20. **“Canadian Acquisition Transaction”** means one or more transactions to be implemented on or before the Effective Date pursuant to which the Term Loan Lenders may acquire the Canadian Assets, which transaction or transactions shall be acceptable to the Debtors, the Required Term Lenders, and the Information Officer, and subject to the approval of the Canadian Court.

21. **“Canadian Assets”** means the assets, undertakings, and properties of Hollander Canada at the applicable time.

22. **“Canadian Court”** means the Ontario Superior Court of Justice (Commercial List).

23. **“Canadian Intercompany Claim”** means (i) the Claim of Hollander Canada in respect of the aggregate amount loaned by Hollander Canada to the Debtors other than Hollander Canada during the Chapter 11 Cases pursuant to and in accordance with the DIP Order, *less* (ii) the aggregate amount reasonably incurred by the Debtors other than Hollander Canada during the Chapter 11 Cases in providing selling, general, and administrative services to Hollander Canada.

24. **“Cash”** or **“\$”** means cash and cash equivalents, including bank deposits, checks, and other similar items in legal tender of the United States of America.

25. **“Causes of Action”** means any actions, claims, cross claims, third-party claims, interests, damages, controversies, remedies, causes of action, debts, judgments, demands, rights, actions, suits, obligations, liabilities, accounts, defenses, offsets, powers, privileges, licenses, liens, indemnities, guaranties, and franchises of any kind or character whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, contingent or non-contingent, liquidated or unliquidated, secured or unsecured, assertable directly or derivatively, matured or unmatured, suspected or unsuspected, disputed or undisputed, whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity, or pursuant to any other theory of law or otherwise. For the avoidance of doubt, “Causes of Action” include: (a) any rights of setoff, counterclaim, or recoupment and any claims under contracts or for breaches of duties imposed by law or in equity; (b) the right to object to or otherwise contest Claims or Interests; (c) claims pursuant to section 362 or chapter 5 of the Bankruptcy Code; (d) any claims or defenses, including fraud, mistake, duress, and usury, and any other defenses set forth in section 558 of the Bankruptcy Code; and (e) any state law fraudulent transfer claim.

26. **“CCAA”** means Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended.

27. **“Chapter 11 Cases”** means (a) when used with reference to a particular Debtor, the case pending for that Debtor under chapter 11 of the Bankruptcy Code and (b) when used with reference to all Debtors, the procedurally consolidated chapter 11 cases pending for the Debtors in the Bankruptcy Court.

28. **“Claim”** means any claim, as such term is defined in section 101(5) of the Bankruptcy Code, or as defined in the CCAA, as applicable, against a Debtor or an Estate.

29. **“Claims Bar Date”** means the dates established by the Bankruptcy Court by which Proofs of Claim must have been Filed with respect to such Claims (other than Claims required to be Filed by the Administrative Claims Bar Date), pursuant to (a) the Bar Date Order, (b) a Final Order of the Bankruptcy Court, or (c) the Plan.

30. **“Claims Register”** means the official register of Claims maintained by the Notice and Claims Agent.

31. “**Class**” means a class of Claims or Interests as set forth in Article III of the Plan in accordance with section 1122(a) of the Bankruptcy Code.

32. “**Collective Bargaining Agreement**” means those certain Collective Bargaining Agreements by and between Debtor Hollander Sleep Products, LLC, on the one hand, and, as applicable, the Southwest Regional Joint Board Workers United, the Southern Regional Joint Board of Workers United, SEIU on Behalf of Local 2420, the Mid-Atlantic Joint Board of Workers United, or the Workers United, Western States Regional Joint Board, on the other hand, as the same may have been amended from time to time.

33. “**Committee**” means any official statutory committee of unsecured creditors of the Debtors appointed in the Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code by the U.S. Trustee.

34. “**Confirmation**” means the Bankruptcy Court’s entry of the Confirmation Order on the docket of the Chapter 11 Cases within the meaning of Bankruptcy Rules 5003 and 9021.

35. “**Confirmation Date**” means the date upon which the Bankruptcy Court enters the Confirmation Order on the docket of the Chapter 11 Cases, within the meaning of Bankruptcy Rules 5003 and 9021.

36. “**Confirmation Hearing**” means the hearing held by the Bankruptcy Court to consider Confirmation of the Plan pursuant to sections 1128 and 1129 of the Bankruptcy Code, including any adjournments thereof.

37. “**Confirmation Order**” means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code, which order must be reasonably acceptable to the Debtors, the Required Term Lenders, the Term Loan Agent, the DIP ABL Agent (solely with respect to the economic and non-economic treatment of the DIP ABL Agent and DIP ABL Lenders pursuant to such order), the ABL Agent (solely with respect to the economic and non-economic treatment of the ABL Agent and ABL Lenders pursuant to such order), and the Sponsor.

38. “**Consenting Term Loan Lenders**” means the Term Loan Lenders that are party to the RSA, together with their respective successors and permitted assigns and any subsequent Term Loan Lenders that become party to the RSA in accordance with the terms of the RSA.

39. “**Consummation**” means the occurrence of the Effective Date.

40. “**D&O Liability Insurance Policies**” means, collectively, (a) all insurance policies (including any “tail policy”) of any of the Debtors for current or former directors’, members’, trustees’, managers’, and officers’ liability as of the Petition Date, and (b) all insurance policies (including any “tail policy”) for directors’, members’, trustees’, managers’, and officers’ liability maintained by the Debtors, the Estates, or the Reorganized Debtors as of the Effective Date.

41. “**Debtor**” means one or more of the Debtors, as debtors and debtors in possession, each in its respective individual capacity as a debtor and debtor in possession in the Chapter 11 Cases.

42. “**Debtor Release**” means the release given on behalf of the Debtors and their Estates to the Released Parties as set forth in Article VIII.C of the Plan

43. “**Debtors**” means, collectively: (a) Dream II, (b) Hollander Home Fashions Holdings, LLC, (c) Hollander Sleep Products, LLC, (d) Hollander Sleep Products Kentucky, LLC, (e) Pacific Coast Feather, LLC, (f) Pacific Coast Feather Cushion, LLC, and (g) Hollander Sleep Products Canada Limited.

44. “**DIP ABL Agent**” means the administrative agent under the DIP ABL Credit Agreement, solely in its capacity as such.

45. “**DIP ABL Claims**” means any and all Claims derived from or based upon the DIP ABL Credit Facility, including all Claims for any fees and expenses of the DIP ABL Agent.

46. ***“DIP ABL Credit Agreement”*** means that certain debtor-in-possession credit agreement by and among the Debtors, the DIP ABL Agent, and the DIP ABL Lenders, as may be amended, modified, restated, or supplemented from time to time.

47. ***“DIP ABL Credit Facility”*** means the senior secured revolving credit facility provided for under the DIP ABL Credit Agreement.

48. ***“DIP ABL Lenders”*** means the banks, financial institutions, and other lenders party to the DIP ABL Credit Agreement from time to time, each letter of credit issuer thereunder, and each bank product provider thereunder, each solely in their capacity as such.

49. ***“DIP Agents”*** means collectively, the DIP ABL Agent and the DIP Term Loan Agent.

50. ***“DIP Claims”*** means any and all Claims arising under or related to the DIP Facilities, including the Last Out DIP Loan Claims.

51. ***“DIP Credit Agreements”*** means collectively, the DIP ABL Credit Agreement and the DIP Term Loan Credit Agreement.

52. ***“DIP Facilities”*** means the DIP ABL Credit Facility and the DIP Term Loan Facility.

53. ***“DIP Intercreditor Agreement”*** means the amended and restated intercreditor agreement, by and among the ABL Agent and the Term Loan Agent, which amended and restated the prepetition intercreditor agreement in its entirety, and is binding and enforceable against the Borrowers (as such term is defined in the DIP Order), the other “Grantors” thereunder, the Prepetition Secured Parties, and the DIP Lenders in accordance with its terms.

54. ***“DIP Lenders”*** means the banks, financial institutions, and other lenders party to the DIP Credit Agreements from time to time and the bank product providers thereunder.

55. ***“DIP Order”*** means collectively, the interim and final orders entered by the Bankruptcy Court authorizing the Debtors to enter into the DIP Credit Agreements and incur postpetition obligations thereunder.

56. ***“DIP Term Loan Agent”*** means the administrative agent under the DIP Term Loan Credit Agreement, solely in its capacity as such.

57. ***“DIP Term Loan Claims”*** means any and all Claims derived from or based upon the DIP Term Loan Credit Facility, including all Claims for any fees and expenses of the DIP Term Loan Agent.

58. ***“DIP Term Loan Credit Agreement”*** means that certain debtor-in-possession credit agreement by and among the Debtors, the DIP Term Loan Agent, and the DIP Term Loan Lenders, as may be amended, modified, restated, or supplemented from time to time.

59. ***“DIP Term Loan Credit Facility”*** means the credit facility provided for under the DIP Term Loan Credit Agreement.

60. ***“DIP Term Loan Debt Consideration”*** means \$28 million of the Exit Term Loan Facility provided to the DIP Term Loan Lenders in consideration of the DIP Term Loan Claims (in addition to any other consideration provided herein).

61. ***“DIP Term Loan Documents”*** means the DIP Term Loan Credit Agreement and all other agreements, documents, and instruments related thereto, including any guaranty agreements, pledge and collateral agreements, intercreditor agreements, and other security agreements, as may be amended, modified, restated, or supplemented from time to time.

62. **“DIP Term Loan Lenders”** means the banks, financial institutions, and other lenders party to the DIP Term Loan Credit Agreement from time to time, each solely in their capacity as such.

63. **“Disbursing Agent”** means, as applicable, the Reorganized Debtors or any Entity or Entities selected by the Debtors or the Reorganized Debtors to make or facilitate distributions contemplated under the Plan (in consultation with the Term Loan Agent with respect to distributions made to the Holders of Term Loan Claims).

64. **“Disclosure Statement”** means the *Disclosure Statement to the Debtors’ Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code*, dated as of [●], as may be amended, supplemented or modified from time to time, including all exhibits and schedules thereto and references therein that relate to the Plan, that is prepared and distributed in accordance with the Bankruptcy Code, the Bankruptcy Rules, and any other applicable law and approved by the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code, which must be reasonably acceptable to the Debtors, the Required Term Lenders, the Term Loan Agent, the ABL Agent, and the Sponsor.

65. **“Disputed”** means, with respect to any Claim or Interest, any Claim or Interest that is not yet Allowed.

66. **“Distribution Record Date”** means the date for determining which Holders of Allowed Claims or Allowed Interests are eligible to receive distributions under the Plan, which date shall be the Effective Date or such other date as is designated in a Final Order of the Bankruptcy Court.

67. **“Dream II”** means Dream II Holdings, LLC.

68. **“Effective Date”** means the date that is the first Business Day after the Confirmation Date on which (a) the conditions to the occurrence of the Effective Date have been satisfied or waived pursuant to Article IX.A and Article IX.B of the Plan and (b) no stay of the Confirmation Order is in effect, which shall be the day Consummation occurs.

69. **“Entity”** means an entity as such term is defined in section 101(15) of the Bankruptcy Code.

70. **“Estate”** means, as to each Debtor, the estate created on the Petition Date for the Debtor in its Chapter 11 Case pursuant to section 541 of the Bankruptcy Code and all property (as defined in section 541 of the Bankruptcy Code) acquired by the Debtors after the Petition Date through the Effective Date.

71. **“Excess Distributable Cash”** means, only in the event that the Winning Bidder is an Entity other than the Term Loan Lenders, any Cash proceeds of a Sale Transaction (i) in excess of amounts necessary to satisfy all Claims senior in priority to General Unsecured Claims, including the DIP Claims, the ABL Claims, and the Term Loan Claims, in full, in Cash, as provided herein, and (ii) that do not comprise the Hollander Canada Cash Allocation.

72. **“Exculpated Party”** means collectively, and in each case solely in its capacity as such: (a) the Debtors; (b) the Reorganized Debtors; (c) any Committee and each of their respective members; (d) the DIP Agents; (e) the DIP Lenders; (f) the ABL Agent; (g) the ABL Lenders; (h) the Term Loan Agent; (i) the Term Loan Lenders; (j) the Exit Facility Agents; (k) the Exit Facility Lenders; (l) the Sponsor; (m) the parties to the RSA; and (n) with respect to each of the foregoing entities, such Entity and its current and former Affiliates, and such Entities’ and their current Affiliates’ directors, managers, officers, equity holders (regardless of whether such interests are held directly or indirectly), predecessors, participants, successors, and assigns, subsidiaries, and each of their respective current and former equity holders, officers, directors, managers, principals, members, employees, agents, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, each in their capacity as such.

73. **“Executory Contract”** means a contract to which one or more of the Debtors is a party and that is subject to assumption or rejection under section 365 or 1123 of the Bankruptcy Code.

74. “**Exit ABL Agent**” means the administrative agent under the Exit ABL Credit Agreement, solely in its capacity as such.

75. “**Exit ABL Credit Agreement**” means that certain credit agreement by and among the Reorganized Debtors, the Exit ABL Agent, and the Exit ABL Lenders, which shall be reasonably acceptable to the Debtors, the Sponsor, the Term Loan Agent, the Required Term Lenders, and the DIP ABL Agent (solely with respect to the economic and non-economic treatment of the DIP ABL Agent and DIP ABL Lenders pursuant to such agreement, if applicable) and which shall be included in the Plan Supplement.

76. “**Exit ABL Documents**” means the Exit ABL Credit Agreement and all other agreements, documents, and instruments related thereto, including any guaranty agreements, pledge and collateral agreements, intercreditor agreements, and other security agreements, which shall be reasonably acceptable to the Debtors, the Sponsor, the Term Loan Agent, the Required Term Lenders, and the DIP ABL Agent (solely with respect to the economic and non-economic treatment of the DIP ABL Agent and DIP ABL Lenders pursuant to such documents, if applicable).

77. “**Exit ABL Facility**” means the asset-based revolving credit facility provided for under the Exit ABL Credit Agreement.

78. “**Exit ABL Lenders**” means the banks, financial institutions, and other lenders party to the Exit ABL Credit Agreement from time to time, each solely in their capacity as such.

79. “**Exit Facilities**” means, collectively, the Exit ABL Facility and the Exit Term Loan Facility.

80. “**Exit Facility Agents**” means, collectively, the Exit ABL Agent and the Exit Term Loan Agent.

81. “**Exit Facility Documents**” means, collectively, the Exit ABL Documents and the Exit Term Loan Documents.

82. “**Exit Facility Lenders**” means, collectively, the Exit ABL Lenders and the Exit Term Loan Lenders.

83. “**Exit Term Loan Agent**” means the administrative agent under the Exit Term Loan Credit Agreement, solely in its capacity as such.

84. “**Exit Term Loan Commitment Letter**” means that certain exit commitment letter, dated May 19, 2019, by and among the Debtors and certain Term Loan Lenders party thereto, which is attached to the RSA as Exhibit C.

85. “**Exit Term Loan Credit Agreement**” means that certain credit agreement by and among the Reorganized Debtors, the Exit Term Loan Agent, and the Exit Term Loan Lenders, which shall include terms and conditions consistent with the Exit Term Loan Commitment Letter, shall be reasonably acceptable to the parties thereto and the DIP ABL Agent (solely with respect to the economic and non-economic treatment of the DIP ABL Agent and DIP ABL Lenders pursuant to such agreement, if applicable), and shall be included in the Plan Supplement.

86. “**Exit Term Loan Documents**” means the Exit Term Loan Credit Agreement and all other agreements, documents, and instruments related thereto, including any guaranty agreements, pledge and collateral agreements, intercreditor agreements, and other security agreements, which shall be reasonably acceptable to the parties to the Exit Term Loan Credit Agreement and the DIP ABL Agent (solely with respect to the economic and non-economic treatment of the DIP ABL Agent and DIP ABL Lenders pursuant to such documents, if applicable).

87. “**Exit Term Loan Facility**” means the term loan credit facility in the aggregate principal amount of \$58,000,000 (comprised of the New Money Exit Term Loan Facility and the DIP Term Loan Debt Consideration) provided for under the Exit Term Loan Credit Agreement.

88. “**Exit Term Loan Lenders**” means the banks, financial institutions, and other lenders party to the Exit Term Loan Credit Agreement from time to time, each solely in their capacity as such.

89. “**Federal Judgment Rate**” means the federal judgment interest rate in effect as of the Petition Date calculated as set forth in section 1961 of the Judicial Code.

90. “**File**,” “**Filed**,” or “**Filing**” means file, filed, or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Cases, or, with respect to the filing of a Proof of Claim or Proof of Interest, the Notice and Claims Agent.

91. “**Final Order**” means, as applicable, an order or judgment of the Bankruptcy Court or other court of competent jurisdiction with respect to the relevant subject matter, which has not been reversed, stayed, modified, or amended, and as to which the time to appeal, petition for certiorari, or move for reargument, reconsideration, or rehearing has expired and no appeal, petition for certiorari, or motion for reargument, reconsideration, or rehearing has been timely taken or filed, or as to which any appeal, petition for certiorari, or motion for reargument, reconsideration, or rehearing that has been taken or any petition for certiorari that has been or may be filed has been resolved by the highest court to which the order or judgment could be appealed or from which certiorari could be sought or the new trial, reargument, or rehearing shall have been denied, resulted in no modification of such order, or has otherwise been dismissed with prejudice; *provided, however*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure or any comparable rule of the Bankruptcy Rules may be Filed relating to such order shall not cause such order to not be a Final Order.

92. “**General Unsecured Claim**” means any Claim that is not Secured and is not (a) an Administrative Claim (including, for the avoidance of doubt, a Professional Fee Claim), (b) an Other Secured Claim, (c) a Priority Tax Claim, (d) an Other Priority Claim, (e) an ABL Claim, (f) a Term Loan Claim, (g) a DIP Claim, or (h) a Hollander Canada General Unsecured Claim.

93. “**Governmental Unit**” has the meaning set forth in section 101(27) of the Bankruptcy Code.

94. “**Holder**” means an Entity holding a Claim or an Interest in any Debtor.

95. “**Hollander Canada**” means Hollander Sleep Products Canada Limited.

96. “**Hollander Canada Cash Allocation**” means, (i) in the event that the Winning Bidder is an Entity other than the Term Loan Lenders, any Cash proceeds of a Sale Transaction, after payment in full of the DIP ABL Claims, allocated to the assets, properties, and undertakings of Hollander Canada by such Winning Bidder, in consultation with the Information Officer, or (ii) in the event that the Winning Bidder is the Term Loan Lenders, the Cash proceeds, if any, of any Canadian Acquisition Transaction, if so elected by the Term Loan Lenders, made available to apply against the Hollander Canada General Unsecured Claims.

97. “**Hollander Canada General Unsecured Claim**” means any Claim against Hollander Canada that is not Secured and is not (a) an Administrative Claim (including, for the avoidance of doubt, a Professional Fee Claim), (b) an Other Secured Claim, (c) a Priority Tax Claim, (d) an Other Priority Claim, (e) an ABL Claim, (f) a Term Loan Claim, (g) a DIP Claim, or (h) a General Unsecured Claim.

98. “**Impaired**” means, with respect to a Class of Claims or Interests, a Class of Claims or Interests that is impaired within the meaning of section 1124 of the Bankruptcy Code.

99. “**Indemnification Obligations**” means each of the Debtors’ indemnification obligations in place as of the Effective Date, whether in the bylaws, certificates of incorporation or formation, limited liability company agreements, other organizational or formation documents, board resolutions, management or indemnification agreements, or employment or other contracts, for their current and former directors, officers, managers, members, employees, attorneys, accountants, investment bankers, and other professionals and agents of the Debtors.

100. “**Information Officer**” means the information officer appointed by the Canadian Court in the Recognition Proceedings.

101. “**Initial Distribution Date**” means the date on which the Disbursing Agent shall make initial distributions to holders of Claims and Interests pursuant to the Plan, which shall be as soon as reasonably practicable after the Effective Date but in no event shall be later than 30 days after the Effective Date.

102. “**Initial Minimum Overbid**” has the meaning given to such term in the Bidding Procedures.

103. “**Intercompany Claim**” means any Claim held by a Debtor or an Affiliate of a Debtor against another Debtor arising before the Petition Date and excludes, for the avoidance of doubt, the Canadian Intercompany Claim.

104. “**Intercompany Interest**” means an Interest in any Debtor, or a direct or indirect subsidiary of any Debtor, other than an Interest in Dream II.

105. “**Interest**” means any equity security in a Debtor as defined in section 101(16) of the Bankruptcy Code, including all issued, unissued, authorized, or outstanding shares of capital stock of the Debtors and any other rights, options, warrants, stock appreciation rights, phantom stock rights, restricted stock units, redemption rights, repurchase rights, convertible, exercisable, or exchangeable securities, or other agreements, arrangements, or commitments of any character relating to, or whose value is related to, any such interest or other ownership interest in any Debtor whether or not arising under or in connection with any employment agreement and whether or not certificated, transferable, preferred, common, voting, or denominated “stock” or a similar security, including any Claims against any Debtor subject to subordination pursuant to section 510(b) of the Bankruptcy Code arising from or related to any of the foregoing.

106. “**Interim Compensation Order**” means the [*Order (I) Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Retained Professionals and (II) Granting Related Relief*] [Docket No. [●]], entered by the Bankruptcy Court on [____], 2019, as the same may be modified by a Bankruptcy Court order approving the retention of a specific Professional or otherwise.

107. “**Judicial Code**” means title 28 of the United States Code, 28 U.S.C. §§ 1–4001, as now in effect or hereafter amended, and the rules and regulations promulgated thereunder.

108. “**Last Out DIP Loan Claims**” means any and all Claims derived from or based upon the Last Out DIP Loans.

109. “**Last Out DIP Loans**” means those Last Out Loans that, upon entry of the final DIP Order, are deemed refinanced or replaced by, or otherwise converted into, Last Out Loans under the DIP ABL Credit Facility.

110. “**Last Out Loans**” means those “Last Out Loans” as defined in the ABL Credit Agreement.

111. “**Lien**” means a lien as defined in section 101(37) of the Bankruptcy Code.

112. “**Management Incentive Plan**” means that certain management incentive plan that may be adopted by the New Board after the Effective Date on terms to be determined by and at the discretion of the New Board, including with respect to allocation, timing, and structure of such issuance and the Management Incentive Plan, the amount of which shall be reasonably acceptable to the Debtors, the Term Loan Agent, and the Required Term Lenders.

113. “**New Board**” means the initial board of directors, members, or managers, as applicable, of the Reorganized Dream II.

114. “**New Interests**” means the equity interests in Reorganized Dream II.

115. “**New Money Exit Term Loan Facility**” means the “new money” term loan credit facility in the aggregate principal amount of \$30,000,000 provided for under the Exit Term Loan Credit Agreement.

116. “**New Organizational Documents**” means the form of the certificates or articles of incorporation or formation, bylaws, limited liability company agreements, or such other applicable formation documents, including any shareholders agreement, of Reorganized Dream II, the terms of which shall be reasonably acceptable to the Debtors, the Term Loan Agent, and the Required Term Lenders and which shall be included in the Plan Supplement.

117. “**Notice and Claims Agent**” means Omni Management Group in its capacity as notice and claims agent for the Debtors and any successor.

118. “**Other Priority Claim**” means any Claim, to the extent such Claim has not already been paid during the Chapter 11 Cases, other than an Administrative Claim or a Priority Tax Claim, entitled to priority in right of payment under section 507(a) of the Bankruptcy Code.

119. “**Other Secured Claim**” means any Secured Claim that is not a DIP Claim, an ABL Claim, a Term Loan Claim, or a Secured Tax Claim, and includes (i) any Claim secured by the Administration Charge, and (ii) the Canadian Intercompany Claim.

120. “**Payoff Letter**” means the payoff letter in respect of any payment in full of the DIP ABL Claims and ABL Claims (excluding last out DIP Claims) in accordance with Section 1.4 of the DIP ABL Credit Agreement, to be agreed upon by the Debtor and the DIP ABL Agent prior to the Effective Date.

121. “**Person**” means a person as such term as defined in section 101(41) of the Bankruptcy Code.

122. “**Petition Date**” means the date on which each of the Debtors commenced the Chapter 11 Cases.

123. “**Plan**” means this *Debtors’ Joint Plan of Reorganization of Hollander Sleep Products, LLC and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code*, as may be altered, amended, modified, or supplemented from time to time in accordance with Article X hereof, including the Plan Supplement (as modified, amended or supplemented from time to time), which is incorporated herein by reference and made part of the Plan as if set forth herein.

124. “**Plan Supplement**” means the compilation of documents and forms of documents, agreements, schedules, and exhibits to the Plan, the initial draft of certain of such documents shall be Filed by the Debtors fourteen calendar days before the first day of the Confirmation Hearing, and additional documents Filed with the Bankruptcy Court prior to the Effective Date, as may be amended, supplemented, altered, or modified from time to time in accordance with the terms hereof, the Bankruptcy Code, and the Bankruptcy Rules, including: (a) the New Organizational Documents, if applicable; (b) the Exit ABL Credit Agreement, if applicable; (c) the Exit Term Loan Credit Agreement, if applicable; (d) any necessary documentation related to the Sale Transaction, if applicable; (e) the Schedule of Assumed Executory Contracts and Unexpired Leases; (f) the Schedule of Rejected Executory Contracts and Unexpired Leases; (g) the Schedule of Retained Causes of Action; (h) the identity of the members of the New Board and any executive management for the Reorganized Debtors; (i) the Payoff Letter; and (j) any other necessary documentation related to the Restructuring Transactions, which shall be reasonably acceptable to the Debtors, the Sponsor, the Term Loan Agent, and the Required Term Lenders.

125. “**Prepetition Agents**” means the ABL Agent and the Term Loan Agent.

126. “**Prepetition Facilities**” means the ABL Credit Facility and the Term Loan Facility.

127. “**Prepetition Secured Lenders**” means the ABL Lenders and Term Loan Lenders.

128. “**Priority Tax Claim**” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

129. “**Pro Rata**” means the proportion that an Allowed Claim or an Allowed Interest in a particular Class bears to the aggregate amount of Allowed Claims or Allowed Interests in that Class.

130. “**Professional**” means an Entity retained in the Chapter 11 Cases pursuant to and in accordance with sections 327, 363, or 1103 of the Bankruptcy Code and to be compensated for services rendered and expenses incurred pursuant to sections 327, 328, 329, 330, 331, or 363 of the Bankruptcy Code, *provided* that, for the avoidance of doubt, the advisors to the Term Loan Agent, the DIP Agents, and the ABL Agent shall not constitute a “Professional.”

131. “**Professional Fee Claims**” mean all Claims for fees and expenses (including transaction and success fees) incurred by a Professional on or after the Petition Date through and including the Confirmation Date to the extent such fees and expenses have not been paid pursuant to an order of the Bankruptcy Court and regardless of whether a monthly fee statement or interim fee application has been Filed for such fees and expenses. To the extent a Bankruptcy Court or higher court of competent jurisdiction denies or reduces by a Final Order any amount of a Professional’s fees or expenses, then the amount by which such fees or expenses are reduced or denied shall reduce the applicable Professional Fee Claim.

132. “**Professional Fee Escrow Account**” means an interest-bearing escrow account to be funded by the Debtors with Cash on the Effective Date in an amount equal to the Professional Fee Escrow Amount, *provided* that the Professional Fee Escrow shall be increased from Cash on hand at the Reorganized Debtors to the extent applications are filed after the Effective Date in excess of the amount of Cash funded into the escrow as of the Effective Date.

133. “**Professional Fee Escrow Amount**” means the total amount of Professional fees and expenses estimated pursuant to Article II.B.3 of the Plan.

134. “**Proof of Claim**” means a written proof of Claim Filed against any of the Debtors in the Chapter 11 Cases.

135. “**Proof of Interest**” means a written proof of Interest Filed against any of the Debtor in the Chapter 11 Cases.

136. “**Quarterly Distribution Date**” means the first Business Day after the end of each quarterly calendar period (i.e., March 31, June 30, September 30, and December 31 of each calendar year) occurring after the Effective Date, or as soon thereafter as is reasonably practicable.

137. “**Recognition Proceedings**” means the proceedings commenced by the Debtors under Part IV of the CCAA in the Canadian Court to recognize the Chapter 11 Cases as “foreign main proceedings” in Canada.

138. “**Reinstate**,” “**Reinstated**,” or “**Reinstatement**” means (a) leaving unaltered the legal, equitable, and contractual rights to which a Claim or Interest entitles the Holder of such Claim or Interest so as to leave such Claim or Interest not Impaired or (b) notwithstanding any contractual provision or applicable law that entitles the Holder of a Claim or Interest to demand or receive accelerated payment of such Claim or Interest after the occurrence of a default: (i) curing any such default that occurred before or after the Petition Date, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code or of a kind that section 365(b)(2) expressly does not require to be cured; (ii) reinstating the maturity (to the extent such maturity has not otherwise accrued by the passage of time) of such Claim or Interest as such maturity existed before such default; (iii) compensating the Holder of such Claim or Interest for any damages incurred as a result of any reasonable reliance by such holder on such contractual provision or such applicable law; (iv) if such Claim or Interest arises from a failure to perform a nonmonetary obligation other than a default arising from failure to operate a nonresidential real property lease subject to section 365(b)(1)(A), compensating the Holder of such Claim or Interest (other than the Debtor or an insider) for any actual pecuniary loss incurred by such Holder as a result of such failure; and (v) not otherwise altering the legal, equitable, or contractual rights to which such Claim or Interest entitles the Holder.

139. “[**Released Party**” means, collectively, and in each case in its capacity as such: (a) the Debtors; (b) the Reorganized Debtors; (c) the Prepetition Secured Lenders; (d) the Prepetition Agents; (e) the DIP Lenders;

(f) the DIP Agents; (g) the Exit Facility Lenders; (h) the Exit Facility Agents; (i) the Winning Bidder; (j) the Sponsor; (k) the parties to the RSA; and (l) with respect to each of the foregoing in clauses (a) through (j), such Entity and its current and former Affiliates, and such Entities' and their current Affiliates' directors, managers, officers, equity holders (regardless of whether such interests are held directly or indirectly), predecessors, participants, successors, and assigns, subsidiaries, affiliates, managed accounts or funds, and each of their respective current and former equity holders, officers, directors, managers, principals, shareholders, members, management companies, fund advisors, employees, agents, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, consultants, representatives, and other professionals; *provided* that any of the foregoing that opts out of the releases shall not be a "Released Party."]²

140. [**"Releasing Parties"** means, collectively, each of the following: (a) the Debtors; (b) the Reorganized Debtors; (c) the Prepetition Secured Lenders; (d) the Prepetition Agents; (e) the DIP Lenders; (f) the DIP Agents; (g) the Exit Facility Lenders; (h) the Exit Facility Agents; (i) the Winning Bidder; (j) the Sponsor; (k) the parties to the RSA; (l) all Holders of Claims that vote to accept the Plan; (m) all Holders of Claims that abstain from voting on the Plan *and* who do not elect to opt out of the Third-Party Release; (n) all Holders of Claims that vote to reject the Plan *and* who do not elect on their Ballot to opt out of the Third-Party Release; (o) all Holders of Claims that are deemed to accept the Plan and do not elect to opt out of the Third-Party Release; and (p) with respect to each of the foregoing in clauses (a) through (o), such Entity and its current and former Affiliates, and such Entities' and their current and former Affiliates' current and former directors, managers, officers, equity holders (regardless of whether such interests are held directly or indirectly), predecessors, successors, and assigns, subsidiaries, affiliates, managed accounts or funds, and each of their respective current and former equity holders, officers, directors, managers, principals, shareholders, members, management companies, fund advisors, employees, agents, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, each in their capacity as such collectively.]³

141. **"Reorganized Debtors"** means the Debtors, as reorganized pursuant to and under the Plan, or any successor or assign thereto, by merger, amalgamation, consolidation, or otherwise, on or after the Effective Date, including Reorganized Dream II.

142. **"Reorganized Dream II"** means Dream II Holdings, LLC, or any successor thereto, by merger, consolidation, or otherwise, on or after the Effective Date.

143. **"Required Term Lenders"** means the Required Consenting Term Loan Lenders (as defined in the RSA).

144. **"Restructuring Transactions"** means the transactions described in Article IV.B of the Plan.

145. **"RSA"** means that certain restructuring support agreement, dated as of May 19, 2019, by and among the Debtors, the Consenting Term Loan Lenders, and the Sponsor, as may be amended, supplemented, or modified from time to time.

146. **"Sale Transaction"** means the sale of all or substantially all of the Debtor's assets to the Winning Bidder, if such Winning Bidder is an Entity other than the Term Loan Lenders, consummated in accordance with the Bidding Procedures and the Plan.

² The Debtor Release and Third-Party Release included herein are subject to the satisfactory completion of a review of such releases and any investigation by the Debtors' independent director into any potential claims and Causes of Action subject to such releases. The Debtors reserve all rights to modify the Plan, including the release provisions of the Plan, and the Debtors reserve all rights and claims with respect thereto.

³ The Debtor Release and Third-Party Release included herein are subject to the satisfactory completion of a review of such releases and any investigation by the Debtors' independent director into any potential claims and Causes of Action subject to such releases. The Debtors reserve all rights to modify the Plan, including the release provisions of the Plan, and the Debtors reserve all rights and claims with respect thereto.

147. “***Schedule of Assumed Executory Contracts and Unexpired Leases***” means the schedule of certain Executory Contracts and Unexpired Leases to be assumed by the Debtors pursuant to the Plan, as the same may be amended, modified, or supplemented from time to time by the Debtors, which shall be reasonably acceptable to the Debtors, the Term Loan Agent, and the Required Term Lenders and shall be included in the Plan Supplement.

148. “***Schedule of Rejected Executory Contracts and Unexpired Leases***” means the schedule of certain Executory Contracts and Unexpired Leases to be rejected by the Debtors pursuant to the Plan, as the same may be amended, modified, or supplemented from time to time by the Debtors, which shall be reasonably acceptable to the Debtors, the Term Loan Agent, and the Required Term Lenders and shall be included in the Plan Supplement.

149. “***Schedule of Retained Causes of Action***” means the schedule of certain Causes of Action of the Debtors that are not released, waived, or transferred pursuant to the Plan, as the same may be amended, modified, or supplemented from time to time by the Debtors, which shall be reasonably acceptable to the Debtors, the Term Loan Agent, and the Required Term Lenders and shall be included in the Plan Supplement.

150. “***Schedules***” means, collectively, the schedules of assets and liabilities, schedules of Executory Contracts and Unexpired Leases and statements of financial affairs Filed by the Debtors pursuant to section 521 of the Bankruptcy Code, as such schedules may be amended, modified, or supplemented from time to time.

151. “***Section 510(b) Claim***” means any Claim subject to subordination under section 510(b) of the Bankruptcy Code; *provided* that a Section 510(b) Claim shall not include any Claim subject to subordination under section 510(b) of the Bankruptcy Code arising from or related to an Interest.

152. “***Secured***” means when referring to a Claim: (a) secured by a Lien on property in which the applicable Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court or Canadian Court order, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in such Estate’s interest in such property or to the extent of the amount subject to setoff, as applicable, which value shall be determined pursuant to section 506(a) of the Bankruptcy Code or (b) Allowed pursuant to the Plan as a Secured Claim.

153. “***Secured Tax Claim***” means any Secured Claim that, absent its secured status would be entitled to priority in right of payment under section 507(a)(8) of the Bankruptcy Code (determined irrespective of time limitations), including authority related Secured Claim for penalties.

154. “***Securities Act***” means the Securities Act of 1933, 15 U.S.C. §§ 77a–77aa, as now in effect or hereafter amended, and the rules and regulations promulgated thereunder.

155. “***Security***” means a security as defined in section 2(a)(1) of the Securities Act.

156. “***Sponsor***” means Sentinel Capital Partners on behalf of itself and each of its affiliated investment funds or investment vehicles managed or advised by it, and its Affiliates, each solely in their capacity as holders of direct or indirect equity interests in Dream II.

157. “***Term Loan Agent***” means Barings Finance LLC, in its capacity as administrative agent under the Term Loan Credit Agreement, solely in its capacity as such.

158. “***Term Loan Claims***” means any and all Claims relating to, arising out of, arising under, or arising in connection with the Term Loan Facility and the Term Loan Documents.

159. “***Term Loan Credit Agreement***” means that certain term loan credit agreement dated as of June 9, 2017, by and among Hollander Sleep Products, LLC, as borrower, Dream II and Hollander Home Fashions Holdings, LLC, as guarantors, the Term Loan Lenders, and the Term Loan Agent, as amended, modified, restated, or supplemented from time to time prior to the Petition Date.

160. ***“Term Loan Distributable Cash”*** means, only in the event that the Winning Bidder is an Entity other than the Term Loan Lenders, any Cash proceeds of a Sale Transaction (i) in excess of amounts necessary to satisfy all Claims senior in priority to the Term Loan Claims (including the ABL Claims and DIP ABL Claims secured by the ABL Priority Collateral) in full, in Cash, as provided herein, and (ii) that do not comprise the Hollander Canada Cash Allocation.

161. ***“Term Loan Documents”*** means the Term Loan Credit Agreement and all other agreements, documents, and instruments related thereto, including any guaranty agreements, pledge and collateral agreements, intercreditor agreements, and other security agreements, in each case, as amended, modified, restated, or supplemented from time to time prior to the Petition Date.

162. ***“Term Loan Facility”*** means the term loan facility provided for under the Term Loan Credit Agreement.

163. ***“Term Loan Lenders”*** means the banks, financial institutions, and other lenders party to the Term Loan Credit Agreement from time to time, each solely in their capacity as such.

164. ***“Third-Party Release”*** means the release given by each of the Releasing Parties to the Released Parties as set forth in Article VIII.D of the Plan.

165. ***“U.S. Trustee”*** means the Office of the United States Trustee for the Southern District of New York.

166. ***“Unexpired Lease”*** means a lease to which one or more of the Debtors is a party that is subject to assumption or rejection under section 365 or section 1123 of the Bankruptcy Code.

167. ***“Unimpaired”*** means, with respect to a Class of Claims or Interests, a Class of Claims or Interests that is unimpaired within the meaning of section 1124 of the Bankruptcy Code.

168. ***“Voting Deadline”*** means [4:00 p.m.], prevailing Eastern Time, on [____], 2019.

169. ***“Winning Bidder”*** means the Entity or Entities whose bid or bids for some or all of the Debtors’ assets, which for the avoidance of doubt may include the transaction contemplated under the Plan, is selected by the Debtors and approved by the Bankruptcy Court as the highest or otherwise best bid pursuant to the Bidding Procedures. For the avoidance of doubt, if there is no third-party purchaser of the assets, the Term Loan Lenders shall be deemed to be the Winning Bidder in accordance with the other terms and provisions of the Plan.

B. Rules of Interpretation

For purposes of this Plan: (1) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (2) any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (3) any reference herein to an existing document, schedule, or exhibit, whether or not Filed, having been Filed or to be Filed shall mean that document, schedule, or exhibit, as it may thereafter be amended, restated, supplemented, or otherwise modified; (4) any reference to an Entity as a Holder of a Claim or Interest includes that Entity’s successors and assigns; (5) unless otherwise specified, all references herein to “Articles” are references to Articles of the Plan or hereto; (6) unless otherwise specified, all references herein to exhibits are references to exhibits in the Plan Supplement; (7) the words “include” and “including,” and variations thereof, shall not be deemed to be terms of limitation, and shall be deemed to be followed by the words “without limitation”; (8) unless otherwise specified, the words “herein,” “hereof,” and “hereto” refer to the Plan in its entirety rather than to a particular portion of the Plan; (9) subject to the provisions of any contract, certificate of incorporation, bylaw, instrument, release, or other agreement or document entered into in connection with the Plan, the rights and obligations arising pursuant to the Plan shall be governed by, and construed and enforced in accordance with, applicable federal law, including the Bankruptcy Code and the Bankruptcy Rules, or, if no rule of law or procedure is supplied by federal law (including the Bankruptcy Code

and the Bankruptcy Rules) or otherwise specifically stated, the laws of the State of New York, without giving effect to the principles of conflict of laws; (10) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; (11) unless otherwise specified herein, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (12) all references to docket numbers of documents Filed in the Chapter 11 Cases are references to the docket numbers under the Bankruptcy Court's CM/ECF system; (13) all references to statutes, regulations, orders, rules of courts, and the like shall mean as amended from time to time, and as applicable to the Chapter 11 Cases, unless otherwise stated; (14) any effectuating provisions may be interpreted by the Debtors or Reorganized Debtors in such a manner that is consistent with the overall purpose and intent of the Plan all without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity, and such interpretation shall be conclusive; (15) any references herein to the Effective Date shall mean the Effective Date or as soon as reasonably practicable thereafter; (16) all references herein to consent, acceptance, or approval shall be deemed to include the requirement that such consent, acceptance, or approval be evidenced by a writing, which may be conveyed by counsel for the respective parties that have such consent, acceptance, or approval rights, including by electronic mail; (17) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be; (18) references to "shareholders," "directors," and/or "officers" shall also include "members" and/or "managers," as applicable, as such terms are defined under the applicable state limited liability company laws; and (19) except as otherwise specifically provided in the Plan to the contrary, references in the Plan to the Debtors or the Reorganized Debtors shall mean the Debtors and the Reorganized Debtors, as applicable, to the extent the context requires.

C. Computation of Time

Unless otherwise specifically stated herein, the provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein. If the date on which a transaction may occur pursuant to the Plan shall occur on a day that is not a Business Day, then such transaction shall instead occur on the next succeeding Business Day.

D. Governing Law

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) or unless otherwise specifically stated herein, the laws of the State of New York, without giving effect to the principles of conflict of laws, shall govern the rights, obligations, construction, and implementation of the Plan, any agreements, documents, instruments, or contracts executed or entered into in connection with the Plan (except as otherwise set forth in those agreements, in which case the governing law of such agreement shall control); *provided, however*, that corporate or limited liability company governance matters relating to the Debtors or the Reorganized Debtors, as applicable, not incorporated in New York shall be governed by the laws of the state of incorporation or formation of the applicable Debtor or the Reorganized Debtors, as applicable.

E. Reference to Monetary Figures

All references in the Plan to monetary figures shall refer to currency of the United States of America, unless otherwise expressly provided.

F. Non-Consolidated Plan

Although for purposes of administrative convenience and efficiency the Plan has been filed as a joint plan that addresses the reorganization of each of the Debtors and presents together Classes of Claims against, and Interests in, the Debtors, the Plan does not provide for the substantive consolidation of any of the Debtors and the Plan is a separate Plan for each Debtor.

ARTICLE II.
ADMINISTRATIVE CLAIMS, DIP CLAIMS AND PRIORITY TAX CLAIMS

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, Professional Fee Claims, DIP Claims, and Priority Tax Claims have not been classified and, thus, are excluded from the Classes of Claims and Interests set forth in Article III.

A. Administrative Claims

Unless otherwise agreed to by the Holder of an Allowed Administrative Claim and the Debtors or the Reorganized Debtors, as applicable, to the extent an Allowed Administrative Claim has not already been paid in full or otherwise satisfied during the Chapter 11 Cases, each Holder of an Allowed Administrative Claim (other than Holders of Professional Fee Claims) will receive in full and final satisfaction of its Allowed Administrative Claim an amount of Cash equal to the amount of the unpaid portion of such Allowed Administrative Claim in accordance with the following: (1) if such Administrative Claim is Allowed on or prior to the Effective Date, no later than 30 days after the Effective Date or as soon as reasonably practicable thereafter (or, if not then due, when such Allowed Administrative Claim is due or as soon as reasonably practicable thereafter); (2) if such Administrative Claim is not Allowed as of the Effective Date, no later than 30 days after the date on which an order Allowing such Administrative Claim becomes a Final Order, or as soon as reasonably practicable thereafter; (3) if such Allowed Administrative Claim is based on liabilities incurred by the Debtors in the ordinary course of their business after the Petition Date, in accordance with the terms and conditions of the particular transaction or course of business giving rise to such Allowed Administrative Claim, without any further action by the Holder of such Allowed Administrative Claim; (4) at such time and upon such terms as may be agreed upon by the Holder of such Allowed Administrative Claim and the Debtors or the Reorganized Debtors, as applicable; or (5) at such time and upon such terms as set forth in a Final Order of the Bankruptcy Court.

Except for Professional Fee Claims and DIP Claims (which are addressed in Article II.B and Article II.C, respectively), and unless previously Filed, requests for payment of Administrative Claims must be Filed and served on the Reorganized Debtors no later than the Administrative Claim Bar Date pursuant to the procedures specified in the Confirmation Order and the notice of entry of the Confirmation Order. Objections to such requests must be Filed and served on the Reorganized Debtors (if the Reorganized Debtors are not the objecting party) and the requesting party by the Administrative Claim Objection Bar Date. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code, the Bankruptcy Rules, and prior Bankruptcy Court orders, the Allowed amounts, if any, of Administrative Claims shall be determined by, and satisfied in accordance with, an order of the Bankruptcy Court that becomes a Final Order.

Except for Professional Fee Claims and DIP Claims, Holders of Administrative Claims that are required to File and serve a request for payment of such Administrative Claims that do not file and serve such a request by the Administrative Claim Bar Date shall be forever barred, estopped, and enjoined from asserting such Administrative Claims against the Debtors, the Reorganized Debtors, the Estates, or the property of any of the foregoing, and such Administrative Claims shall be deemed discharged as of the Effective Date without the need for any objection from the Reorganized Debtors or any notice to or action, order, or approval of the Bankruptcy Court or any other Entity.

B. Professional Fee Claims

1. Final Fee Applications and Payment of Professional Fee Claims

All final requests for payment of Professional Fee Claims for services rendered and reimbursement of expenses incurred prior to the Confirmation Date must be Filed no later than 30 days after the Effective Date. The Bankruptcy Court shall determine the Allowed amounts of such Professional Fee Claims after notice and a hearing in accordance with the procedures established by the Bankruptcy Code, Bankruptcy Rules, and prior Bankruptcy Court orders. The Reorganized Debtors shall pay the amount of the Allowed Professional Fee Claims owing to the Professionals in Cash to such Professionals, including from funds held in the Professional Fee Escrow Account when such Professional Fee Claims are Allowed by entry of an order of the Bankruptcy Court.

2. Professional Fee Escrow Account

As soon as is reasonably practicable after the Confirmation Date and no later than the Effective Date, the Debtors shall establish and fund the Professional Fee Escrow Account with Cash equal to the Professional Fee Escrow Amount. The Professional Fee Escrow Account shall be maintained in trust solely for the Professionals and for no other Entities until all Professional Fee Claims Allowed by the Bankruptcy Court have been irrevocably paid in full to the Professionals pursuant to one or more Final Orders of the Bankruptcy Court. No Liens, claims, or interests shall encumber the Professional Fee Escrow Account or Cash held in the Professional Fee Escrow Account in any way. Funds held in the Professional Fee Escrow Account shall not be considered property of the Estates, the Debtors, or the Reorganized Debtors.

The amount of Professional Fee Claims owing to the Professionals shall be paid in Cash to such Professionals by the Debtors or the Reorganized Debtors, as applicable, from the funds held in the Professional Fee Escrow Account as soon as reasonably practicable after such Professional Fee Claims are Allowed by an order of the Bankruptcy Court; *provided* that the Debtors' and the Reorganized Debtors' obligations to pay Allowed Professional Fee Claims shall not be limited nor be deemed limited to funds held in the Professional Fee Escrow Account. When all Professional Fee Claims Allowed by the Bankruptcy Court have been irrevocably paid in full to the Professionals pursuant to one or more Final Orders of the Bankruptcy Court, any remaining funds held in the Professional Fee Escrow Account shall promptly be paid to the Reorganized Debtors without any further notice to or action, order, or approval of the Bankruptcy Court or any other Entity.

3. Professional Fee Escrow Amount

The Professionals shall provide a reasonable and good-faith estimate of their fees and expenses incurred in rendering services to the Debtors before and as of the Effective Date projected to be outstanding as of the Effective Date, and shall deliver such estimate to the Debtors no later than five days before the anticipated Effective Date; *provided, however*, that such estimate shall not be considered or deemed an admission or limitation with respect to the amount of the fees and expenses that are the subject of the Professional's final request for payment of Professional Fee Claims and such Professionals are not bound to any extent by the estimates. If a Professional does not provide an estimate, the Debtors may estimate the unpaid and unbilled fees and expenses of such Professional. The total aggregate amount so estimated as of the Effective Date shall be utilized by the Debtors to determine the amount to be funded to the Professional Fee Escrow Account, *provided* that the Reorganized Debtors shall use Cash on hand to increase the amount of the Professional Fee Escrow Account to the extent fee applications are Filed after the Effective Date in excess of the amount held in the Professional Fee Escrow Account based on such estimates.

4. Post-Confirmation Fees and Expenses

Except as otherwise specifically provided in the Plan, from and after the Confirmation Date, the Debtors shall, in the ordinary course of business and without any further notice to or action, order, or approval of the Bankruptcy Court, pay in Cash the reasonable and documented legal, professional, or other fees and expenses related to implementation of the Plan and Consummation incurred by the Debtors or the Reorganized Debtors after the Confirmation Date in the ordinary course of business. The Debtors and Reorganized Debtors, as applicable, shall pay within ten business days after submission of a detailed invoice to the Debtors or Reorganized Debtors, as applicable, such reasonable claims for compensation or reimbursement of expenses incurred by the Professionals of the Debtors and Reorganized Debtors, as applicable. If the Debtors or Reorganized Debtors, as applicable, dispute the reasonableness of any such invoice, the Debtors or Reorganized Debtors, as applicable, or the affected professional may submit such dispute to the Bankruptcy Court for a determination of the reasonableness of any such invoice, and the disputed portion of such invoice shall not be paid until the dispute is resolved. Upon the Confirmation Date, any requirement that Professionals comply with sections 327 through 331 and 1103 of the Bankruptcy Code or the Interim Compensation Order in seeking retention or compensation for services rendered after such date shall terminate, and the Debtors may employ and pay any Professional in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Court.

C. *DIP Claims*

As of the Effective Date, the DIP Claims shall be Allowed and deemed to be Allowed Claims in the full amount outstanding under the DIP Credit Agreements, including principal, interest, fees, costs, other charges, and expenses. Upon the indefeasible payment or satisfaction in full in Cash of the Allowed DIP Claims in accordance with the terms of this Plan, or other such treatment as contemplated by this Article II.C of the Plan, on the Effective Date all Liens and security interests granted to secure such obligations shall be automatically terminated and of no further force and effect without any further notice to or action, order, or approval of the Bankruptcy Court or any other Entity.

1. DIP ABL Claims

Except as set forth in Article II.C.2 and to the extent that a Holder of an Allowed DIP ABL Claim agrees to a less favorable treatment, in full and final satisfaction, compromise, settlement, release, and discharge of, and in exchange for, each Allowed DIP ABL Claim, each such Holder of an Allowed DIP ABL Claim shall receive on the Effective Date (a) payment in full in Cash of such Holder's Allowed DIP ABL Claim pursuant to the Payoff Letter or (b) at such Holder's election and agreement by the Debtors, such Holder's Pro Rata share of the Exit ABL Facility. Notwithstanding anything to the contrary in this Plan, the Reorganized Debtors shall be and remain bound by the indemnification and expense reimbursement provisions of the Payoff Letter in favor of the DIP ABL Agent and DIP ABL Lenders.

Pursuant to the DIP ABL Credit Agreement, all distributions pursuant to this Article II.C.1 shall be made to the DIP ABL Agent for distributions to the DIP ABL Lenders in accordance with the DIP ABL Credit Agreement and DIP ABL Loan Documents. The DIP ABL Agent shall hold or direct distributions for the benefit of the Holders of DIP ABL Claims. The DIP ABL Agent shall retain all rights as DIP ABL Agent under the DIP ABL Documents in connection with the delivery of the distributions to the DIP ABL Lenders. The DIP ABL Agent shall not have any liability to any person with respect to distributions made or directed to be made by such DIP ABL Agent, except for liability arising from gross negligence, willful misconduct, or actual fraud of the DIP Term Loan Agent. All cash distributions to be made hereunder to the DIP ABL Agent on account of the DIP ABL Claims shall be made by wire transfer.

2. Last Out DIP Loan Claims

If the Term Loan Lenders are the Winning Bidder, in full and final satisfaction, compromise, settlement, release, and discharge of, and in exchange for, each Allowed Last Out DIP Loan Claim, each such Holder of an Allowed Last Out DIP Loan Claim (or to the extent the Last Out Loans are not rolled into the Last Out DIP Loans, the Holders of Last Out Loans) shall receive such Holder's Pro Rata share of the Exit ABL Facility on a last out basis (on terms reasonably acceptable to each Holder of an Allowed Last Out DIP Loan Claim (or Last Out Loans)).

If an Entity other than the Term Loan Lenders is the Winning Bidder, each Holder of an Allowed Last Out DIP Loan Claim (or to the extent the Last Out Loans are not rolled into the Last Out DIP Loans, the Holders of Last Out Loans) shall receive payments in accordance with the waterfall provisions of the DIP ABL Credit Agreement, the DIP Intercreditor Agreement, and the Final DIP Order.

3. DIP Term Loan Claims

Except to the extent that a Holder of an Allowed DIP Term Loan Claim agrees to a less favorable treatment, in full and final satisfaction, compromise, settlement, release, and discharge of, and in exchange for, each Allowed DIP Term Loan Claim, each such Holder of an Allowed DIP Term Loan Claim shall receive on the Effective Date either: (a) if an Entity other than the Term Loan Lenders is the Winning Bidder, (i) payment in full in Cash of such Holder's Allowed DIP Term Loan Claim, or (ii) at such Holder's election and agreement by the Debtors, such Holder's Pro Rata share of the Exit Term Loan Facility; or (b) if the Term Loan Lenders are the Winning Bidder, its Pro Rata share of (i) 37 percent of the New Interests outstanding on the Effective Date, subject to dilution for the Management Incentive Plan, and (ii) the DIP Term Loan Debt Consideration. The DIP Term Loan Claims shall be Allowed in the aggregate amount outstanding under the DIP Term Loan Credit Facility as of the Effective Date; *provided, however,*

that the DIP Term Loan Claims in respect of contingent and unliquidated obligations of the Debtor under the DIP Term Loan Credit Agreement shall survive the Effective Date on an unsecured basis and shall not be discharged or released pursuant to the Plan or Confirmation Order, and shall be paid by the Reorganized Debtors as and when due under the DIP Term Loan Documents.

Pursuant to the DIP Term Loan Credit Agreement, all distributions pursuant to this Article II.C.3 shall be made to the DIP Term Loan Agent for distributions to the DIP Term Loan Lenders in accordance with the DIP Term Loan Credit Agreement and DIP Term Loan Documents. The DIP Term Loan Agent shall hold or direct distributions for the benefit of the Holders of DIP Term Loan Claims. The DIP Term Loan Agent shall retain all rights as DIP Term Loan Agent under the DIP Term Loan Documents in connection with the delivery of the distributions to the DIP Term Loan Lenders. The DIP Term Loan Agent shall not have any liability to any person with respect to distributions made or directed to be made by such DIP Term Loan Agent, except for liability arising from gross negligence, willful misconduct, or actual fraud of the DIP Term Loan Agent. All cash distributions to be made hereunder to the DIP Term Loan Agent on account of the DIP Term Loan Claims shall be made by wire transfer.

D. Priority Tax Claims

Except to the extent that a Holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, in full and final satisfaction, compromise, settlement, release, and discharge of, and in exchange for, each Allowed Priority Tax Claim, each Holder of such Allowed Priority Tax Claim shall be treated in accordance with the terms set forth in section 1129(a)(9)(C) of the Bankruptcy Code.

**ARTICLE III.
CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS**

A. Classification of Claims and Interests

Except for the Claims addressed in Article II of the Plan, all Claims and Interests are classified in the Classes set forth in this Article III for all purposes, including voting, Confirmation, and distributions pursuant to the Plan and in accordance with section 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or an Interest is classified in a particular Class only to the extent that such Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent that any portion of such Claim or Interest qualifies within the description of such other Classes. A Claim or an Interest also is classified in a particular Class for the purpose of receiving distributions under the Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and has not been paid, released, or otherwise satisfied prior to the Effective Date.

The classification of Claims and Interests against each Debtor pursuant to the Plan is as set forth below. The Plan shall apply as a separate Plan for each of the Debtors, and the classification of Claims and Interests set forth herein shall apply separately to each of the Debtors. All of the potential Classes for the Debtors are set forth herein. Certain of the Debtors may not have Holders of Claims or Interests in a particular Class or Classes, and such Claims shall be treated as set forth in Article III.F hereof. For all purposes under the Plan, each Class will contain sub-Classes for each of the Debtors, except that Class 8 shall be vacant at each Debtor other than Dream II. Voting tabulations for recording acceptances or rejections of the Plan shall be conducted on a Debtor-by-Debtor basis as set forth above.

Class	Claim/Interest	Status	Voting Rights
1	Other Priority Claims	Unimpaired	Not Entitled to Vote (Deemed to Accept)
2	Other Secured Claims	Unimpaired	Not Entitled to Vote (Deemed to Accept)
3	Secured Tax Claims	Unimpaired	Not Entitled to Vote (Deemed to Accept)
4	Term Loan Claims	Impaired	Entitled to Vote

Class	Claim/Interest	Status	Voting Rights
5	General Unsecured Claims	Impaired	Entitled to Vote
6	Hollander Canada General Unsecured Claims	Impaired	Entitled to Vote
7	Intercompany Claims	Impaired or Unimpaired	Not Entitled to Vote (Deemed to Reject)
8	Intercompany Interests	Impaired or Unimpaired	Not Entitled to Vote (Deemed to Accept or Reject)
9	Interests in Dream II	Impaired	Not Entitled to Vote (Deemed to Reject)
10	Section 510(b) Claims	Impaired	Not Entitled to Vote (Deemed to Reject)

B. Treatment of Claims and Interests

Subject to Article VI hereof, each Holder of an Allowed Claim or Allowed Interest, as applicable, shall receive under the Plan the treatment described below in full and final satisfaction, compromise, settlement, release, and discharge of, and in exchange for, such Holder's Allowed Claim or Allowed Interest, except to the extent different treatment is agreed to by the Debtors and the Holder of such Allowed Claim or Allowed Interest, as applicable. Unless otherwise indicated, the Holder of an Allowed Claim or Allowed Interest, as applicable, shall receive such treatment on the later of the Effective Date and the date such Holder's Claim or Interest becomes an Allowed Claim or Allowed Interest or as soon as reasonably practicable thereafter.

1. Class 1 – Other Priority Claims

- (a) *Classification:* Class 1 consists of all Other Priority Claims.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Other Priority Claim agrees to less favorable treatment, on the Effective Date, in full and final satisfaction, compromise, settlement, release, and discharge of and in exchange for such Allowed Other Priority Claim, each Holder of an Allowed Other Priority Claim shall receive, at the option of the applicable Debtor or Reorganized Debtor,
 - (i) payment in full in Cash of the unpaid portion of its Other Priority Claim on the later of the Effective Date and such date such Other Priority Claim becomes an Allowed Other Priority Claim; or
 - (ii) such other treatment rendering such Holder's Allowed Other Priority Claim Unimpaired.
- (c) *Voting:* Class 1 is Unimpaired under the Plan. Holders of Other Priority Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of an Other Priority Claims are not entitled to vote to accept or reject the Plan.

2. Class 2 – Other Secured Claims

- (a) *Classification:* Class 2 consists of all Other Secured Claims.

- (b) *Treatment:* Except to the extent that a Holder of an Allowed Other Secured Claim agrees to less favorable treatment, on the Effective Date, in full and final satisfaction, compromise, settlement, release, and discharge of and in exchange for such Allowed Other Secured Claim, each Holder of an Allowed Other Secured Claim shall receive, at the option of the applicable Debtor or Reorganized Debtor:
 - (i) payment in full in Cash of such Holder's Allowed Other Secured Claim;
 - (ii) the collateral securing such Holder's Allowed Other Secured Claim;
 - (iii) Reinstatement of such Holder's Allowed Other Secured Claim; or
 - (iv) such other treatment rendering such Holder's Allowed Other Secured Claim Unimpaired.
- (c) *Voting:* Class 2 is Unimpaired under the Plan. Holders of Other Secured Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of an Other Secured Claims are not entitled to vote to accept or reject the Plan.

3. Class 3 - Secured Tax Claims

- (a) *Classification:* Class 3 consists of all Secured Tax Claims.
- (b) *Treatment:* Except to the extent that a holder of an Allowed Secured Tax Claim and the applicable Debtor or Reorganized Debtor agree to a less favorable treatment, in full and final satisfaction, compromise, settlement, release, and discharge of and in exchange for such Secured Tax Claim, each such holder shall receive, at the option of the applicable Debtor or Reorganized Debtor, as applicable:
 - (i) payment in full in Cash of the unpaid portion of such holder's Allowed Secured Tax Claim on the later of the Effective Date and such date such Secured Tax Claim becomes an Allowed Secured Tax Claim; or
 - (ii) equal semi-annual Cash payments commencing as of the Effective Date or as soon as reasonably practicable thereafter and continuing for five years from the Petition Date, in an aggregate amount equal to such Allowed Secured Tax Claim, together with interest at the applicable rate under non-bankruptcy law, subject to the option of the Reorganized Debtors to prepay the entire amount of such Allowed Secured Tax Claim during such time period.
- (c) *Voting:* Class 3 is Unimpaired under the Plan. Each holder of a Secured Tax Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, each holder of a Secured Tax Claim is not entitled to vote to accept or reject the Plan.

4. Class 4 – Term Loan Claims

- (a) *Classification:* Class 4 consists of all Term Loan Claims.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Term Loan Claim agrees to less favorable treatment, on the Effective Date, in full and final satisfaction, compromise, settlement, release, and discharge of and in exchange for such Allowed Term Loan Claim, each Holder of an Allowed Term Loan Claim shall receive either:

- (i) if an Entity other than the Term Loan Lenders is the Winning Bidder, its Pro Rata share of the Term Loan Distributable Cash up to the full amount of such Holder's Allowed Term Loan Claim or such other treatment rendering such Holder's Allowed Term Loan Claim Unimpaired; or
- (ii) if the Term Loan Lenders are the Winning Bidder, its Pro Rata share of 23 percent of the New Interests outstanding on the Effective Date, subject to dilution for the Management Incentive Plan.
- (c) *Voting:* Class 4 is Impaired under the Plan. Holders of Term Loan Claims are entitled to vote to accept or reject the Plan.

5. Class 5 – General Unsecured Claims

- (a) *Classification:* Class 5 consists of all General Unsecured Claims.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed General Unsecured Claim agrees to less favorable treatment, on the Effective Date, in full and final satisfaction, compromise, settlement, release, and discharge of and in exchange for such Allowed General Unsecured Claim, each Holder of an Allowed General Unsecured Claim shall receive either:
 - (i) if an Entity other than the Term Loan Lenders is the Winning Bidder, its Pro Rata share of the Excess Distributable Cash up to the full amount of such Holder's Allowed General Unsecured Claim; or
 - (ii) if the Term Loan Lenders are the Winning Bidder, the General Unsecured Claims shall receive its Pro Rata share of [●],⁴ in full and final satisfaction, compromise, settlement, release, and discharge of and in exchange for such Allowed General Unsecured Claim.
- (c) *Voting:* Class 5 is Impaired under the Plan. Holders of Allowed General Unsecured Claims are entitled to vote to accept or reject the Plan.

6. Class 6 – Hollander Canada General Unsecured Claims

- (a) *Classification:* Class 6 consists of all Hollander Canada General Unsecured Claims.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Hollander Canada General Unsecured Claim agrees to less favorable treatment, on the Effective Date, each Holder of an Allowed Hollander Canada General Unsecured Claim shall receive its Pro Rata share of the Hollander Canada Cash Allocation up to the full amount of such Holder's Allowed Hollander Canada General Unsecured Claim, in full and final satisfaction, compromise, settlement, release, and discharge of and in exchange for such Allowed Hollander Canada General Unsecured Claim.
- (c) *Voting:* Class 6 is Impaired under the Plan and in such circumstances, Holders of Allowed Hollander Canada General Unsecured Claims are entitled to vote to accept or reject the Plan.

⁴ The Consenting Term Loan Lenders have not agreed to a recovery (other than \$0) for the Holders of General Unsecured Claims.

7. Class 7 – Intercompany Claims

- (a) *Classification:* Class 7 consists of all Intercompany Claims.
- (b) *Treatment:* Intercompany Claims shall be, at the option of the Debtors, in consultation with the Term Loan Agent and the Required Term Lenders, either:
 - (i) Reinstated; or
 - (ii) cancelled and released without any distribution on account of such Claims.
- (c) *Voting:* Class 7 is either Impaired or Unimpaired under the Plan. Holders of Intercompany Claims are either (i) conclusively deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code or (ii) presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Intercompany Claims are not entitled to vote to accept or reject the Plan.

8. Class 8 – Intercompany Interests

- (a) *Classification:* Class 8 consists of all Intercompany Interests.
- (b) *Treatment:* Intercompany Interests shall be, at the option of the Debtors, in consultation with the Term Loan Agent and the Required Term Lenders, either:
 - (i) Reinstated in accordance with Article III.G of the Plan; or
 - (ii) cancelled and released without any distribution on account of such Interests.
- (c) *Voting:* Class 8 is Impaired or Unimpaired under the Plan. Holders of Intercompany Interests are either (i) conclusively deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code or (ii) presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Intercompany Interests are not entitled to vote to accept or reject the Plan.

9. Class 9 – Interests in Dream II

- (a) *Classification:* Class 9 consists of all Interests in Dream II.
- (b) *Treatment:* On the Effective Date, all Interests in Dream II will be cancelled, released, and extinguished, and will be of no further force or effect.
- (c) *Voting:* Class 9 is Impaired under the Plan. Holders of Interests in Dream II are conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Interest in Dream II are not entitled to vote to accept or reject the Plan.

10. Class 10 - Section 510(b) Claims

- (a) *Classification:* Class 10 consists of all Section 510(b) Claims.
- (b) *Allowance:* Notwithstanding anything to the contrary herein, a Section 510(b) Claim, if any such Claim exists, may only become Allowed by Final Order of the Bankruptcy Court. The Debtors are not aware of any valid Section 510(b) Claim and believe that no such Section 510(b) Claim exists.

- (c) *Treatment:* Allowed Section 510(b) Claims, if any, shall be discharged, cancelled, released, and extinguished as of the Effective Date, and will be of no further force or effect, and holders of Allowed Section 510(b) Claims will not receive any distribution on account of such Allowed Section 510(b) Claims.
- (d) *Voting:* Class 10 is Impaired under the Plan. Holders (if any) of Section 510(b) Claims are conclusively deemed to have rejected the Plan under section 1126(g) of the Bankruptcy Code. Therefore, Holders (if any) of 510(b) Claims are not entitled to vote to accept or reject the Plan.

C. Special Provision Governing Unimpaired Claims

Except as otherwise provided in the Plan, nothing under the Plan shall affect the Debtors' rights in respect of any Claims that are Unimpaired, including all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Claims that are Unimpaired. Unless otherwise Allowed, Claims that are Unimpaired shall remain Disputed Claims under the Plan.

D. Confirmation Pursuant to Sections 1129(a)(10) and 1129(b) of the Bankruptcy Code

Section 1129(a)(10) of the Bankruptcy Code shall be satisfied for purposes of Confirmation by acceptance of the Plan by at least one Impaired Class of Claims. The Debtors shall seek Confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code with respect to any rejecting Class of Claims or Interests. The Debtors reserve the right to modify the Plan in accordance with Article X of the Plan to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification, including by modifying the treatment applicable to a Class of Claims or Interests to render such Class of Claims or Interests Unimpaired to the extent permitted by the Bankruptcy Code and the Bankruptcy Rules.

E. Subordinated Claims

Except as expressly provided herein, the allowance, classification, and treatment of all Allowed Claims and Interests and the respective distributions and treatments under the Plan take into account and conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Pursuant to section 510 of the Bankruptcy Code, the Debtors and the Reorganized Debtors reserve the right to reclassify any Allowed Claim or Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

F. Elimination of Vacant Classes; Presumed Acceptance by Non-Voting Classes

Any Class of Claims or Interests that does not have a Holder of an Allowed Claim or Allowed Interest or a Claim or Interest temporarily Allowed by the Bankruptcy Court in an amount greater than zero as of the date of the Confirmation Hearing shall be considered vacant and deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for purposes of determining acceptance or rejection of the Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code.

If a Class contains Claims or Interests eligible to vote and no Holders of Claims or Interests eligible to vote in such Class vote to accept or reject the Plan, the Holders of such Claims or Interests in such Class shall be deemed to have accepted the Plan.

G. Intercompany Interests

To the extent Reinstated under the Plan, distributions on account of Intercompany Interests are not being received by Holders of such Intercompany Interests on account of their Intercompany Interests but for the purposes of administrative convenience, for the ultimate benefit of the Holders of the New Interests, and in exchange for the Debtors' and Reorganized Debtors' agreement under the Plan to provide management services to certain other Debtors

and Reorganized Debtors, to use certain funds and assets as set forth in the Plan to make certain distributions and satisfy certain obligations of certain other Debtors and Reorganized Debtors to the Holders of certain Allowed Claims. For the avoidance of doubt, any Interest in non-Debtor subsidiaries owned by a Debtor shall continue to be owned by the applicable Reorganized Debtor.

H. Controversy Concerning Impairment

If a controversy arises as to whether any Claims or Interests, or any Class of Claims or Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

**ARTICLE IV.
MEANS FOR IMPLEMENTATION OF THE PLAN**

A. General Settlement of Claims and Interests

Pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the classification, distributions, releases, and other benefits provided under the Plan, on the Effective Date, the provisions of the Plan shall constitute and be deemed a good-faith compromise and settlement of all Claims, Interests, Causes of Action, and controversies released, settled, compromised, discharged, or otherwise resolved pursuant to the Plan. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of such compromise and settlement under section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, as well as a finding by the Bankruptcy Court that such settlement and compromise is fair, equitable, reasonable, and in the best interests of the Debtors and their Estates. Subject to Article VI hereof, all distributions made to Holders of Allowed Claims and Allowed Interests, as applicable, in any Class are intended to be and shall be final.

B. Restructuring Transactions

On the Effective Date, the applicable Debtors or the Reorganized Debtors shall enter into any transaction and shall take any actions as may be necessary or appropriate to effect a corporate restructuring of their respective businesses or a corporate restructuring of the overall corporate structure of the Debtors on the terms set forth in the Plan, including, as applicable, entry into the Exit Facilities, entry into the New Organizational Documents, consummation of the Sale Transaction in the event that the Winning Bidder is an Entity other than the Term Loan Lenders, implementation of the Canadian Acquisition Transaction, the issuance of all securities, notes, instruments, certificates, and other documents required to be issued pursuant to the Plan, and/or the entry into one or more intercompany mergers, consolidations, amalgamations, arrangements, continuances, restructurings, conversions, dispositions, dissolutions, transfers, liquidations, spinoffs, intercompany sales, purchases, or other corporate transactions with the reasonable consent of the Term Loan Agent and the Required Term Lenders. The actions to implement the Restructuring Transactions may include: (1) the execution and delivery of appropriate agreements or other documents of merger, consolidation, amalgamation, arrangement, continuance, restructuring, conversion, disposition, dissolution, transfer, liquidation, spinoff, sale, or purchase containing terms that are consistent with the terms of the Plan and that satisfy the applicable requirements of applicable law and any other terms to which the applicable Entities may agree; (2) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, debt, or obligation on terms consistent with the terms of the Plan and having other terms for which the applicable Entities agree; (3) the filing of appropriate certificates or articles of incorporation, reincorporation, formation, merger, consolidation, conversion, amalgamation, arrangement, continuance, or dissolution pursuant to applicable state or provincial law; and (4) all other actions that the applicable Entities determine to be necessary or appropriate, including making filings or recordings that may be required by applicable law in connection with the Plan.

C. Reorganized Debtors

On the Effective Date, the New Board shall be established, and the Reorganized Debtors shall adopt the New Organizational Documents. The Reorganized Debtors shall be authorized to implement the Restructuring Transactions and adopt any other agreements, documents, and instruments and to take any other actions contemplated

under the Plan as necessary or desirable to consummate the Plan, which actions, regardless of whether taken before, on, or after the Effective Date, shall be deemed to constitute a Restructuring Transaction.

D. Sources of Consideration for Plan Distributions

The Reorganized Debtors will fund distributions under the Plan with Cash held on the Effective Date by or for the benefit of the Debtors or Reorganized Debtors, including Cash from operations, as well as the following sources of consideration.

1. Exit Facilities

On the Effective Date, the Reorganized Debtors shall execute and deliver the Exit Facility Documents to the applicable Exit Facility Administrative Agent and such documents shall become effective in accordance with their terms. On and after the Effective Date, the Exit Facility Documents shall constitute legal, valid, and binding obligations of the Reorganized Debtors and be enforceable in accordance with their respective terms.

The Exit Facilities shall consist of the Exit ABL Facility and the Exit Term Loan Facility. On the Effective Date, the Exit Term Loan Lenders shall fund the Exit Term Loan Facility and the Exit ABL Lenders shall fund the Exit ABL Facility. If the Term Loan Lenders are the Winning Bidder, in exchange for the commitment to fund the Exit Term Loan Facility, each Exit Term Loan Lender shall receive its Pro Rata share of 40 percent of the New Interests outstanding on the Effective Date, subject to dilution for the Management Incentive Plan, and such other consideration as set forth in the Exit Facility Documents.

The terms for the Exit Facilities will be determined in accordance with the Reorganized Debtors' contemplated post-Effective Date business plan following and depending on the results of the Auction (which may contemplate the continued ownership or operation of all or only some of the Debtors' assets), and any documentation necessary to implement the Exit Facilities will be included in the Plan Supplement. The Reorganized Debtors shall use proceeds of the Exit Facilities, as applicable, to fund ongoing operations and distributions under the Plan and to satisfy other Cash obligations under the Plan.

Confirmation shall be deemed approval of the Exit Facility Documents (including the transactions and fees contemplated thereby, and all actions to be taken, undertakings to be made, and obligations and guarantees to be incurred and fees paid in connection therewith), and, to the extent not approved by the Bankruptcy Court previously, the Reorganized Debtors will be authorized to execute and deliver any and all documents necessary or appropriate to obtain and enter into the Exit ABL Facility and the Exit Term Loan Facility, including the entry into the Exit Facility Documents, without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order or rule or vote, consent, authorization, or approval of any Person, subject to such modifications as the Debtors or Reorganized Debtors, with the reasonable consent of the Exit Term Loan Lenders, may deem to be necessary to consummate the Exit ABL Facility and the Exit Term Loan Facility.

2. Issuance of the New Interests

All existing Interests in the Debtors shall be automatically cancelled on the Effective Date and the Reorganized Debtors shall issue the New Interests to Entities entitled to receive the New Interests pursuant to the Plan. The issuance of the New Interests is authorized without the need for any further corporate action and without any further action by the Holders of Claims or Interests or the Debtors or the Reorganized Debtors, as applicable. The New Organizational Documents, as applicable, shall authorize the issuance and distribution on the Effective Date of the New Interests to the Disbursing Agent for the benefit of Entities entitled to receive the New Interests pursuant to the Plan. All of the New Interests issued under the Plan shall be duly authorized, validly issued, fully paid, and non-assessable. Each distribution and issuance of the New Interests under the Plan shall be governed by the terms and conditions set forth in the Plan applicable to such distribution or issuance and by the terms and conditions of the instruments evidencing or relating to such distribution or issuance, which terms and conditions shall bind each Entity receiving such distribution or issuance. Any Entity's acceptance of New Interests shall be deemed as its agreement to the New Organizational Documents, as the same be amended or modified from time to time following the Effective

Date in accordance with their terms. The New Interests will not be registered on any exchange as of the Effective Date.

E. Sale Transaction

Continuing after the Petition Date, the Debtors will conduct a marketing and Auction process of some or all of the Debtors' assets in accordance with the Bidding Procedures to determine the Winning Bidder. The Bidding Procedures will set forth the terms of an Initial Minimum Overbid, will provide that all bids for the ABL Priority Collateral must be in cash unless otherwise agreed by the DIP ABL Agent (with respect to the ABL Priority Collateral), and will provide that any bids placed by any of the DIP Agents or the Prepetition Agents must be in accordance with the DIP Intercreditor Agreement. The Debtors will seek to elicit a higher or better Sale Transaction offer, if any, pursuant to the process set forth in the Bidding Procedures. If no Entity submits an Initial Minimum Overbid, the Term Loan Lenders will be deemed the Winning Bidder for purposes of the Plan, and the Debtors will seek Confirmation of the Plan as contemplated herein. If the Debtors are able to secure a higher or otherwise better offer in accordance with the Bidding Procedures, and the Winning Bidder is an Entity other than the Term Loan Lenders, Holders of Term Loan Claims will be paid the Term Loan Distributable Cash as set forth in Article III of the Plan and the Sale Transaction will be consummated pursuant to the Plan in accordance with terms to be set forth in the Confirmation Order and Plan Supplement, as applicable. If the Debtors are unable to secure such higher or otherwise better offer at the conclusion of the marketing and Auction process contemplated by the Bidding Procedures, the Term Loan Lenders will be deemed to be the Winning Bidder for purposes of the Plan, and the Debtors will seek Confirmation of the Plan as contemplated herein.

F. Corporate Existence

Except as otherwise provided in the Plan, on and after the Effective Date, each Debtor shall continue to exist as a Reorganized Debtors and as a separate corporation, limited liability company, partnership, or other form of entity, as the case may be, with all the powers of a corporation, limited liability company, partnership, or other form of entity, as the case may be, pursuant to the applicable law in the jurisdiction in which each applicable Debtor is incorporated or formed and pursuant to the respective certificate of incorporation and bylaws (or other similar formation and governance documents) in effect prior to the Effective Date, except to the extent such certificate of incorporation and bylaws (or other similar formation and governance documents) are amended under the Plan or otherwise, and to the extent such documents are amended, such documents are deemed to be amended pursuant to the Plan and require no further action or approval (other than any requisite filings required under applicable state, provincial, or federal law).

G. Vesting of Assets in the Reorganized Debtors

Except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated in the Plan, on the Effective Date, all property in each Estate (including Interests held by the Debtors in non-Debtor subsidiaries), all Causes of Action, all Executory Contracts and Unexpired Leases assumed by any of the Debtors, and any property acquired by any of the Debtors pursuant to the Plan shall vest in each respective Reorganized Debtor, free and clear of all Liens, Claims, charges, or other encumbrances. On and after the Effective Date, except as otherwise provided in the Plan, each Reorganized Debtor may operate its business and may use, acquire, or dispose of property and compromise or settle any Claims, Interests, or Causes of Action without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

H. Cancellation of Existing Securities and Agreements

On the Effective Date, except as otherwise specifically provided for in the Plan: (1) the obligations of the Debtors under the ABL Credit Agreement, the Term Loan Credit Agreement, and any other certificate, Security, share, note, bond, indenture, purchase right, option, warrant, or other instrument or document directly or indirectly evidencing or creating any indebtedness or obligation of or ownership interest in the Debtors or giving rise to any Claim or Interest (except such certificates, notes, or other instruments or documents evidencing indebtedness or obligation of or ownership interest in the Debtors that are Reinstated pursuant to the Plan) shall be cancelled solely as to the Debtors and their Affiliates, and the Reorganized Debtors shall not have any continuing obligations thereunder; and (2) the obligations of the Debtors and their Affiliates pursuant, relating, or pertaining to any agreements, indentures, certificates of designation, bylaws, or certificate or articles of incorporation or similar documents

governing the shares, certificates, notes, bonds, indentures, purchase rights, options, warrants, or other instruments or documents evidencing or creating any indebtedness or obligation of or ownership interest in the Debtors (except such agreements, certificates, notes, or other instruments evidencing indebtedness or obligation of or ownership interest in the Debtors that are specifically Reinstated pursuant to the Plan) shall be released and discharged. Notwithstanding the foregoing, no executory contract or unexpired lease (i) that has been, or will be, assumed pursuant to section 365 of the Bankruptcy Code or (ii) relating to a Claim that was paid in full prior to the Effective Date, shall be terminated or cancelled on the Effective Date, except that (a) the ABL Credit Agreement and Term Loan Credit Agreement shall continue in effect solely for the purpose of (I) allowing Holders of the ABL Claims and Term Loan Claims, as applicable, to receive the distributions provided for under the Plan, (II) allowing the ABL Agent and Term Loan Agent to receive or direct distributions from the Debtors and to make further distributions to the Holders of such Claims on account of such Claims, as set forth in Article VI.A of the Plan, and (III) preserving the ABL Agent's and Term Loan Agent's right to indemnification pursuant and subject to the terms of the ABL Credit Agreement and Term Loan Credit Agreement in respect of any Claim or Cause of Action asserted against the ABL Agent or Term Loan Agent, as applicable, *provided* that any Claim or right to payment on account of such indemnification shall be an Administrative Claim, and (b) the foregoing shall not affect the cancellation of shares issued pursuant to the Plan nor Intercompany Interests, which shall be treated as set forth in Article III.B.8.

I. Corporate Action

Upon the Effective Date, all actions contemplated under the Plan, regardless of whether taken before, on, or after the Effective Date, shall be deemed authorized and approved in all respects, including: (1) selection of the directors and officers for the Reorganized Debtors, if applicable; (2) the issuance of the New Interests, if applicable; (3) implementation of the Restructuring Transactions, if applicable; (4) consummation of the Sale Transaction, if applicable; (5) execution of the Exit ABL Credit Agreement, Exit Term Loan Credit Agreement, and any and all other agreements, documents, securities, and instruments relating thereto, if applicable; (6) the entry into the Payoff Letter with respect to the DIP ABL Claims; and (7) all other actions contemplated under the Plan (whether to occur before, on, or after the Effective Date). All matters provided for in the Plan or deemed necessary or desirable by the Debtors before, on, or after the Effective Date involving the corporate structure of the Debtors or the Reorganized Debtors, and any corporate action required by the Debtors or the Reorganized Debtors in connection with the Plan or corporate structure of the Debtors or Reorganized Debtors shall be deemed to have occurred and shall be in effect on the Effective Date, without any requirement of further action by the security holders, directors, managers, or officers of the Debtors or the Reorganized Debtors. Before, on, or after the Effective Date, the appropriate officers of the Debtors or the Reorganized Debtors, as applicable, shall be authorized to issue, execute, and deliver the agreements, documents, securities, and instruments contemplated under the Plan (or necessary or desirable to effect the transactions contemplated under the Plan) in the name of and on behalf of the Reorganized Debtors, to the extent not previously authorized by the Bankruptcy Court. The authorizations and approvals contemplated by this Article IV.I shall be effective notwithstanding any requirements under non-bankruptcy law.

J. New Organizational Documents

On or immediately prior to the Effective Date, the New Organizational Documents shall be amended as necessary to effectuate the transactions contemplated by the Plan in a manner reasonably acceptable to the Term Loan Agent and the Required Term Lenders. Each of the Reorganized Debtors will file its New Organizational Documents with the applicable Secretaries of State and/or other applicable authorities in its respective state, province, or country of incorporation in accordance with the corporate laws of the respective state, province, or country of incorporation. The New Organizational Documents will prohibit the issuance of non-voting equity securities, to the extent required under section 1123(a)(6) of the Bankruptcy Code.

K. Directors, Managers, and Officers of the Reorganized Debtors

As of the Effective Date, the term of the current members of the board of managers of the Debtors shall expire, and the initial boards of directors, including the New Board, and the officers of each of the Reorganized Debtors shall be appointed in accordance with the respective New Organizational Documents. Pursuant to section 1129(a)(5) of the Bankruptcy Code, the Debtors will disclose in advance of the Confirmation Hearing the identity and affiliations of any Person proposed to serve on the initial board of directors or be an officer of any of the Reorganized Debtors. To the extent any such director or officer of the Reorganized Debtors is an "insider" under the

Bankruptcy Code, the Debtors also will disclose the nature of any compensation to be paid to such director or officer. Each such director and officer shall serve from and after the Effective Date pursuant to the terms of the New Organizational Documents and other constituent documents of the Reorganized Debtors.

L. Effectuating Documents; Further Transactions

On and after the Effective Date, the Reorganized Debtors, and the officers and members of the boards of directors or managers thereof, are authorized to and may issue, execute, deliver, file, or record such contracts, Securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan, the Restructuring Transactions, and the Securities issued pursuant to the Plan in the name of and on behalf of the Reorganized Debtors, without the need for any approvals, authorization, or consents except for those expressly required pursuant to the Plan.

M. Exemption from Securities Act Registration

Pursuant to section 1145 of the Bankruptcy Code and, to the extent that section 1145 of the Bankruptcy Code is inapplicable, section 4(a)(2) of the Securities Act, the issuance of the New Interests as contemplated by the Plan is exempt from, among other things, the registration requirements of section 5 of the Securities Act and any other applicable United States, state, or local law requiring registration for offer or sale of a security or registration or licensing of an issuer of, underwriter of, or broker or dealer in, a security. As long as the exemption to registration under section 1145 of the Bankruptcy Code is applicable, the New Interests are not “restricted securities” (as defined in rule 144(a)(3) under the Securities Act) and are freely tradable and transferable by any initial recipient thereof that (1) is not an “affiliate” of the Reorganized Debtors (as defined in rule 144(a)(1) under the Securities Act), (2) has not been such an “affiliate” within 90 days of such transfer, and (3) is not an entity that is an “underwriter” as defined in section 1145(b) of the Bankruptcy Code.

N. Exemption from Certain Taxes and Fees

To the fullest extent permitted by section 1146(a) of the Bankruptcy Code, any transfers (whether from a Debtor to a Reorganized Debtor or to any other Person) of property under the Plan or pursuant to (1) the issuance, distribution, transfer, or exchange of any debt, equity security, or other interest in the Debtors or the Reorganized Debtors, (2) the Restructuring Transactions, (3) the creation, modification, consolidation, termination, refinancing, and/or recording of any mortgage, deed of trust, or other security interest, or the securing of additional indebtedness by such or other means, (4) the making, assignment, or recording of any lease or sublease, (5) the grant of collateral as security for any or all of the Exit Facilities, as applicable, or (6) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including any deeds, bills of sale, assignments, or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan (including the Sale Transaction, if applicable), shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, sale or use tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, or other similar tax or governmental assessment, and upon entry of the Confirmation Order, the appropriate state or local governmental officials or agents shall forgo the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax, recordation fee, or governmental assessment. All filing or recording officers (or any other Person with authority over any of the foregoing), wherever located and by whomever appointed, shall comply with the requirements of section 1146(c) of the Bankruptcy Code, shall forgo the collection of any such tax or governmental assessment, and shall accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

O. Preservation of Causes of Action

In accordance with section 1123(b) of the Bankruptcy Code, but subject in all respects to Article VIII hereof, the Reorganized Debtors shall retain and may enforce all rights to commence and pursue, as appropriate, any and all Causes of Action, whether arising before or after the Petition Date, including any actions specifically enumerated in the Schedule of Retained Causes of Action and notwithstanding the rejection of any Executory Contract or Unexpired Lease during the Chapter 11 Cases or pursuant to the Plan, and the Reorganized Debtors’ rights to commence,

prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date, other than the Causes of Action released by the Debtors pursuant to the releases and exculpations contained in the Plan, including in Article VIII, which shall be deemed released and waived by the Debtors and Reorganized Debtors as of the Effective Date.

The Reorganized Debtors may pursue such Causes of Action, as appropriate, in accordance with the best interests of the Reorganized Debtors. The applicable Reorganized Debtors, through their authorized agents or representatives, shall retain and may exclusively enforce any and all such Causes of Action. The Reorganized Debtors shall have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action and to decline to do any of the foregoing without the consent or approval of any third party or further notice to or action, order, or approval of the Bankruptcy Court.

No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action against it as any indication that the Debtors or the Reorganized Debtors, as applicable, will not pursue any and all available Causes of Action against it. The Debtors or the Reorganized Debtors, as applicable, expressly reserve all rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly provided in the Plan, including Article VIII of the Plan. Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or a Final Order, the Reorganized Debtors expressly reserve all Causes of Action, for later adjudication, and, therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of the Confirmation or Consummation.

ARTICLE V. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. Assumption and Rejection of Executory Contracts and Unexpired Leases

On the Effective Date, except as otherwise provided herein, each Executory Contract or Unexpired Lease not previously assumed, assumed and assigned, or rejected shall be deemed automatically assumed by the applicable Reorganized Debtor in accordance with the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code, other than those that: (1) are identified on the Rejected Executory Contracts and Unexpired Leases Schedule; (2) previously expired or terminated pursuant to its own terms; (3) have been previously assumed or rejected by the Debtors pursuant to a Bankruptcy Court order; (4) are the subject of a motion to reject Executory Contracts or Unexpired Leases that is pending on the Effective Date; or (5) are subject to a motion to reject an Executory Contract or Unexpired Lease pursuant to which the requested effective date of such rejection is after the Effective Date.

Entry of the Confirmation Order shall constitute an order of the Bankruptcy Court approving, subject to and upon the occurrence of the Effective Date, the assumptions, assumptions and assignments, or rejections of the Executory Contracts and Unexpired Leases assumed or rejected pursuant to the Plan. Any motions to assume Executory Contracts or Unexpired Leases pending on the Effective Date shall be subject to approval by the Bankruptcy Court on or after the Effective Date by a Final Order but may be withdrawn, settled, or otherwise prosecuted by the Reorganized Debtors. Each Executory Contract and Unexpired Lease assumed pursuant to this Article V.A of the Plan or by any order of the Bankruptcy Court, which has not been assigned to a third party prior to the Effective Date, shall revert in and be fully enforceable by the Reorganized Debtors in accordance with its terms, except as such terms are modified by the provisions of the Plan or any order of the Bankruptcy Court authorizing and providing for its assumption under applicable federal law.

To the maximum extent permitted by law, to the extent any provision in any Executory Contract or Unexpired Lease assumed or assumed and assigned pursuant to the Plan restricts or prevents, or purports to restrict or prevent, or is breached or deemed breached by, the assumption or assumption and assignment of such Executory Contract or Unexpired Lease (including any "change of control" provision), then such provision shall be deemed modified such that the transactions contemplated by the Plan shall not entitle the non-Debtor party thereto to terminate such Executory Contract or Unexpired Lease or to exercise any other default-related rights with respect thereto.

Notwithstanding anything to the contrary in the Plan, the Debtors or the Reorganized Debtors, as applicable, reserve the right to alter, amend, modify, or supplement the Rejected Executory Contract and Unexpired Lease Schedule at any time up to 45 days after the Effective Date (if before the Effective Date, with the reasonable consent of the Term Loan Agent and the Required Term Lenders).

B. Claims Based on Rejection of Executory Contracts or Unexpired Leases

Unless otherwise provided by a Final Order of the Bankruptcy Court, all Proofs of Claim with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases pursuant to the Plan or the Confirmation Order, if any, must be Filed with the Bankruptcy Court within 30 days after the later of (1) the date of entry of an order of the Bankruptcy Court (including the Confirmation Order) approving such rejection, (2) the effective date of such rejection, or (3) the Effective Date. **Any Claims arising from the rejection of an Executory Contract or Unexpired Lease not Filed with the Bankruptcy Court within such time will be automatically disallowed, forever barred from assertion, and shall not be enforceable against the Debtors, the Reorganized Debtors, the Estates, or their property of any of the foregoing parties without the need for any objection by the Reorganized Debtors or further notice to, or action, order, or approval of the Bankruptcy Court or any other Entity, and any Claim arising out of the rejection of the Executory Contract or Unexpired Lease shall be deemed fully satisfied, released, and discharged, notwithstanding anything in the Schedules or a Proof of Claim to the contrary.** Claims arising from the rejection of the Debtors' Executory Contracts or Unexpired Leases shall be classified as General Unsecured Claims or Hollander Canada General Unsecured Claims, as applicable, and shall be treated in accordance with Article III.B and may be objected to in accordance with the provisions of Article VII of the Plan and the applicable provisions of the Bankruptcy Code and Bankruptcy Rules.

C. Cure of Defaults for Assumed Executory Contracts and Unexpired Leases

Any monetary defaults under each Executory Contract and Unexpired Lease to be assumed pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the default amount in Cash on the Effective Date or as soon as reasonably practicable thereafter, subject to the limitation described below, or on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree. In the event of a dispute regarding (1) the amount of any payments to cure such a default, (2) the ability of the Reorganized Debtors or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed, or (3) any other matter pertaining to assumption, the cure payments required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order or orders resolving the dispute and approving the assumption. At least 21 days prior to the Confirmation Hearing, the Debtors shall provide for notices of proposed assumption and proposed cure amounts to be sent to applicable third parties and for procedures for objecting thereto and resolution of disputes by the Bankruptcy Court. Any objection by a counterparty to an Executory Contract or Unexpired Lease to a proposed assumption or related cure amount must be Filed, served, and actually received by the Debtors at least seven days prior to the Confirmation Hearing. Any counterparty to an Executory Contract or Unexpired Lease that fails to object timely to the proposed assumption or cure amount will be deemed to have assented to such assumption or cure amount.

Assumption of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall result in the full release and satisfaction of any Claims or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time prior to the effective date of assumption. **Any Proofs of Claim Filed with respect to an Executory Contract or Unexpired Lease that has been assumed shall be deemed disallowed and expunged, without further notice to or action, order, or approval of the Bankruptcy Court.**

D. Preexisting Obligations to the Debtors under Executory Contracts and Unexpired Leases

Rejection of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall not constitute a termination of preexisting obligations owed to the Debtors or the Reorganized Debtors, as applicable, under such Executory Contracts or Unexpired Leases. In particular, notwithstanding any non-bankruptcy law to the contrary, the Reorganized Debtors expressly reserve and do not waive any right to receive, or any continuing obligation of a

counterparty to provide, warranties or continued maintenance obligations on goods previously purchased by the Debtors contracting from non-Debtor counterparties to rejected Executory Contracts or Unexpired Leases.

E. Insurance Policies and Surety Bonds

Each of the Debtors' insurance policies and any agreements, documents, or instruments relating thereto, are treated as Executory Contracts under the Plan. Unless otherwise provided in the Plan, on the Effective Date, the Debtors shall be deemed to have assumed all insurance policies and any agreements, documents, and instruments relating to coverage of all insured Claims. Except as set forth in Article V.F of the Plan, nothing in this Plan, the Plan Supplement, the Disclosure Statement, the Confirmation Order, or any other order of the Bankruptcy Court (including any other provision that purports to be preemptory or supervening), (1) alters, modifies, or otherwise amends the terms and conditions of (or the coverage provided by) any of such insurance policies or (2) alters or modifies the duty, if any, that the insurers or third party administrators pay claims covered by such insurance policies and their right to seek payment or reimbursement from the Debtors (or after the Effective Date, the Reorganized Debtors) or draw on any collateral or security therefor. For the avoidance of doubt, insurers and third party administrators shall not need to nor be required to file or serve a cure objection or a request, application, claim, Proof of Claim, or motion for payment and shall not be subject to any claims bar date or similar deadline governing cure amounts or Claims.

Notwithstanding any other provision of the Plan, on the Effective Date, (1) all of the Debtors' obligations and commitments to any surety bond providers shall be deemed reaffirmed by the Reorganized Debtors, (2) surety bonds and related indemnification and collateral agreements entered into by any Debtor will be vested and performed by the applicable Reorganized Debtor and will survive and remain unaffected by entry of the Confirmation Order, and (3) the Reorganized Debtors shall be authorized to enter into new surety bond agreements and related indemnification and collateral agreements, or to modify any such existing agreements, in the ordinary course of business. The applicable Reorganized Debtors will continue to pay all premiums and other amounts due, including loss adjustment expenses, on the existing surety bonds as they become due prior to the execution and issuance of new surety bonds. Surety bond providers shall have the discretion to replace (or issue name-change riders with respect to) any existing surety bonds or related general agreements of indemnity with new surety bonds and related general agreements of indemnity on the same terms and conditions provided in the applicable existing surety bonds or related general agreements of indemnity.

F. Director, Officer, Manager, and Employee Liability Insurance

On or before the Effective Date, the Debtors, on behalf of the Reorganized Debtors, shall be authorized to and shall purchase and maintain directors, officers, managers, and employee liability tail coverage for the six-year period following the Effective Date for the benefit of the Debtors' current and former directors, managers, officers, and employees on terms no less favorable to such persons than their existing coverage under the D&O Liability Insurance Policies with available aggregate limits of liability upon the Effective Date of no less than the aggregate limit of liability under the existing D&O Liability Insurance Policies.

After the Effective Date, none of the Debtors or the Reorganized Debtors shall terminate or otherwise reduce the coverage under any such policies (including, if applicable, any "tail policy") with respect to conduct occurring on or prior to the Effective Date, and all officers, directors, managers, and employees of the Debtors who served in such capacity at any time before the Effective Date shall be entitled to the full benefits of any such policy for the full six-year term of such policy regardless of whether such officers, directors, managers, or employees remain in such positions after the Effective Date.

On and after the Effective Date, each of the Reorganized Debtors shall be authorized to purchase a directors' and officers' liability insurance policy for the benefit of their respective directors, members, trustees, officers, and managers in the ordinary course of business.

G. Indemnification Obligations

On and as of the Effective Date, the Indemnification Provisions will be assumed and irrevocable and will survive the effectiveness of the Plan, and the Reorganized Debtors' governance documents will provide for the

indemnification, defense, reimbursement, exculpation, and/or limitation of liability of, and advancement of fees and expenses to the Debtors' and the Reorganized Debtors' current and former directors, officers, employees, and agents to the fullest extent permitted by law and at least to the same extent as the organizational documents of each of the respective Debtors on the Petition Date, against any claims or Causes of Action whether direct or derivative, liquidated or unliquidated, fixed or contingent, disputed or undisputed, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted. None of the Reorganized Debtors will amend and/or restate their respective governance documents before or after the Effective Date to terminate or adversely affect any of the Reorganized Debtors' obligations to provide such indemnification rights or such directors,' officers,' employees,' or agents' indemnification right.

On and as of the Effective Date, any of the Debtors' indemnification obligations with respect to any contract or agreement that is the subject of or related to any litigation against the Debtors or Reorganized Debtors, as applicable, shall be assumed by the Reorganized Debtors and otherwise remain unaffected by the Chapter 11 Cases.

H. Employee and Retiree Benefits

Unless otherwise provided herein, all employee wages, compensation, and benefit programs in place as of the Effective Date with the Debtors shall be assumed by the Reorganized Debtors and shall remain in place as of the Effective Date and, without limiting any authority provided to the board of directors or managers or members of the Reorganized Debtors under the Reorganized Debtors' respective formation and constituent documents, the Reorganized Debtors will continue to honor such agreements, arrangements, programs, and plans in the ordinary course of business. Notwithstanding the foregoing, pursuant to section 1129(a)(13) of the Bankruptcy Code, from and after the Effective Date, all retiree benefits (as such term is defined in section 1114 of the Bankruptcy Code), if any, shall continue to be paid in accordance with applicable law.

I. Collective Bargaining Agreements

The Collective Bargaining Agreements and any agreements, documents, or instruments relating thereto, is treated as and deemed to be an Executory Contract under the Plan. On the Effective Date, the Debtors shall be deemed to have assumed the Collective Bargaining Agreements and any agreements, documents, and instruments related thereto. All Proofs of Claim Filed for amounts due under the Collective Bargaining Agreements shall be considered satisfied by the agreement and obligation to assume and cure in the ordinary course as provided herein. On the Effective Date, any Proofs of Claim Filed with respect to the Collective Bargaining Agreements shall be deemed disallowed and expunged, without further notice to or action, order, or approval of the Bankruptcy Court.

J. Workers Compensation Program

As of the Effective Date, the Reorganized Debtors shall continue to honor their obligations under (1) all applicable workers' compensation laws in states in which the Reorganized Debtors operate, and (2) the Debtors' (a) written contracts, agreements, and agreements of indemnity, in each case relating to workers' compensation, (b) self-insurer workers' compensation bonds, policies, programs, and plans for workers' compensation, and (c) workers' compensation insurance. All Proofs of Claims on account of workers' compensation shall be deemed withdrawn automatically and without any further notice to or action, order, or approval of the Bankruptcy Court; *provided, however*, that nothing in the Plan shall limit, diminish, or otherwise alter the Debtors' or Reorganized Debtors' defenses, Causes of Action, or other rights under applicable non-bankruptcy law with respect to any such contracts, agreements, policies, programs and plans.

K. Modifications, Amendments, Supplements, Restatements, or Other Agreements

Unless otherwise provided in the Plan, each Executory Contract or Unexpired Lease that is assumed shall include all modifications, amendments, supplements, restatements, or other agreements that in any manner affect such Executory Contract or Unexpired Lease, and Executory Contracts and Unexpired Leases related thereto, if any, including easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal and any other interests, unless any of the foregoing agreements has been previously rejected or repudiated or is rejected or repudiated under the Plan.

Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtors during the Chapter 11 Cases shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease, or the validity, priority, or amount of any Claims that may arise in connection therewith.

L. Reservation of Rights

Neither the exclusion nor inclusion of any Executory Contract or Unexpired Lease on the Schedule of Assumed Executory Contracts and Unexpired Leases or the Schedule of Rejected Executory Contracts and Unexpired Leases, nor anything contained in the Plan, shall constitute an admission by the Debtors that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that any of the Reorganized Debtors has any liability thereunder. If there is a dispute regarding whether a contract or lease is or was executory at the time of assumption or rejection, the Debtors or the Reorganized Debtors, as applicable, shall have 30 days following entry of a Final Order resolving such dispute to alter its treatment of such contract or lease under the Plan.

M. Nonoccurrence of Effective Date

In the event that the Effective Date does not occur, the Bankruptcy Court shall retain jurisdiction with respect to any request to extend the deadline for assuming or rejecting Unexpired Leases pursuant to section 365(d)(4) of the Bankruptcy Code.

N. Contracts and Leases Entered Into After the Petition Date

Contracts and leases entered into after the Petition Date by any Debtor, including any Executory Contracts and Unexpired Leases assumed by such Debtor, will be performed by the applicable Debtor or the Reorganized Debtors liable thereunder in the ordinary course of their business. Accordingly, such contracts and leases (including any assumed Executory Contracts and Unexpired Leases) will survive and remain unaffected by entry of the Confirmation Order.

**ARTICLE VI.
PROVISIONS GOVERNING DISTRIBUTIONS**

A. Timing and Calculation of Amounts to Be Distributed

Unless otherwise provided in the Plan, on the Initial Distribution Date (or if a Claim is not an Allowed Claim or Allowed Interest on the Initial Distribution Date, on the next Quarterly Distribution Date after such Claim or Interest becomes an Allowed Claim or Allowed Interest, or as soon as reasonably practicable thereafter), or as soon as is reasonably practicable thereafter, each Holder of an Allowed Claim or Allowed Interests (as applicable) shall receive the full amount of the distributions that the Plan provides for Allowed Claims or Allowed Interests (as applicable) in the applicable Class. In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date. If and to the extent that there are Disputed Claims or Disputed Interests, distributions on account of any such Disputed Claims or Disputed Interests shall be made pursuant to the provisions set forth in Article VII hereof. Except as otherwise provided in the Plan, Holders of Claims or Interests shall not be entitled to interest, dividends, or accruals on the distributions provided for in the Plan, regardless of whether such distributions are delivered on or at any time after the Effective Date.

B. Distributions on Account of Obligations of Multiple Debtors

For all purposes associated with distributions under the Plan, all guarantees by any Debtor of the obligations of any other Debtor, as well as any joint and several liability of any Debtor with respect to any other Debtor, shall be deemed eliminated so that any obligation that could otherwise be asserted against more than one Debtor shall result in a single distribution under the Plan, *provided* that Claims held by a single entity at different Debtors that are not based on guarantees or joint and several liability shall be entitled to the applicable distribution for such Claim at each

applicable Debtor. Any such Claims shall be released and discharged pursuant to Article VIII of the Plan and shall be subject to all potential objections, defenses, and counterclaims, and to estimation pursuant to section 502(c) of the Bankruptcy Code. For the avoidance of doubt, this shall not affect the obligation of each and every Debtor to pay fees payable pursuant to section 1930(a) of the Judicial Code until such time as a particular Chapter 11 Case is closed, dismissed, or converted, whichever occurs first.

C. Disbursing Agent

Except as otherwise provided herein, distributions under the Plan shall be made by the Disbursing Agent. The Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court. Additionally, in the event that the Disbursing Agent is so otherwise ordered, all costs and expenses of procuring any such bond or surety shall be borne by the Reorganized Debtors.

D. Rights and Powers of Disbursing Agent

1. Powers of the Disbursing Agent

The Disbursing Agent shall be empowered to: (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under the Plan; (b) make all distributions contemplated hereby; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions hereof.

2. Expenses Incurred On or After the Effective Date

Except as otherwise ordered by the Bankruptcy Court, the amount of any reasonable fees and out-of-pocket expenses incurred by the Disbursing Agent on or after the Effective Date (including taxes) and any reasonable compensation and out-of-pocket expense reimbursement claims (including reasonable attorney fees and expenses) made by the Disbursing Agent shall be paid in Cash by the Reorganized Debtors.

E. Delivery of Distributions and Undeliverable or Unclaimed Distributions

1. Record Date for Distribution.

On the Distribution Record Date, the Claims Register shall be closed and any party responsible for making distributions shall instead be authorized and entitled to recognize only those record Holders listed on the Claims Register as of the close of business on the Distribution Record Date.

2. Delivery of Distributions

(a) Initial Distribution Date

Except as otherwise provided herein, on the Initial Distribution Date, the Disbursing Agent shall make distributions to holders of Allowed Claims and Interests as of the Distribution Record Date at the address for each such Holder as indicated on the Debtors' books and records or the register or related document maintained by, as applicable, the DIP Agents, the ABL Agent, or the Term Loan Agent as of the date of any such distribution; *provided* that the manner of such distributions shall be determined at the discretion of the Disbursing Agent; *provided, further*, that the address for each Holder of an Allowed Claim or Interest shall be deemed to be the address set forth in, as applicable, any Proof of Claim or Proof of Interest Filed by such Holder, or, if no Proof of Claim or Proof of Interest has been Filed, the address set forth in the Schedules. If a Holder holds more than one Claim in any one Class, all Claims of the Holder may be aggregated into one Claim and one distribution may be made with respect to the aggregated Claim.

(b) Quarterly Distribution Date

Except as otherwise determined by the Reorganized Debtors in their sole discretion, on each Quarterly Distribution Date or as soon thereafter as is reasonably practicable, the Disbursing Agent shall make the distributions required to be made on account of Allowed Claims and Interests under the Plan on such date. Any distribution that is not made on the Initial Distribution Date or on any other date specified herein because the Claim that would have been entitled to receive that distribution is not an Allowed Claim or Interest on such date, shall be distributed on the first Quarterly Distribution Date after such Claim or Interest is Allowed. No interest shall accrue or be paid on the unpaid amount of any distribution paid on a Quarterly Distribution Date in accordance with Article VI.I of the Plan.

(c) Distributions to Holders of Term Loan Claims

Except as set forth in this Article VI.E.2(c), the Term Loan Agent shall be deemed to be the Holder of all Term Loan Claims for purposes of distributions to be made hereunder, and all distributions on account of such Term Loan Claims shall be made to or on behalf of the Term Loan Agent. The Term Loan Agent shall hold or direct such distributions for the benefit of the Holders of Term Loan Claims. As soon as practicable following compliance with the requirements set forth in this Article VI, the Term Loan Agent shall arrange to deliver or direct the delivery of such distributions for which it is the deemed Holder to or on behalf of such Holders of Allowed Term Loan Claims.

Notwithstanding anything to the contrary herein, the Term Loan Agent shall be entitled to maintain a record of Holders of Term Loan Claims in the ordinary course of business and shall be entitled without regard to the general occurrence of the Distribution Record Date, to make distributions that it receives under the Plan to Holders of Term Loan Claims based upon its books and records. The Term Loan Agent shall not be held liable to any person with respect to distributions made or directed to be made by the Term Loan Agent except for liability arising from gross negligence, willful misconduct, or actual fraud of the Term Loan Agent.

3. Minimum Distributions

Notwithstanding any other provision of the Plan, the Disbursing Agent will not be required to make distributions of Cash less than \$100 in value (whether cash or otherwise), and each such Claim to which this limitation applies shall be discharged pursuant to Article VIII and its Holder is forever barred pursuant to Article VIII from asserting such Claim against the Debtors, the Reorganized Debtors, or their property.

4. No Fractional Shares

No fractional shares or units of the New Interests shall be distributed and no Cash shall be distributed in lieu of such fractional amounts. When any distribution pursuant to the Plan on account of an Allowed Claim or Allowed Interest, as applicable, would otherwise result in the issuance of a number of shares or units of the New Interests that is not a whole number, the actual distribution of shares of the New Interests shall be rounded as follows: (a) fractions of one-half or greater shall be rounded to the next higher whole number and (b) fractions of less than one-half shall be rounded to the next lower whole number with no further payment therefore. The total number of authorized shares or units of the New Interests to be distributed pursuant to the Plan shall be adjusted as necessary to account for the foregoing rounding.

5. Undeliverable Distributions and Unclaimed Property

In the event that any distribution to any Holder is returned as undeliverable, no distribution to such Holder shall be made unless and until the Disbursing Agent has determined the then-current address of such Holder, at which time such distribution shall be made to such Holder without interest; *provided, however*, that such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of six months from the Effective Date. After such date, all unclaimed property or interests in property shall revert to the Reorganized Debtors automatically and without need for a further order by the Bankruptcy Court (notwithstanding any applicable federal, provincial, or state escheat, abandoned, or unclaimed property laws to the contrary), and the Claim of any Holder to such property or Interest in property shall be discharged and forever barred.

A distribution shall be deemed unclaimed if a holder has not: (a) accepted a particular distribution or, in the case of distributions made by check, negotiated such check; (b) given notice to the Reorganized Debtors of an intent to accept a particular distribution; (c) responded to the Debtors' or Reorganized Debtors' requests for information necessary to facilitate a particular distribution; or (d) taken any other action necessary to facilitate such distribution.

F. Distributions on Account of Claims or Interests Allowed After the Effective Date

1. Payments and Distributions on Disputed Claims

Distributions made after the Effective Date to Holders of Disputed Claims or Interests that are not Allowed Claims or Interests as of the Effective Date, but which later become Allowed Claims or Interests, as applicable, shall be deemed to have been made on the applicable Quarterly Distribution Date after they have actually been made, unless the Reorganized Debtors and the applicable Holder of such Claim or Interest agree otherwise. No interest shall accrue or be paid on a Disputed Claim before it becomes an Allowed Claim in accordance with Article VI.I of the Plan.

2. Special Rules for Distributions to Holders of Disputed Claims

Notwithstanding any provision otherwise in the Plan and except as may be agreed to by the Reorganized Debtors, on the one hand, and the Holder of a Disputed Claim or Interest, on the other hand, no partial payments and no partial distributions shall be made with respect to any Disputed Claim or Interest until the Disputed Claim or Interest has become an Allowed Claim or Interest, as applicable, or has otherwise been resolved by settlement or Final Order; *provided* that if the Debtors do not dispute a portion of an amount asserted pursuant to an otherwise Disputed Claim, the Holder of such Disputed Claim shall be entitled to a distribution on account of that portion of such Claim, if any, that is not disputed at the time and in the manner that the Disbursing Agent makes distributions to similarly-situated holders of Allowed Claims pursuant to the Plan.

G. Compliance with Tax Requirements

In connection with the Plan, to the extent applicable, the Debtors or the Reorganized Debtors, as applicable, shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all distributions pursuant to the Plan shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, the Disbursing Agent shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes, withholding distributions pending receipt of information necessary to facilitate such distributions, or establishing any other mechanisms they believe are reasonable and appropriate. The Debtors and Reorganized Debtors, as applicable, reserve the right to allocate all distributions made under the Plan in compliance with applicable wage garnishments, alimony, child support, and other spousal awards, liens, and encumbrances.

H. Allocations Between Principal and Accrued Interest

Distributions in respect of Allowed Claims shall be allocated first to the principal amount of such Claims (as determined for federal income tax purposes) and then, to the extent the consideration exceeds the principal amount of the Claims, to any portion of such Claims for accrued but unpaid interest.

I. No Postpetition Interest on Claims

Unless otherwise specifically provided for in the Plan or the Confirmation Order, or required by applicable bankruptcy and non-bankruptcy law, postpetition interest shall not accrue or be paid on any prepetition Claims against the Debtors, and no Holder of a prepetition Claim against the Debtors shall be entitled to interest accruing on or after the Petition Date on any such prepetition Claim.

J. Foreign Currency Exchange Rate

Except as otherwise provided in a Bankruptcy Court order, as of the Effective Date, any Claim asserted in currency other than U.S. dollars shall be automatically deemed converted to the equivalent U.S. dollar value using the exchange rate for the applicable currency as published in The Wall Street Journal, National Edition, on the Effective Date.

K. Setoffs and Recoupment

Except as expressly provided in this Plan, each Reorganized Debtor may, pursuant to section 553 of the Bankruptcy Code, set off and/or recoup against any Plan distributions to be made on account of any Allowed Claim, any and all claims, rights, and Causes of Action that such Reorganized Debtor may hold against the Holder of such Allowed Claim to the extent such setoff or recoupment is either (1) agreed in amount among the relevant Reorganized Debtor(s) and Holder of Allowed Claim or (2) otherwise adjudicated by the Bankruptcy Court or another court of competent jurisdiction; *provided, however*, that neither the failure to effectuate a setoff or recoupment nor the allowance of any Claim hereunder shall constitute a waiver or release by a Reorganized Debtor or its successor of any and all claims, rights, and Causes of Action that such Reorganized Debtor or its successor may possess against the applicable Holder. In no event shall any Holder of Claims against, or Interests in, the Debtors be entitled to recoup any such Claim or Interest against any claim, right, or Cause of Action of the Debtors or the Reorganized Debtors, as applicable, unless such Holder actually has performed such recoupment and provided notice thereof in writing to the Debtors in accordance with Article XII.G of the Plan on or before the Effective Date, notwithstanding any indication in any Proof of Claim or otherwise that such Holder asserts, has, or intends to preserve any right of recoupment.

Notwithstanding anything to the contrary in this Plan or the Confirmation Order, all rights of counterparties to unexpired leases of nonresidential real property (whether assumed or rejected) for setoff, recoupment, and subrogation are preserved and shall continue unaffected by Confirmation or the occurrence of the Effective Date.

L. Claims Paid or Payable by Third Parties

1. Claims Paid by Third Parties

The Debtors or the Reorganized Debtors, as applicable, shall reduce in full a Claim, and such Claim shall be disallowed without a Claim objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court, to the extent that the Holder of such Claim receives payment in full on account of such Claim from a party that is not a Debtor or the Reorganized Debtors. Subject to the last sentence of this paragraph, to the extent a Holder of a Claim receives a distribution on account of such Claim and receives payment from a party that is not a Debtor or the Reorganized Debtors on account of such Claim, such Holder shall, within two weeks of receipt thereof, repay or return the distribution to the applicable Debtor or the Reorganized Debtors, to the extent the Holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such distribution under the Plan. If the Debtors or the Reorganized Debtors, as applicable, become aware of any payment of a Claim by a third party, the Debtors or Reorganized Debtors, as applicable, will send a notice of wrongful payment to the Holder of such Claim requesting the return of any excess payments and advising the recipient of the provisions of the Plan requesting turnover of excess estate funds. The failure of such Holder to timely repay or return such distribution shall result in the Holder owing the applicable Debtor or the Reorganized Debtors annualized interest at the Federal Judgment Rate on such amount owed for each Business Day after the two-week grace period specified above until the amount is repaid.

2. Claims Payable by Third Parties

No distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to one of the Debtors' insurance policies until the Holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy. To the extent that one or more of the Debtors' insurers agrees to satisfy in full or in part a Claim (if and to the extent adjudicated by a court of competent jurisdiction), then immediately upon such insurers' agreement, the applicable portion of such Claim may be expunged without a Claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

3. Applicability of Insurance Policies

Except as otherwise provided in the Plan, distributions to Holders of Allowed Claims shall be in accordance with the provisions of any applicable insurance policy. Nothing contained in the Plan shall constitute or be deemed a waiver of any Cause of Action that the Debtors or any Entity may hold against any other Entity, including insurers under any policies of insurance, nor shall anything contained herein constitute or be deemed a waiver by such insurers of any defenses, including coverage defenses, held by such insurers.

**ARTICLE VII.
PROCEDURES FOR RESOLVING CONTINGENT,
UNLIQUIDATED, AND DISPUTED CLAIMS**

A. *Allowance of Claims*

After the Effective Date, the Reorganized Debtors shall have and retain any and all rights and defenses such Debtor had with respect to any Claim or Interest immediately before the Effective Date.

B. *Claims Administration Responsibilities*

Except as otherwise specifically provided in the Plan, after the Effective Date, the Reorganized Debtors shall have the sole authority: (1) to File, withdraw, or litigate to judgment objections to Claims or Interests; (2) to settle or compromise any Disputed Claim without any further notice to or action, order, or approval by the Bankruptcy Court; and (3) to administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order, or approval by the Bankruptcy Court.

C. *Estimation of Claims*

Before or after the Effective Date, the Debtors or Reorganized Debtors, as applicable, may (but are not required to) at any time request that the Bankruptcy Court estimate any Claim that is contingent or unliquidated pursuant to section 502(c) of the Bankruptcy Code for any reason, regardless of whether any party previously has objected to such Claim or Interest or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any such Claim or Interest, including during the litigation of any objection to any Claim or Interest or during the appeal relating to such objection. Notwithstanding any provision otherwise in the Plan, a Claim that has been expunged from the Claims Register, but that either is subject to appeal or has not been the subject of a Final Order, shall be deemed to be estimated at zero dollars, unless otherwise ordered by the Bankruptcy Court. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim or Interest, that estimated amount shall constitute a maximum limitation on such Claim or Interest for all purposes under the Plan (including for purposes of distributions), and the relevant Reorganized Debtor may elect to pursue any supplemental proceedings to object to any ultimate distribution on such Claim or Interest. Notwithstanding section 502(j) of the Bankruptcy Code, in no event shall any holder of a Claim that has been estimated pursuant to section 502(c) of the Bankruptcy Code or otherwise be entitled to seek reconsideration of such estimation unless such holder has Filed a motion requesting the right to seek such reconsideration on or before fourteen days after the date on which such Claim is estimated. All of the aforementioned Claims and objection, estimation, and resolution procedures are cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn, or resolved by any mechanism approved by the Bankruptcy Court.

D. *Adjustment to Claims Without Objection*

Any duplicate Claim or Interest or any Claim or Interest that has been paid or satisfied, or any Claim or Interest that has been amended or superseded, cancelled or otherwise expunged (including pursuant to the Plan), may be adjusted or expunged (including on the Claims Register, to the extent applicable) by the Reorganized Debtors without a Claims objection having to be Filed and without any further notice to or action, order or approval of the Bankruptcy Court. Additionally, any Claim or Interest that is duplicative or redundant with another Claim against or Interest in the same Debtor or another Debtor may be adjusted or expunged on the Claims Register by the Reorganized Debtors without the Reorganized Debtors having to File an application, motion, complaint, objection, or any other

legal proceeding seeking to object to such Claim or Interest and without any further notice to or action, order, or approval of the Bankruptcy Court.

E. Time to File Objections to Claims

Any objections to Claims shall be Filed no later than the Claims Objection Bar Date.

F. Disallowance of Claims

Any Claims or Interests held by Entities from which property is recoverable under section 542, 543, 550, or 553 of the Bankruptcy Code, or that is a transferee of a transfer avoidable under section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed disallowed pursuant to section 502(d) of the Bankruptcy Code, and Holders of such Claims or Interests may not receive any distributions on account of such Claims until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court order with respect thereto has been entered and all sums due, if any, to the Debtors by that Entity have been turned over or paid to the Reorganized Debtors. All Claims Filed on account of an indemnification obligation to a director, officer, or employee shall be deemed satisfied and expunged from the Claims Register as of the Effective Date to the extent such indemnification obligation is assumed (or honored or reaffirmed, as the case may be) pursuant to the Plan, without any further notice to or action, order, or approval of the Bankruptcy Court.

Except as provided herein or otherwise agreed, any and all Proofs of Claim Filed after the Claims Bar Date or the Administrative Claims Bar Date, as appropriate, shall be deemed disallowed and expunged as of the Effective Date without any further notice to or action, order, or approval of the Bankruptcy Court, and Holders of such Claims may not receive any distributions on account of such Claims, unless such late Proof of Claim has been deemed timely Filed by a Final Order.

G. Amendments to Claims

On or after the Claims Bar Date or the Administrative Claims Bar Date, as appropriate, a Claim may not be Filed or amended without the prior authorization of the Bankruptcy Court or the Reorganized Debtors. Absent such authorization, any new or amended Claim Filed shall be deemed disallowed in full and expunged without any further notice to or action, order, or approval of the Bankruptcy Court to the maximum extent provided by applicable law.

H. No Distributions Pending Allowance

If an objection to a Claim or portion thereof is Filed as set forth in Article VII.B, no payment or distribution provided under the Plan shall be made on account of such Claim or portion thereof unless and until such Disputed Claim becomes an Allowed Claim.

I. Distributions After Allowance

To the extent that a Disputed Claim ultimately becomes an Allowed Claim or Allowed Interest, distributions (if any) shall be made to the Holder of such Allowed Claim or Allowed Interest (as applicable) in accordance with the provisions of the Plan. As soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim or Disputed Interest becomes a Final Order, the Disbursing Agent shall provide to the Holder of such Claim or Interest the distribution (if any) to which such Holder is entitled under the Plan as of the Effective Date, without any interest, dividends, or accruals to be paid on account of such Claim or Interest unless required under applicable bankruptcy law.

ARTICLE VIII.
SETTLEMENT, RELEASE, INJUNCTION, AND RELATED PROVISIONS⁵

A. *Discharge of Claims and Termination of Interests*

Pursuant to, and to the maximum extent provided by, section 1141(d) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan or in any contract, instrument, or other agreement or document created pursuant to the Plan, the distributions, rights, and treatment that are provided in the Plan shall be in complete satisfaction, discharge, and release, effective as of the Effective Date, of Claims (including any Intercompany Claims resolved or compromised after the Effective Date by the Reorganized Debtors), Interests, and Causes of Action of any nature whatsoever, including any interest accrued on Claims or Interests from and after the Petition Date, whether known or unknown, against, liabilities of, Liens on, obligations of, rights against, and Interests in, the Debtors or any of their assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims and Interests, including demands, liabilities, and Causes of Action that arose before the Effective Date, any liability (including withdrawal liability) to the extent such Claims or Interests relate to services performed by current or former employees of the Debtors prior to the Effective Date and that arise from a termination of employment, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, in each case whether or not: (1) a Proof of Claim or Proof of Interest based upon such debt, right, or Interest is Filed or deemed Filed pursuant to section 501 of the Bankruptcy Code; (2) a Claim or Interest based upon such debt, right, or Interest is Allowed pursuant to section 502 of the Bankruptcy Code; or (3) the Holder of such a Claim or Interest has accepted the Plan. Any default or "event of default" by the Debtors or their Affiliates with respect to any Claim or Interest that existed immediately prior to or on account of the filing of the Chapter 11 Cases shall be deemed cured on the Effective Date. The Confirmation Order shall be a judicial determination of the discharge of all Claims and Interests subject to the occurrence of the Effective Date.

B. *Release of Liens*

Except as otherwise provided in the Exit Facility Documents, the Plan, the Plan Supplement, or any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan and, in the case of an Other Secured Claim or Secured Tax Claim, satisfaction in full of the portion of the Other Secured Claim or Secured Tax Claim that is Allowed as of the Effective Date and required to be satisfied pursuant to the Plan, except for Other Secured Claims that the Debtors elect to reinstate in accordance with Article III.B.1 hereof, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released, settled, compromised, and discharged, and all of the right, title, and interest of any Holder of such mortgages, deeds of trust, Liens, pledges, or other security interests shall revert automatically to the applicable Debtor and its successors and assigns. Any Holder of such Secured Claim (and the applicable agents for such Holder) shall be authorized and directed to release any collateral or other property of any Debtor (including any cash collateral and possessory collateral) held by such Holder (and the applicable agents for such Holder), and to take such actions as may be reasonably requested by the Reorganized Debtors to evidence the release of such Lien, including the execution, delivery, and filing or recording of such releases. The presentation or filing of the Confirmation Order to or with any federal, state, provincial, or local agency or department shall constitute good and sufficient evidence of, but shall not be required to effect, the termination of such Liens.

C. *Debtor Release*

[Effective as of the Effective Date, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, including the service of the Released Parties in facilitating the expeditious

⁵ The Debtor Release and Third-Party Release included herein are subject to the satisfactory completion of a review of such releases and any investigation by the Debtors' independent director into any potential claims and Causes of Action subject to such releases. The Debtors reserve all rights to modify the Plan, including the release provisions of the Plan, and the Debtors reserve all rights and claims with respect thereto.

reorganization of the Debtor and implementation of the restructuring contemplated by the Plan, the adequacy of which is hereby confirmed, on and after the Effective Date each Released Party is deemed released and discharged by each and all of the Debtors, the Reorganized Debtors, and their Estates, in each case on behalf of themselves and their respective successors, assigns, and representatives, and any and all other Entities who may purport to assert any Cause of Action, directly or derivatively, by, through, for, or because of the foregoing Entities, from any and all Claims, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims, asserted or assertable on behalf of any of the Debtors, the Reorganized Debtors, or their Estates, as applicable, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, that the Debtors, the Reorganized Debtors, or their Estates or Affiliates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Holder of any Claim against, or Interest in, a Debtor or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the Reorganized Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the Debtors' in- or out-of-court restructuring efforts, intercompany transactions, the Restructuring Transactions, the Sale Transaction (if applicable), entry into the Exit Facilities, the Chapter 11 Cases, the formulation, preparation, dissemination, negotiation, filing, or consummation of the RSA, the Disclosure Statement, the Prepetition Facilities, the DIP Facilities, the Sale Transaction (if applicable), the Exit Facilities, the Plan, the Plan Supplement, or any Restructuring Transaction, contract, instrument, release, or other agreement or document created or entered into in connection with the RSA, the Disclosure Statement, the Prepetition Facilities, the DIP Facilities, or the Plan, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including the issuance or distribution of securities pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, other than claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes actual fraud, willful misconduct, or gross negligence, each solely to the extent as determined by a Final Order of a court of competent jurisdiction. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release (1) any post-Effective Date obligations of any party or Entity under the Plan, any Restructuring Transaction, or any document, instrument, or agreement (including the Exit Facility Documents and any documents set forth in the Plan Supplement) executed to implement the Plan and (2) any Retained Causes of Action.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained in this Plan, and further, shall constitute the Bankruptcy Court's finding that each Debtor Release is: (1) in exchange for the good and valuable consideration provided by the Released Parties, (2) a good-faith settlement and compromise of such Claims; (3) in the best interests of the Debtors and all Holders of Claims and Interests; (4) fair, equitable, and reasonable; (5) given and made after due notice and opportunity for hearing; and (6) a bar to any of the Debtors or Reorganized Debtors or their respective Estates asserting any claim, Cause of Action, or liability related thereto, of any kind whatsoever, against any of the Released Parties or their property.]

D. Third-Party Release

[Effective as of the Effective Date, in exchange for good and valuable consideration, including the obligations of the Debtors under the Plan and the contributions of the Released Parties in facilitating the expeditious reorganization of the Debtors and the implementation of the restructuring contemplated by the Plan, to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Effective Date, on and after the Effective Date each of the Releasing Parties shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever, released and discharged each Debtor, Reorganized Debtor, and Released Party from any and all any and all Claims, interests, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including any derivative claims, asserted or assertable on behalf of any of the Debtors, the Reorganized Debtors, or their Estates, that such Entity would have been legally entitled to assert (whether individually or collectively), based on or relating to,

or in any manner arising from, in whole or in part, the Debtors, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the Reorganized Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the Debtors' in- or out-of-court restructuring efforts, intercompany transactions, the Restructuring Transactions, the Sale Transaction (if applicable), entry into the Exit Facilities, the Chapter 11 Cases, the formulation, preparation, dissemination, negotiation, filing, or consummation of the RSA, the Disclosure Statement, the DIP Facilities, the Sale Transaction (if applicable), the Exit Facilities, the Plan, the Plan Supplement, or any Restructuring Transaction, contract, instrument, release, or other agreement or document created or entered into in connection with the RSA, the Disclosure Statement, the DIP Facilities, or the Plan, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including the issuance or distribution of securities pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, other than claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes actual fraud, willful misconduct, or gross negligence, each solely to the extent as determined by a Final Order of a court of competent jurisdiction. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any post-Effective Date obligations of any party or Entity under the Plan, any Restructuring Transaction, or any document, instrument, or agreement (including the Exit Facility Documents and any documents set forth in the Plan Supplement) executed to implement the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Third-Party Release, which includes by reference each of the related provisions and definitions contained in this Plan, and further, shall constitute the Bankruptcy Court's finding that each Third-Party Release is: (1) in exchange for the good and valuable consideration provided by the Released Parties, (2) a good-faith settlement and compromise of such Claims; (3) in the best interests of the Debtors and all Holders of Claims and Interests; (4) fair, equitable, and reasonable; (5) given and made after due notice and opportunity for hearing; and (6) a bar to any of the Debtors or Reorganized Debtors or their respective Estates asserting any claim, Cause of Action, or liability related thereto, of any kind whatsoever, against any of the Released Parties or their property.]

E. Exculpation

Effective as of the Effective Date, to the fullest extent permissible under applicable law and without affecting or limiting either the Debtor Release or the Third-Party Release, and notwithstanding anything herein to the contrary, on and after the Effective Date the Exculpated Parties shall neither have nor incur, and each Exculpated Party is released and exculpated from, any liability to any Holder of a Cause of Action, Claim, or Interest for any act or omission in connection with, relating to, or arising out of, the Chapter 11 Cases, consummation of the Sale Transaction (if applicable), the formulation, preparation, dissemination, negotiation, filing, or consummation of the RSA, the Disclosure Statement, the Plan, or any Restructuring Transaction, contract, instrument, release, or other agreement or document created or entered into in connection with the RSA, the Disclosure Statement or the Plan, the filing of the Chapter 11 Cases, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, including the issuance of securities pursuant to the Plan or the distribution of property under the Plan or any other related agreement (whether or not such issuance or distribution occurs following the Effective Date), negotiations regarding or concerning any of the foregoing, or the administration of the Plan or property to be distributed hereunder, except for actions determined by Final Order to have constituted actual fraud, willful misconduct, or gross negligence, but in all respects such Entities shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Exculpated Parties have, and upon completion of the Plan shall be deemed to have, participated in good faith and in compliance with the applicable laws with regard to the solicitation of votes and distribution of consideration pursuant to the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan. Notwithstanding the foregoing, the Exculpation shall not release any obligation or liability of any Entity under the Plan or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan.

F. Injunction

Effective as of the Effective Date, pursuant to section 524(a) of the Bankruptcy Code, to the fullest extent permissible under applicable law, and except as otherwise expressly provided in the Plan or for obligations issued or required to be paid pursuant to the Plan or the Confirmation Order, all Entities who have held, hold, or may hold Claims or Interests that have been discharged pursuant to Article VIII.A of the Plan, released pursuant to the Debtor Release, the Third-Party Release, or another provision of the Plan (including the release of liens pursuant to Article VIII.B of the Plan), or are subject to exculpation pursuant to Article VIII.E of the Plan, are permanently enjoined, from and after the Effective Date, from taking any of the following actions against, as applicable, the Debtors, the Reorganized Debtors, the Exculpated Parties, or the Released Parties: (1) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests; (2) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against such Entities on account of or in connection with or with respect to any such Claims or Interests; (3) creating, perfecting, or enforcing any encumbrance of any kind against such Entities or the property or the estates of such Entities on account of or in connection with or with respect to any such Claims or Interests; (4) asserting any right of setoff, subrogation, or recoupment of any kind, against any obligation due from such Entities or against the property of such Entities on account of or in connection with or with respect to any such Claims or Interests unless such Holder has Filed a motion requesting the right to perform such setoff on or before the Effective Date, and notwithstanding an indication of a Claim or Interest or otherwise that such Holder asserts, has, or intends to preserve any right of setoff pursuant to applicable law or otherwise; and (5) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests released or settled pursuant to the Plan.

Upon entry of the Confirmation Order, all Holders of Claims and Interests and their respective current and former employees, agents, officers, directors, principals, and direct and indirect affiliates shall be enjoined from taking any actions to interfere with the implementation or Consummation of the Plan. Each Holder of an Allowed Claim or Allowed Interest, as applicable, by accepting, or being eligible to accept, distributions under or Reinstatement of such Claim or Interest, as applicable, pursuant to the Plan, shall be deemed to have consented to the injunction provisions set forth in this Article VIII.F of the Plan.

G. Protections Against Discriminatory Treatment

To the maximum extent provided by section 525 of the Bankruptcy Code and the Supremacy Clause of the U.S. Constitution, all Entities, including Governmental Units, shall not discriminate against the Reorganized Debtors or deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, the Reorganized Debtors, or another Entity with whom the Reorganized Debtors have been associated, solely because each Debtor has been a debtor under chapter 11 of the Bankruptcy Code, has been insolvent before the commencement of the Chapter 11 Cases (or during the Chapter 11 Cases but before the Debtors are granted or denied a discharge), or has not paid a debt that is dischargeable in the Chapter 11 Cases.

H. Document Retention

On and after the Effective Date, the Reorganized Debtors may maintain documents in accordance with their standard document retention policy, as may be altered, amended, modified, or supplemented by the Reorganized Debtors.

I. Reimbursement or Contribution

If the Bankruptcy Court disallows a Claim for reimbursement or contribution of an Entity pursuant to section 502(e)(1)(B) of the Bankruptcy Code, then to the extent that such Claim is contingent as of the time of allowance or disallowance, such Claim shall be forever disallowed and expunged notwithstanding section 502(j) of the Bankruptcy Code, unless prior to the Confirmation Date: (1) such Claim has been adjudicated as non-contingent or (2) the relevant Holder of a Claim has Filed a non-contingent Proof of Claim on account of such Claim and a Final Order has been entered prior to the Confirmation Date determining such Claim as no longer contingent.

J. Term of Injunctions or Stays

Unless otherwise provided in the Plan or in the Confirmation Order, all injunctions or stays in effect in the Chapter 11 Cases pursuant to sections 105 or 362 of the Bankruptcy Code or any order of the Bankruptcy Court, and extant on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order), shall remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan or the Confirmation Order shall remain in full force and effect in accordance with their terms.

K. Subordination Rights

The classification and manner of satisfying all Claims and Interests under the Plan take into consideration all subordination rights, whether arising under general principles of equitable subordination, contract, section 510(c) of the Bankruptcy Code, or otherwise, that a Holder of a Claim or Interest may have against other Claim or Interest holders with respect to any distribution made pursuant to the Plan. Except as provided in the Plan, all subordination rights that a Holder of a Claim may have with respect to any distribution to be made pursuant to the Plan shall be discharged and terminated, and all actions related to the enforcement of such subordination rights shall be permanently enjoined.

Pursuant to Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided under the Plan, the provisions of the Plan shall constitute a good faith compromise and settlement of all claims or controversies relating to the subordination rights that a Holder of a Claim may have with respect to any Allowed Claim or any distribution to be made pursuant to the Plan on account of any Allowed Claim. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, as of the Effective Date, of the compromise or settlement of all such claims or controversies and the Bankruptcy Court's finding that such compromise or settlement is in the best interests of the Debtors, the Estates, the Reorganized Debtors, their respective property, and Holders of Claims and Interests and is fair, equitable, and reasonable.

**ARTICLE IX.
CONDITIONS PRECEDENT TO CONSUMMATION OF THE PLAN**

A. Conditions Precedent to the Effective Date

It shall be a condition to the Effective Date of the Plan that the following conditions shall have been satisfied or waived pursuant to the provisions of Article IX.B hereof:

1. the Bankruptcy Court shall have entered the Confirmation Order and such order shall not have been stayed, modified, or vacated on appeal;
2. the Debtors shall have obtained all authorizations, consents, regulatory approvals, rulings, or documents that are necessary to implement and effectuate the Plan;
3. the Professional Fee Escrow Account shall have been established and funded with the Professional Fee Escrow Amount;
4. if applicable, the Exit Facility Documents shall have been executed and delivered by all of the Entities that are parties thereto, and all conditions precedent (other than any conditions related to the occurrence of the Effective Date) to the consummation of the Exit Facilities shall have been waived or satisfied in accordance with the terms thereof, and the closing of the Exit Facilities (and the payment in full of the DIP ABL Claims pursuant to the Payoff Letter) shall be deemed to occur concurrently with the occurrence of the Effective Date;
5. if applicable, the Canadian Acquisition Transaction shall have been consummated and approved by the Canadian Court;

6. if applicable, the New Organizational Documents shall have been executed and delivered by each Entity party thereto and shall be in full force and effect, and the issuance of the New Interests shall be deemed to occur concurrently with the occurrence of the Effective Date; and

7. if applicable, all conditions precedent to the consummation of the Sale Transaction shall have been satisfied in accordance with the terms thereof, and the closing of the Sale Transaction shall be deemed to occur concurrently with the occurrence of the Effective Date.

B. Waiver of Conditions

Subject to and without limiting the rights of each party to the RSA, the conditions to Consummation set forth in Article IX may be waived by the Debtors with the reasonable consent of the Term Loan Agent, the Required Term Lenders, the DIP ABL Agent (solely with respect to the economic and non-economic treatment of the DIP ABL Agent and DIP ABL Lenders pursuant to such order), and the Sponsor (solely with respect to the economic and non-economic treatment of the Last Out Loans or the Last Out DIP Loans, as applicable) without notice, leave, or order of the Bankruptcy Court or any formal action other than proceeding to confirm or consummate the Plan.

C. Substantial Consummation

“Substantial Consummation” of the Plan, as defined in section 1102(2) of the Bankruptcy Code, with respect to any of the Debtors, shall be deemed to occur on the Effective Date.

D. Effect of Failure of Conditions

If the Consummation of the Plan does not occur, the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall: (1) constitute a waiver or release of any Claims by the Debtors, any Holders, or any other Entity; (2) prejudice in any manner the rights of the Debtors, any Holders, or any other Entity; or (3) constitute an admission, acknowledgment, offer, or undertaking by the Debtors, any Holders, or any other Entity in any respect.

**ARTICLE X.
MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE PLAN**

A. Modification and Amendments

Except as otherwise specifically provided in the Plan, the Debtors, with the reasonable consent of the Term Loan Agent, Required Term Lenders, the DIP ABL Agent (solely with respect to the economic and non-economic treatment of the DIP ABL Agent and DIP ABL Lenders pursuant to such order), or the Sponsor (solely with respect to the economic and non-economic treatment of the Last Out Loans or the Last Out DIP Loans, as applicable), reserve the right to modify the Plan, whether such modification is material or immaterial, and seek Confirmation consistent with the Bankruptcy Code and, as appropriate, not re-solicit votes on such modified Plan. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 (as well as those restrictions on modifications set forth in the Plan), the Debtors expressly reserve their respective rights to revoke or withdraw, to alter, amend, or modify the Plan with respect to each Debtor, one or more times, before or after Confirmation, and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or remedy any defect or omission or reconcile any inconsistencies in the Plan, the Disclosure Statement, or the Confirmation Order, in such matters as may be necessary to carry out the purposes and intent of the Plan.

B. Effect of Confirmation on Modifications

Entry of a Confirmation Order shall mean that all modifications or amendments to the Plan since the solicitation thereof are approved pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or re-solicitation under Bankruptcy Rule 3019.

C. Revocation or Withdrawal of Plan

The Debtors reserve the right to revoke or withdraw the Plan before the Confirmation Date and to file subsequent plans, in each case subject to any applicable consent rights as set forth in the RSA, the DIP Order, or the DIP Facilities. If the Debtors revoke or withdraw the Plan, or if Confirmation or Consummation does not occur, then: (1) the Plan shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain of the Claims or Interests or Class of Claims or Interests), assumption, assumption and assignment, or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant to the Plan, shall be deemed null and void; and (3) nothing contained in the Plan shall: (a) constitute a waiver or release of any Claims, Causes of Action, or Interests; (b) prejudice in any manner the rights of such Debtor, any Holder, or any other Entity; or (c) constitute an admission, acknowledgement, offer, or undertaking of any sort by such Debtor, any Holder, or any other Entity.

**ARTICLE XI.
RETENTION OF JURISDICTION**

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, on and after the Effective Date, to the extent legally permissible, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, or related to, the Chapter 11 Cases and the Plan pursuant to sections 105(a) and 1142 of the Bankruptcy Code, including jurisdiction to:

1. allow, disallow, determine, liquidate, classify, estimate, or establish the priority, Secured or unsecured status, or amount of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the Secured or unsecured status, priority, amount, or allowance of Claims or Interests;
2. decide and resolve all matters related to the granting and denying, in whole or in part, any applications for allowance of compensation or reimbursement of expenses to Professionals (including Accrued Professional Compensation Claims) authorized pursuant to the Bankruptcy Code or the Plan;
3. resolve any matters related to: (a) the assumption, assumption and assignment, or rejection of any Executory Contract or Unexpired Lease to which a Debtor is party or with respect to which a Debtor may be liable and to hear, determine, and, if necessary, liquidate, any Claims arising therefrom, including cure Claims pursuant to section 365 of the Bankruptcy Code; (b) any potential contractual obligation under any Executory Contract or Unexpired Lease that is assumed (or assumed and assigned); (c) the Reorganized Debtors amending, modifying or supplementing, after the Effective Date, pursuant to Article V, the Executory Contracts and Unexpired Leases to be assumed (or assumed and assigned) or rejected or otherwise; and (d) any dispute regarding whether a contract or lease is or was executory, expired, or terminated;
4. ensure that distributions to Holders of Allowed Claims and Interests are accomplished pursuant to the provisions of the Plan;
5. adjudicate, decide, or resolve any motions, adversary proceedings, contested or litigated matters, and any other matters, and grant or deny any applications involving a Debtor that may be pending on the Effective Date;
6. adjudicate, decide, or resolve any and all matters related to section 1141 of the Bankruptcy Code;
7. enter and implement such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, releases, indentures, and other agreements or documents created in connection with the Plan, the Plan Supplement, the Disclosure Statement, or the Confirmation Order;
8. enter and enforce any order for the sale of property pursuant to sections 363, 1123, or 1146(a) of the Bankruptcy Code;

9. resolve any cases, controversies, suits, disputes, or Causes of Action that may arise in connection with Consummation, including interpretation or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan;

10. issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Entity with Consummation or enforcement of the Plan;

11. resolve any cases, controversies, suits, disputes or Causes of Action with respect to the releases, injunctions and other provisions contained in Article VIII, and enter such orders as may be necessary or appropriate to implement such releases, injunctions and other provisions;

12. resolve any cases, controversies, suits, disputes or Causes of Action with respect to the repayment or return of distributions and the recovery of additional amounts owed by the Holder of a Claim for amounts not timely repaid in accordance with the Plan;

13. enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;

14. determine any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order, or, subject to any applicable forum selection clauses, any contract, instrument, release, indenture, or other agreement or document created in connection with the Plan or the Disclosure Statement;

15. enter an order or Final Decree concluding or closing any of the Chapter 11 Cases;

16. adjudicate any and all disputes arising from or relating to distributions under the Plan;

17. consider any modifications of the Plan, to cure any defect or omission or to reconcile any inconsistency in any Bankruptcy Court order, including the Confirmation Order;

18. determine requests for the payment of Claims entitled to priority pursuant to section 507 of the Bankruptcy Code;

19. hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan or the Confirmation Order or any Entity's obligations incurred in connection with the Plan, including, subject to any applicable forum selection clauses, disputes arising under agreements, documents, or instruments executed in connection with the Plan;

20. hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Restructuring Transactions, whether they occur before, on or after the Effective Date;

21. hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;

22. hear and determine all disputes involving the existence, nature, scope, or enforcement of any exculpations, discharges, injunctions, and releases granted in connection with and under the Plan, including under Article VIII;

23. enforce all orders previously entered by the Bankruptcy Court; and

24. hear any other matter not inconsistent with the Bankruptcy Code.

**ARTICLE XII.
MISCELLANEOUS PROVISIONS**

A. Immediate Binding Effect

Subject to Article IX.A and notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, upon the occurrence of the Effective Date, the terms of the Plan and the Plan Supplement shall be immediately effective and enforceable and deemed binding upon the Debtors, the Reorganized Debtors, and any and all Holders of Claims or Interests (irrespective of whether their Claims or Interests are deemed to have accepted the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, discharges, and injunctions described in the Plan, each Entity acquiring property under the Plan and any and all non-Debtor parties to Executory Contracts and Unexpired Leases with the Debtors.

B. Additional Documents

On or before the Effective Date, the Debtors may File with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The Debtors or Reorganized Debtors, as applicable, and all Holders receiving distributions pursuant to the Plan and all other parties in interest may, from time to time, prepare, execute, and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

C. Payment of Statutory Fees

Each of the Debtors (or the Disbursing Agent on behalf of each of the Debtors) shall pay all fees payable pursuant to section 1930(a)(6) of the Judicial Code, together with any interest thereon pursuant to 31 U.S.C. § 3717, on or before the Effective Date in Cash, based on disbursements in and outside the ordinary course of the Debtors' business and Plan payments. Thereafter, such fees and any applicable interest shall be paid by each of the Reorganized Debtors (or the Disbursing Agent on behalf of each of the Reorganized Debtors) until the earlier of entry of a final decree closing such Chapter 11 Case or an order of dismissal or conversion, whichever occurs first.

D. Statutory Committee and Cessation of Fee and Expense Payment

On the Effective Date, any statutory committee appointed in the Chapter 11 Cases shall dissolve and members thereof shall be released and discharged from all rights and duties from or related to the Chapter 11 Cases, except for the filing of applications for compensation. The Reorganized Debtors shall no longer be responsible for paying any fees or expenses incurred by any statutory committees after the Effective Date.

E. Reservation of Rights

Except as expressly set forth in the Plan, the Plan shall have no force or effect unless the Bankruptcy Court enters the Confirmation Order, and the Confirmation Order shall have no force or effect if the Effective Date does not occur. None of the Filing of the Plan, any statement or provision contained in the Plan or the taking of any action by any Debtor with respect to the Plan, the Disclosure Statement or the Plan Supplement shall be or shall be deemed to be an admission or waiver of any rights of any Debtor with respect to the Holders unless and until the Effective Date has occurred.

F. Successors and Assigns

The rights, benefits, and obligations of any Entity named or referred to in the Plan or the Confirmation Order shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor or assign, Affiliate, officer, director, agent, representative, attorney, beneficiaries, or guardian, if any, of each Entity.

G. Notices

To be effective, all notices, requests, and demands to or upon the Debtors shall be in writing (including by facsimile transmission) and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered by courier or registered or certified mail (return receipt requested) or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed to the following:

1. If to the Debtors, to:

Hollander Sleep Products, LLC
901 Yamato Road, Suite 250
Boca Raton, Florida 33431
Attention: Marc L. Pfefferle
E-mail: mpfefferle@carlmarks.com

with copies (which shall not constitute notice) to:

Kirkland & Ellis LLP
601 Lexington Avenue
New York, New York 10022
Attention: Joshua A. Sussberg, P.C.
Christopher T. Greco, P.C.
E-mail: joshua.sussberg@kirkland.com
christopher.greco@kirkland.com

- and -

Kirkland & Ellis LLP
300 North LaSalle
Chicago, Illinois 60654
Attention: Joseph M. Graham
Laura Krucks
E-mail: joe.graham@kirkland.com
laura.krucks@kirkland.com

2. If to the ABL Agent or DIP ABL Agent, to:

Goldberg Kohn Ltd.
55 East Monroe, Suite 3300
Chicago, Illinois 60603
Attention: Randall Klein
E-mail address: Randall.Klein@goldbergkohn.com

3. If to the Term Loan Agent or the DIP Term Agent, to:

King & Spalding LLP
1180 Peachtree Street, NE Suite 1600
Atlanta, Georgia 30309
Attention: W. Austin Jowers
E-mail address: ajowers@kslaw.com

-and -

King & Spalding LLP
1185 Avenue of the Americas
New York, New York 10036
Attention: Christopher G. Boies
Stephen M. Blank
E-mail address: cboies@kslaw.com
sblank@kslaw.com

After the Effective Date, the Reorganized Debtors may notify Entities that, to continue to receive documents pursuant to Bankruptcy Rule 2002, such Entity must File a renewed request to receive documents pursuant to Bankruptcy Rule 2002. After the Effective Date, the Debtors are authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to those Entities who have Filed such renewed requests.

H. Entire Agreement

Except as otherwise indicated, the Plan and the Plan Supplement supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into the Plan. If the Effective Date does not occur, nothing herein shall be construed as a waiver by any party in interest of any or all of such party's rights, remedies, claims, and defenses, and such parties expressly reserve any and all of their respective rights, remedies, claims and, defenses. This Plan and the documents comprising the Plan Supplement, including any drafts thereof (and any discussions, correspondence, or negotiations regarding any of the foregoing) shall in no event be construed as, or be deemed to be, evidence of an admission or concession on the part of any party in interest of any claim or fault or liability or damages whatsoever. Pursuant to Federal Rule of Evidence 408 and any applicable state rules of evidence, all negotiations, discussions, agreements, settlements, and compromises reflected in or related to Plan and the documents comprising the Plan Supplement is part of a proposed settlement of matters that could otherwise be the subject of litigation among various parties in interest, and such negotiations, discussions, agreements, settlements, and compromises shall not be admissible into evidence in any proceeding other than a proceeding to enforce the terms of the Plan and the documents comprising the Plan Supplement.

I. Exhibits

All exhibits and documents included in the Plan Supplement are incorporated into and are a part of the Plan as if set forth in full in the Plan. After the exhibits and documents are Filed, copies of such exhibits and documents shall be available upon written request to the Debtors' counsel at the address above or by downloading such exhibits and documents from the website of the Notice and Claims Agent at www.omnimgt.com/cases/hollander or (for a fee) the Bankruptcy Court's website at <http://www.ecf.nysb.uscourts.gov/>. To the extent any exhibit or document is inconsistent with the terms of the Plan, unless otherwise ordered by the Bankruptcy Court, the non-exhibit or non-document portion of the Plan shall control. The documents contained in the Plan Supplement are an integral part of the Plan and shall be deemed approved by the Bankruptcy Court pursuant to the Confirmation Order. For the avoidance of doubt, no provisions of the Plan Supplement may contradict the provisions under the Plan that require payment in full (in accordance with Section 1.4 of the DIP ABL Credit Agreement) of the DIP ABL Claims.

J. Non-Severability of Plan Provisions

The provisions of the Plan, including its release, injunction, exculpation, and compromise provisions, are mutually dependent and non-severable. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is: (1) valid and enforceable pursuant to its terms; (2) integral to the Plan and may not be deleted or modified without the consent of the Debtors, consistent with the terms set forth herein; and (3) non-severable and mutually dependent.

K. Votes Solicited in Good Faith

Upon entry of the Confirmation Order, the Debtors will be deemed to have solicited votes on the Plan in good faith and in compliance with the Bankruptcy Code, and pursuant to section 1125(e) of the Bankruptcy Code, the

Debtors and each of their respective affiliates, agents, representatives, members, principals, shareholders, officers, directors, employees, advisors, and attorneys will be deemed to have participated in good faith and in compliance with the Bankruptcy Code in the offer, issuance, sale, and purchase of Securities offered and sold under the Plan and any previous plan and, therefore, no such parties will have any liability for the violation of any applicable law, rule, or regulation governing the solicitation of votes on the Plan or the offer, issuance, sale, or purchase of the Securities offered and sold under the Plan or any previous plan.

L. Closing of Chapter 11 Cases

The Reorganized Debtors shall, promptly after the full administration of the Chapter 11 Cases, File with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order necessary to close the Chapter 11 Cases.

M. Conflicts

Except as set forth in the Plan, to the extent that any provision of the Disclosure Statement, the Plan Supplement, or any other order (other than the Confirmation Order) referenced in the Plan (or any exhibits, schedules, appendices, supplements, or amendments to any of the foregoing), conflict with or are in any way inconsistent with any provision of the Plan, the Plan shall govern and control. In the event of an inconsistency between the Confirmation Order and the Plan, the Confirmation Order shall control.

[Remainder of Page Intentionally Left Blank]

Hollander Sleep Products, LLC

By: /s/ Marc L. Pfefferle

Name: Marc L. Pfefferle

Title: Chief Executive Officer

**THIS IS EXHIBIT "F" REFERRED TO IN THE
AFFIDAVIT OF MARC PFEFFERLE SWORN
ON MAY 23, 2019.**

James F. Hickey SS: N.Y.

JAMES F. HICKEY
Notary Public, State of New York
Registration #01H16340819
Qualified In Queens County
Commission Expires April 25, 2020



ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF HOLLANDER SLEEP PRODUCTS, LLC, HOLLANDER
SLEEP PRODUCTS CANADA LIMITED, DREAM II HOLDINGS, LLC, HOLLANDER
HOME FASHIONS HOLDINGS, LLC, PACIFIC COAST FEATHER, LLC,
HOLLANDER SLEEP PRODUCTS KENTUCKY, LLC AND PACIFIC COAST
FEATHER CUSHION, LLC

APPLICATION OF HOLLANDER SLEEP PRODUCTS, LLC UNDER SECTION 46 OF
THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS
AMENDED

CONSENT TO ACT AS INFORMATION OFFICER

KSV Kofman Inc. hereby consents to act as information officer in the above noted proceedings pursuant to the *Companies' Creditors Arrangement Act* and to the terms of the form of Supplemental Order (Foreign Main Proceeding) filed in respect of same

DATED this 21st day of May, 2019.

KSV KOFMAN INC.

By: 

Name: David Sieradzki

Title: Managing Director

TAB 3

Court File No. CV-19-620484-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C. C-36, AS AMENDED

AND IN THE MATTER OF HOLLANDER SLEEP PRODUCTS LLC, HOLLANDER SLEEP PRODUCTS CANADA LIMITED, DREAM II HOLDINGS, LLC, HOLLANDER HOME FASHIONS HOLDINGS, LLC, PACIFIC COAST FEATHER, LLC, HOLLANDER SLEEP PRODUCTS KENTUCKY, LLC, AND PACIFIC COAST FEATHER CUSHION, LLC

APPLICATION OF HOLLANDER SLEEP PRODUCTS LLC UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED.

APPLICANT

AFFIDAVIT OF EVAN BARZ

(Sworn May 23, 2019)

I, Evan Barz, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am an associate lawyer with the law firm of Osler, Hoskin & Harcourt LLP, counsel to Hollander Sleep Products, LLC ("**Hollander Sleep Products**" or the "**Applicant**") in its capacity as foreign representative of Hollander Sleep Products Canada Limited ("**Hollander Canada**"), Dream II Holdings, LLC, Hollander Home Fashions Holdings, LLC, Pacific Coast Feather, LLC, Hollander Sleep Products Kentucky, LLC and Pacific Coast Feather Cushion, LLC. (collectively

with the Applicant, the “**Chapter 11 Debtors**” and each, a “**Chapter 11 Debtor**”). As such I have personal knowledge of the matters deposed to in this affidavit, except where indicated otherwise.

2. On May 19, 2019 (the “**Petition Date**”), the Chapter 11 Debtors filed voluntary petitions for relief (the “**Petitions**”) pursuant to Chapter 11 of Title 11 of the United States Bankruptcy Code with the United States Bankruptcy Court for the Southern District of New York (the “**U.S. Court**”). Copies of the Petitions are attached as follows:

- (a) Voluntary Petition of Hollander Sleep Products as Exhibit “A”;
- (b) Voluntary Petition of Hollander Canada as Exhibit “B”.
- (c) Voluntary Petition of Dream II Holdings, LLC as Exhibit “C”;
- (d) Voluntary Petition of Hollander Home Fashions Holdings, LLC as Exhibit “D”;
- (e) Voluntary Petition of Pacific Coast Feather, LLC as Exhibit “E”;
- (f) Voluntary Petition of Hollander Sleep Products Kentucky, LLC as Exhibit “F”; and
- (g) Voluntary Petition of Pacific Coast Feather Cushion, LLC as Exhibit “G”.

3. The Chapter 11 Debtors have filed, *inter alia*, the following first day motions:

- (a) *Debtors’ Motion for Entry of an Order (I) Authorizing Hollander Sleep Products to Act as Foreign Representative and (II) Granting Related Relief* (the “**Foreign Representative Motion**”), attached hereto as Exhibit “H”;

- (b) *Debtors' Motion for Entry of an Order (I) Directing Joint Administration of Chapter 11 Cases; and (II) Granting Related Relief* (the “**Joint Administration Motion**”), attached hereto as Exhibit “I”;
- (c) *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Pay Prepetition Wages, Salaries, Other Compensation, and Reimbursable Expenses and (B) Continue Employee Benefits Programs, and (II) Granting Related Relief* (the “**Employee Wages Motion**”), attached hereto as Exhibit “J”;
- (d) *Debtors Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Continue to Operate their Cash Management System and (B) Honour Certain Prepetition Obligations Related Thereto, (C) Maintain Existing Business Forms, and (D) Continue to Perform Intercompany Transactions, and (II) Granting Related Relief* (the “**Cash Management Motion**”), attached hereto as Exhibit “K”;
- (e) *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Chapter 11 Debtors to Obtain Postpetition Financing, (II) Authorizing the Chapter 11 Debtors to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (IV) Granting Adequate Protection to the Prepetition Lenders, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief* (the “**DIP Motion**”), attached hereto as Exhibit “L”;
- (f) *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Pay Prepetition Claims of (A) Lien Claimants, (B) Import Claimant (C) Section 503(B)(9) Claimants (D) Foreign Vendors, (E) Critical Vendors, (II) Confirming Administrative Expense Priority of Outstanding Orders, and (III) Granting Related*

- 4 -

Relief (the “**Critical Vendors and Shippers Motion**”), attached hereto as Exhibit “M”;

- (g) *Debtors’ Motion for Entry of Interim and Final Order (A) Authorizing the Debtors to Maintain and Administer Their Existing Customer Programs and Honour Certain Prepetition Obligations Related Thereto and (B) Granting Related Relief* (the “**Customer Programs Motion**”), attached hereto as Exhibit “N”;

4. Copies of the Orders granted by the U.S. Court with respect to the above motions are attached as Exhibit “O”.

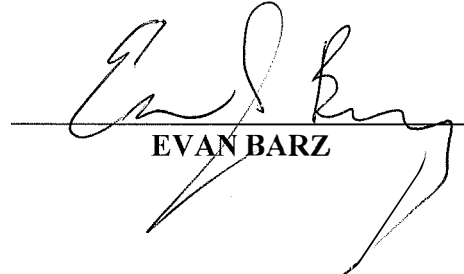
5. I make this affidavit in support of the within Application and for no other improper purpose.

SWORN BEFORE ME at the City of
Toronto, in the Province of Ontario on May
23, 2019.



Commissioner for Taking Affidavits

Patricia Walsh
LSO 60322P



EVAN BARZ

THIS IS EXHIBIT "A" REFERRED TO IN THE
AFFIDAVIT OF EVAN BARZ SWORN
ON MAY 23, 2019.

A handwritten signature in black ink, appearing to read 'Patrick Welsh', written over a horizontal line.

A Commissioner for Taking Affidavits

Patrick Welsh
Lso 603 22P

Fill in this information to identify the case:

United States Bankruptcy Court for the:

Southern District of New York

(State)

Case number (if known):

Chapter

11

☐ Check if this is an amended filingOfficial Form 201**Voluntary Petition for Non-Individuals Filing for Bankruptcy**

04/19

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals*, is available.

1. Debtor's Name Hollander Sleep Products, LLC2. All other names debtor used in the last 8 years Hollander Home Fashions, LLC

Include any assumed names, trade names, and *doing business as* names

3. Debtor's federal Employer Identification Number (EIN) 27-0542143

4. Debtor's address

Principal place of business

Mailing address, if different from principal place of business

901 Yamato Road

Number Street

Suite 250Boca Raton, Florida 33431

City State Zip Code

P.O. Box

City State Zip Code

Location of principal assets, if different from principal place of business

Palm Beach County

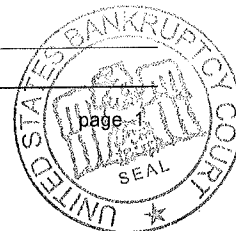
County

Number Street

City State Zip Code

5. Debtor's website (URL) www.hollander.com

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))☐ Partnership (excluding LLP)☐ Other. Specify: _____

Debtor Hollander Sleep Products, LLC

Case number (if known) _____

Name

7. Describe debtor's business**A. Check One:**

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. Check all that apply:

- ☐ Tax-exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See <http://www.uscourts.gov/four-digit-national-association-naics-codes>.
4232

8. Under which chapter of the Bankruptcy Code is the debtor filing?**Check One:**

- ☐ Chapter 7
- ☐ Chapter 9

☒ Chapter 11. **Check all that apply:**

- ☐ Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,725,625 (amount subject to adjustment on 4/01/22 and every 3 years after that).
- ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). If the debtor is a small business debtor, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return, or if all of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
- ☒ A plan is being filed with this petition.
- ☐ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
- ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
- ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.

☐ Chapter 12**9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?**☒ No☐ Yes.

District _____

When _____

MM/DD/YYYY

Case number _____

If more than 2 cases, attach a separate list.

District _____

When _____

MM/DD/YYYY

Case number _____

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?☐ No☒ Yes.

Debtor

See Rider 1

Relationship

Affiliate

District

Southern District of New York

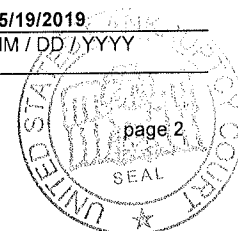
When

05/19/2019

List all cases. If more than 1, attach a separate list.

Case number, if known _____

MM / DD / YYYY



Debtor Hollander Sleep Products, LLC

Name

Case number (if known) _____

11. Why is the case filed in this district?

Check all that apply:

- ☐ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
- ☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

- ☒ No
- ☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (Check all that apply.)

- ☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.
- What is the hazard? _____
- ☐ It needs to be physically secured or protected from the weather.
- ☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).
- ☐ Other _____

Where is the property?

Number Street

City

State

Zip Code

Is the property insured?

- ☐ No
- ☐ Yes. Insurance agency _____

Contact name _____

Phone _____

Statistical and administrative information**13. Debtor's estimation of available funds**

Check one:

- ☒ Funds will be available for distribution to unsecured creditors.¹
- ☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

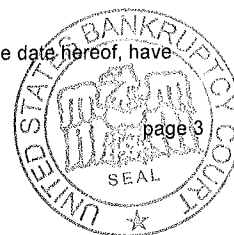
14. Estimated number of creditors (on a consolidated basis)

- | | | |
|----------------------------------|---|--|
| <input type="checkbox"/> 1-49 | <input type="checkbox"/> 1,000-5,000 | <input type="checkbox"/> 25,001-50,000 |
| <input type="checkbox"/> 50-99 | <input type="checkbox"/> 5,001-10,000 | <input type="checkbox"/> 50,001-100,000 |
| <input type="checkbox"/> 100-199 | <input checked="" type="checkbox"/> 10,001-25,000 | <input type="checkbox"/> More than 100,000 |
| <input type="checkbox"/> 200-999 | | |

15. Estimated assets (on a consolidated basis)

- | | | |
|--|---|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input checked="" type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

¹ Availability of funds to unsecured creditors is subject to ongoing discussions with the debtor's secured creditors who, as of the date hereof, have not agreed to a recovery (other than \$0) for such unsecured creditors.



Debtor Hollander Sleep Products, LLC

Case number (if known) _____

Name

16. Estimated liabilities (on a consolidated basis)

- | | | |
|--|---|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input checked="" type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

Request for Relief, Declaration, and Signatures

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I have been authorized to file this petition on behalf of the debtor.

I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 05/19/2019
MM/ DD / YYYY

X/s/ Marc Pfefferle

Signature of authorized representative of debtor

Marc Pfefferle

Printed name

Title Chief Executive Officer**18. Signature of attorney****X**/s/ Joshua A. Sussberg

Signature of attorney for debtor

Date 05/19/2019

MM/ DD/YYYY

Joshua A. Sussberg, P.C.

Printed name

Kirkland & Ellis, LLP

Firm name

601 Lexington Avenue

Number Street

New York

City

New York

State

10022

ZIP Code

212-446-4800

Contact phone

jsussberg@kirkland.com

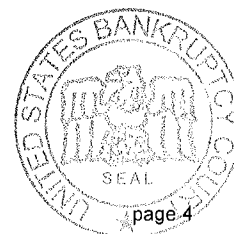
Email address

4216453

Bar number

New York

State



Fill in this information to identify the case:

United States Bankruptcy Court for the:

Southern District of New York

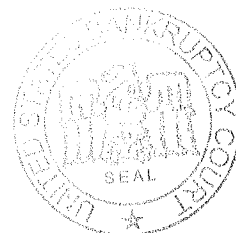
(State)

Case number (if known): _____

Chapter 11☐ Check if this is an
amended filing**Rider 1****Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor**

On the date hereof, each of the entities listed below (collectively, the "Debtors") filed a petition in the United States Bankruptcy Court for the Southern District of New York for relief under chapter 11 of title 11 of the United States Code. The Debtors have moved for joint administration of these cases under the case number assigned to the chapter 11 case of Hollander Sleep Products, LLC.

- Hollander Sleep Products, LLC
- Dream II Holdings, LLC
- Hollander Home Fashions Holdings, LLC
- Hollander Sleep Products Canada Limited
- Hollander Sleep Products Kentucky, LLC
- Pacific Coast Feather, LLC
- Pacific Coast Feather Cushion, LLC



Debtor name Hollander Sleep Products, LLC, et al.

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

Case No. (If known) _____

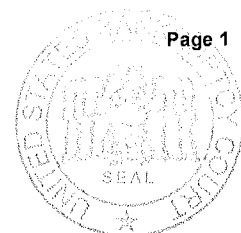
Official Form 204

Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 50 Largest Unsecured Claims and Are Not Insiders

12/15

A list of creditors holding the 50 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person who is an *insider*, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 50 largest unsecured claims.

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
1 Roind Hometex Co Ltd 3225 E Warm Springs Rd Las Vegas, NV 89120	Roind Hometex Co Ltd	Vendor				\$5,655,096.17
2 Funing Jincheng Home Textile Co Ltd Attn: Fn Group 5, Bisheng Neighborhood Committee Funing Economical Devt Zone Jiangsu, 224400 China	Funing Jincheng Home Textile Co Ltd Email: David.Qian@Fw-Textile.Com	Vendor				\$5,273,061.34
3 Invista Inc Attn: Boykin Bank of America P.O. Box, #742926 Atlanta, GA 30374-2926	Invista Inc Tel: 770-792-4192 Email: Danielle.Boykin@INVISTA.COM	Vendor				\$5,023,243.54
4 Hangzhou Chuangyuan Feather Co Ltd Attn: Fumingfang No 5 Xinda Rd Miaojia Village Hangzhou, Suoqian Town China	Hangzhou Chuangyuan Feather Co Ltd Email: fumingfang@cyfeather.cn	Vendor				\$5,001,799.50

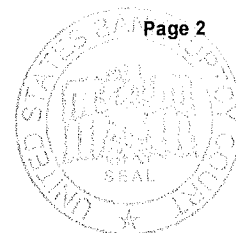


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
5 Zhejiang Hengdi Bedding Co Ltd Attn: Terry Wang No 168 Hebeilou Fulou Vill age Xintang St Hangzhou China	Zhejiang Hengdi Bedding Co Ltd Email: WANGHR@MAIL.LQFEATHER.COM	Vendor				\$3,882,944.67
6 Zhejiang Liuqiao Home Textile Attn: Zhu Xinfeng Village-Xingtang St Zhejiang Hangzhou, 311201 China	Zhejiang Liuqiao Home Textile Email: amy715@mail.lqfeather.com	Vendor				\$3,465,270.30
7 Wuhu Fine Textile International Trading Co Ltd Attn: Wan 321 Jingxi Rd Wanzhi Town China	Wuhu Fine Textile International Trading Co Ltd Email: Mandy@Ahfantai.Com	Vendor				\$3,419,367.45
8 Packaging Corp Of America Attn: Cerasuolo 36596 Treasury Center Chicago, IL 60694-6500	Packaging Corp Of America Tel: 514 239 3993 Email: Ceraldesign@Hotmail.Com	Vendor				\$3,341,952.45
9 Sun Fiber Sales LLC Attn: Clinton, Ar Contact Rosenthal & Rosenthal Inc P.O. Box 88926 Chicago, IL 60695-1926	Sun Fiber Sales LLC Email: STEFANIE.CLINTON@SUNFIBERLLC.COM	Vendor				\$2,694,931.13

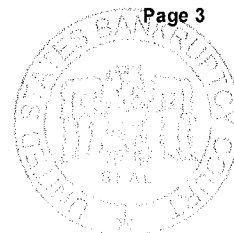


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
10 Zhejiang Wanxiang Bedding Co Ltd Attn: Xu Wulian Xintang Xiaosgan Hangzhou Zhejiang China	Zhejiang Wanxiang Bedding Co Ltd Email: MXU@WXBEDDING.COM	Vendor				\$2,492,406.52
11 Wuxi Jielong Textile Co Ltd Attn: Xie Shuang Miao Economic & Development Zone Jiangsu Wuxi, 214187 China	Wuxi Jielong Textile Co Ltd Tel: 510-88086388 Email: jery@wuxijielong.com	Vendor				\$2,418,091.03
12 Zhejiang Liugqiao Industrial Co Ltd Attn: Sheng 288 Dongkang Rd Xiaoshan District Hangzhou, Zhejiang China	Zhejiang Liugqiao Industrial Co Ltd Email: Shenzf@Mail.Lqfeather.Com	Vendor				\$2,189,154.55
13 Topocean Consolidation Services Attn: Wong 99 W Hawthorne Ave, Ste 604 Valley Stream, NY 11580	Topocean Consolidation Services Tel: 7910112 Email: WILWONG@TOPOCEAN.COM	Vendor				\$1,924,219.39
14 Nap Industries Inc 667 Kent Ave Brooklyn, NY 11249	Nap Industries Inc	Vendor				\$1,882,143.39



Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
15 The Sea Feather Limited Company Of Luan Attn: Bian East Gaocheng Rd Economic Tech Devt Area Anhui, Luan 237161 China	The Sea Feather Limited Company Of Luan Email: tina.bian@theseafeather.com	Vendor				\$1,840,641.96
16 Hangzhou Huoju Down Products Co Ltd Attn: Wu Xintang Residential Community Xiaoshan District Hangzhou, Zhejiang China	Hangzhou Huoju Down Products Co Ltd Email: Hjjwf@Hzhjr.Com	Vendor				\$1,719,436.11
17 Wujiang City Xinyi Textile Co Ltd Attn: Chen Daxie Village Bali Shengze (South Ring Rd 3) Jiangsu China	Wujiang City Xinyi Textile Co Ltd	Vendor				\$1,718,438.97
18 Anhui Rongdi Down Product Co Ltd Attn: Wei Fudu Industrial Park Anhui, Wuwei China	Anhui Rongdi Down Product Co Ltd Email: waf72211@sina.com	Vendor				\$1,673,141.00
19 Elite Comfort Solutions LLC Attn: Griffith Elite Comfort Solutions LLC P.O. Box 603397 Charlotte, NC 28260-3397	Elite Comfort Solutions LLC Tel: 770-683-8271 Email: pgriffith@elitefoam.com	Vendor				\$1,506,638.35

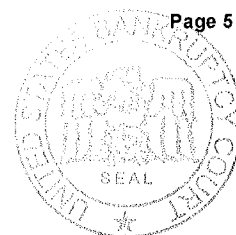


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
20 Span America Attn: Jackson 70 Commerce Center Greenville, SC 29615	Span America Tel: 678-6978 Email: Cjackson@Spanamerica.Com	Vendor				\$1,440,880.78
21 Stein Fibers Ltd Attn: Sprague, Sales P.O. Box 714522 Cincinnati, OH 45271-4522	Stein Fibers Ltd Tel: 599-2804 Email: Richard@steinfibers.com	Vendor				\$1,225,238.09
22 Cixi Jiangnan Chemical Fiber 159 Lingqiao Rd Ningbo China	Cixi Jiangnan Chemical Fiber	Vendor				\$1,217,846.96
23 Qingdao Fuyuan Arts & Crafts Co Ltd Attn: Cathy Rm 419 No 97 Fuzhou South Rd Qingdao, China	Qingdao Fuyuan Arts & Crafts Co Ltd Email: cathy@qd-fuyuan.com	Vendor				\$1,120,319.13
24 Be Be Jan Pakistan Limited Attn: Bebe Square No 7 Chak No R.B Faisalabad Pakistan	Be Be Jan Pakistan Limited Email: bebe@hollander.com	Vendor				\$1,017,821.47
25 Wuxi Yinxin Printing Co Ltd Attn: Ma Qian Lane Luoshe Town, Wuxi City Jiangsu Province China	Wuxi Yinxin Printing Co Ltd Email: Evanma@Wuxiyinxin.Com	Vendor				\$1,010,717.02

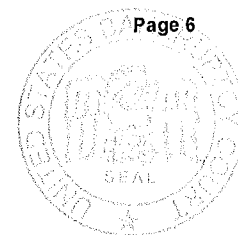


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
26 Nan Ya Plastics Corporation America P.O. Box 402634 Atlanta, GA 30384	Nan Ya Plastics Corporation America	Vendor				\$904,004.64
27 International Paper (Edi) Attn: Davis 6211 Descanso Ave Buena Park, CA 90620	International Paper (Edi) Tel: 512-0404 Email: mary.davis1@ipaper.com	Vendor				\$797,481.18
28 Domfoam Inc Attn: Sansalone 8785 Boul Langelier St Leonard, QC H1P 2C9 Canada	Domfoam Inc Tel: 325-8120 Email: Julie@Domfoam.Com	Vendor				\$760,385.44
29 Hangzhou Huaying Xintang Down Xixu Village Xintang St, Xiaosha Hangzhou, Zhejiang Province China	Hangzhou Huaying Xintang Down	Vendor				\$758,683.47
30 Oracle America Inc Attn: Oracle America Inc P.O. Box 203448 Dallas, TX 75320-3448	Oracle America Inc	Vendor				\$732,377.25
31 Kuehne & Nagel Attn: Kirlaw 77 Foster Crescent Mississauga, ON L5R 0K1 Canada	Kuehne & Nagel Tel: 502-4173 Email: Paulette.Kirlaw@Kuehne-Nagel.Com	Vendor				\$687,576.17

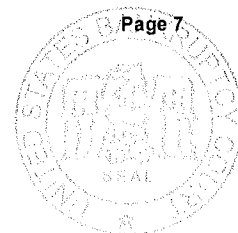


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
32 US CBP 1300 Pennsylvania Ave Nw Washington, DC 20229	US CBP Tel: 1 (877) CBP-5511	Vendor				\$666,199.63
33 Kapstone Container Corp Attn: Brest, Strategic Account Manager 2370 Sullivan Rd College Park, GA 30337	Kapstone Container Corp Tel: 935.8526 Email: mike.brest@kapstonepaper.com	Vendor				\$658,087.04
34 C H Robinson P.O. Box 9121 Minneapolis, MN 55480-9121	C H Robinson	Vendor				\$611,420.25
35 AV Logistics LLC Attn: Palencia P.O. Box 5657 Carol Stream, IL 60197-5657	AV Logistics LLC Tel: 6440936 Email: SPALENCIA@AV-LOGISTICS.COM	Vendor				\$498,586.22
36 Shi International P.O. Box 952121 Dallas, TX 75395-2121	Shi International	Vendor				\$410,744.40
37 Invista Canada P.O. Box B2918U P.O. Box 11585 Montreal, QC H3C 5N7 Canada	Invista Canada Tel: 821-5954 Email: A/R - CHRISTINE	Vendor				\$408,263.53

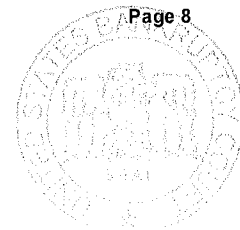


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
38 Zhejiang Saifang Textile Technology Co Ltd Attn: Tang Santou Cun Industrial Park Zhejiang Daicun Town, Hangzhou China	Zhejiang Saifang Textile Technology Co Ltd Email: jasontang@hzsaifang.com	Vendor				\$387,987.72
39 Invista S.A.R.L. 7813 Collections Ctr. Dr Chicago, IL 60693-7913	Invista S.A.R.L.	Vendor				\$336,341.12
40 Progress Container & Display Attn: Markham 635 Patrick Mill Rd Sw Winder, GA 30680	Progress Container & Display Tel: 4252071 Email: TMARKHAM@PROGRESSCONTAINER.COM	Vendor				\$297,160.19
41 Strands Textile Mills Pvt Ltd Attn: Sharma Plot 3 270-271 Sector 4 Gandhidham Guja, 370230 India	Strands Textile Mills Pvt Ltd Email: MERCHANT@STRANDSTEXTILE.COM	Vendor				\$283,940.75
42 Exeter 25 Keystone LLC 101 West Elm Street Suite 600 Conshocken, PA 19428	Exeter 25 Keystone LLC	Vendor				\$276,976.59
43 Printcraft Co Inc 259 City Lake Rd Lexington, NC 27293	Printcraft Co Inc	Vendor				\$270,188.50



Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
44 Jasztex Fiber Inc Attn: Jakubik, Ar Contact 61 Hymus Ponte-Claire, QC H9R 1E2 Canada	Jasztex Fiber Inc Tel: 697-3096 Email: NATHALIE@JASZTEX.COM	Vendor				\$260,513.71
45 Kamyk Daunen S.R.O. Kamyk Nad Vitavou Cp 179 Pribram, S 262063 Czech Republic	Kamyk Daunen S.R.O.	Vendor				\$264,578.05
46 Navarpluma S.L. Poligono Industrial Arazuri Orcoyen Arazuri, 31170 Spain	Navarpluma S.L.	Vendor				\$244,576.44
47 Majestic/Amb Pico Rivera Assoc Llc 13191 Crossroads Pkwy North City of Industry, CA 91746-3497	Majestic/Amb Pico Rivera Assoc Llc	Vendor				\$238,286.36
48 Polypack Corporation Ltd Attn: Cataldo, General Manager 7900 E Jany St Montreal, QC H1J 1H1 Canada	Polypack Corporation Ltd Tel: 353-1710 Email: phil500cataldo@gmail.com	Vendor				\$227,485.81
49 Atlas Feather Processing Corp 64 Greenpoint Ave Brooklyn, NY 11222-1504	Atlas Feather Processing Corp	Vendor				\$204,766.17

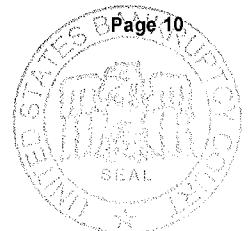


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
50 Dusobox Corporation 2501 Investors Row, Ste 500 Orlando, FL 32837	Dusobox Corporation Tel: 800-393-5120	Vendor				\$204,685.78



UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

HOLLANDER SLEEP PRODUCTS, LLC,

Debtor.

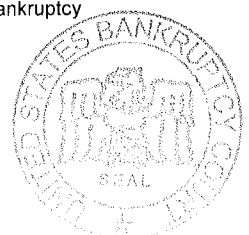
Chapter 11

Case No. 19-_____()

LIST OF EQUITY SECURITY HOLDERS²

Debtor	Equity Holders	Address of Equity Holder	Percentage of Equity Held
Hollander Sleep Products, LLC	Hollander Home Fashions Holdings, LLC	901 Yamato Road, Suite 250, Boca Raton, Florida 33431	100%

² This list serves as the disclosure required to be made by the debtor pursuant to rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the chapter 11 case.



**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

HOLLANDER SLEEP PRODUCTS, LLC,

Debtor.

Chapter 11

Case No. 19-_____(____)

CORPORATE OWNERSHIP STATEMENT

Pursuant to rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, the following are corporations, other than a government unit, that directly or indirectly own 10% or more of any class of the debtor's equity interest:

Shareholder	Approximate Percentage of Shares Held
Sentinel Dream II Holdings, LLC	84%
Dream II Holdings, LLC	100%
Hollander Home Fashions Holdings, LLC	100%



Fill in this information to identify the case and this filing:		
Debtor Name	Hollander Sleep Products, LLC	
United States Bankruptcy Court for the:	Southern District of New York	NY (State)
Case number (if known):		

Official Form 202**Declaration Under Penalty of Perjury for Non-Individual Debtors**

12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ *Schedule A/B: Assets-Real and Personal Property (Official Form 206A/B)*
- ☐ *Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)*
- ☐ *Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)*
- ☐ *Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)*
- ☐ *Schedule H: Codebtors (Official Form 206H)*
- ☐ *Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)*
- ☐ Amended Schedule
- ☒ *Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 50 Largest Unsecured Claims and Are Not Insiders (Official Form 204)*
- ☒ Other document that requires a declaration List of Equity Security Holders, Corporate Ownership Statement

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

05/19/2019
MM/DD/YYYY

☒ /s/ Marc Pfefferle

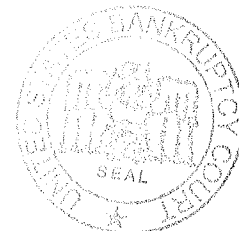
Signature of individual signing on behalf of debtor

Marc Pfefferle

Printed name

Chief Executive Officer

Position or relationship to debtor



**HOLLANDER HOME FASHIONS HOLDINGS, LLC
HOLLANDER SLEEP PRODUCTS, LLC
HOLLANDER SLEEP PRODUCTS KENTUCKY, LLC
PACIFIC COAST FEATHER, LLC
AND
PACIFIC COAST FEATHER CUSHION, LLC**

OMNIBUS WRITTEN CONSENT OF SOLE MEMBER IN LIEU OF MEETING

MAY 18, 2019

Effective as of the date written above, the undersigned, being the sole member (the “Member”) of each of Hollander Home Fashions Holdings, LLC, a Delaware limited liability company, Hollander Sleep Products, LLC, a Delaware limited liability company, Hollander Sleep Products Kentucky, LLC, a Delaware limited liability company, Pacific Coast Feather, LLC, a Delaware limited liability company, and Pacific Coast Feather Cushion, LLC, a Delaware limited liability company (each a “Company,” and together the “Companies”), in lieu of holding a special meeting of the Member, **HEREBY CONSENT** to the taking of the following actions and **HEREBY ADOPT** the following resolutions by written consent (this “Written Consent”) pursuant to the organizational documents of the Companies and the laws of the state of Delaware;

WHEREAS, the Member has considered presentations by the management of each Company and the financial and legal advisors of the Companies regarding the liabilities and liquidity situation of each Company, the strategic alternatives available to each Company, and the effect of the foregoing on each Company’s business;

WHEREAS, the Companies and certain of their affiliates (together, the “Restructuring Parties”) have negotiated a restructuring support agreement (the “RSA”), a substantially final copy of which has been provided to the Member, with certain of the holders of their secured term loan facility and their majority equityholder, which agreement contemplates a comprehensive restructuring of the Restructuring Parties’ capital structure on the terms set forth therein;

WHEREAS, in the business judgment of the Member, it is desirable, and in the best interests of each Company, its creditors, and other parties in interest, to enter into the RSA; and

WHEREAS, the Member has consulted with the management and the financial and legal advisors of the Companies and fully considered each of the strategic alternatives available to the Companies and, in the judgment of the Member it is desirable and in the best interest of the Companies to file for relief under the provisions of chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”).



NOW, THEREFORE, BE IT,**Restructuring Support Agreement; Chapter 11 Plan**

RESOLVED, the Member is hereby authorized and directed to finalize, execute, and deliver the RSA, and the Company's performance of its obligations under the RSA, including the negotiation and documentation of the chapter 11 plan, and all exhibits, schedules, attachments, and ancillary documents or agreements related thereto, is, in all respects, approved and authorized.

Chapter 11 Filing

RESOLVED, that the Company shall be, and hereby is, authorized and directed to file or cause to be filed a voluntary petition for relief (the "Chapter 11 Case") under the provisions of chapter 11 of title 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"); and

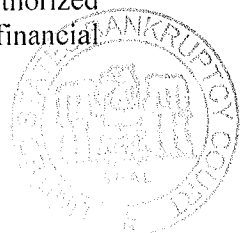
RESOLVED, that any officers or directors of each Company (collectively, the "Authorized Signatories"), acting alone or with one or more other Authorized Signatories be, and they hereby are, authorized, empowered, and directed to execute and file on behalf of each Company all motions, affidavits, papers, documents, or other filings, and to take any and all actions that they deem necessary or proper to obtain or in furtherance of such relief, including, without limitation, any action necessary to maintain the ordinary course operation of each Company's business.

Retention of Professionals

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the law firm of Kirkland & Ellis LLP and Kirkland & Ellis International LLP (together, "Kirkland") as general bankruptcy counsel to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each Company's rights and obligations, including filing any motions, objections, replies, applications, or pleadings; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Kirkland.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm Carl Marks Advisory Group LLC ("Carl Marks") to provide interim management services to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Carl Marks.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm Houlihan Lokey Capital, Inc. ("Houlihan"), as financial



advisor and investment banker to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Houlihan.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm of Omni Management Group ("Omni") as notice and claims agent to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed appropriate applications for authority to retain the services of Omni.

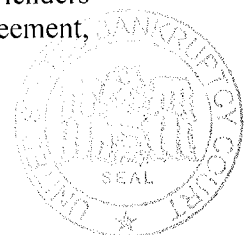
RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm of Proskauer Rose LLP ("Proskauer") as counsel to each Company to act solely at the direction of the disinterested director in accordance with the delegation of conflict matters to the disinterested director, and to take any and all actions to advance each Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed appropriate applications for authority to retain the services of Proskauer.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ any other professionals to assist each Company in carrying out its duties under the Bankruptcy Code; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers and fees, and to cause to be filed an appropriate application for authority to retain the services of any other professionals as necessary.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, with power of delegation, authorized, empowered, and directed to execute and file all petitions, schedules, motions, lists, applications, pleadings, and other papers and, in connection therewith, to employ and retain all assistance by legal counsel, accountants, financial advisors, and other professionals and to take and perform any and all further acts and deeds that each of the Authorized Signatories deem necessary, proper, or desirable in connection with each Company's Chapter 11 Case, with a view to the successful prosecution of such cases.

Debtor-in-Possession Financing, Cash Collateral, and Adequate Protection

RESOLVED, that each Company will obtain benefits from (a) the use of collateral, including cash collateral, as that term is defined in section 363(a) of the Bankruptcy Code (the "Cash Collateral"), which is security for certain prepetition secured lenders (collectively, the "Secured Lenders") party to (i) that certain Term Loan Credit Agreement,



dated as of June 9, 2017 (as amended from time to time), by and among Hollander Sleep Products, LLC, as borrower, and its subsidiaries as borrowers or guarantors, certain lenders party thereto, and Barings Finance, LLC, in its capacity as lender and administrative agent and (ii) that certain Third Amended and Restated Credit Agreement, dated as of June 9, 2017 (as amended from time to time), by and among Dream II Holdings, LLC, as borrower, and its subsidiaries as borrowers or guarantors, certain lenders party thereto, and Wells Fargo Bank, National Association, in its capacity as agent and (b) the incurrence of debtor-in-possession financing obligations (the “DIP Financing”).

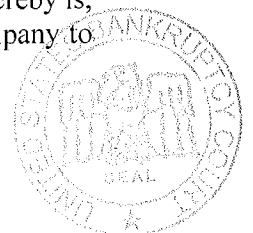
RESOLVED, that to use and obtain the benefits of (a) the DIP Financing and (b) the Cash Collateral, and in accordance with section 363 of the Bankruptcy Code, each Company will provide certain liens, claims, and adequate protection to the Secured Lenders (the “DIP Obligations”), as documented in a proposed interim order (the “Interim DIP Order”) and submitted for approval to the Bankruptcy Court.

RESOLVED, that the form, terms, and provisions of the Interim DIP Order to which each Company is or will be subject, and the actions and transactions contemplated thereby be, and hereby are, authorized, adopted, and approved, and each of the Authorized Signatories of each Company be, and hereby is, authorized and empowered, in the name of and on behalf of each Company, to take such actions and negotiate or cause to be prepared and negotiated and to execute, deliver, perform, and cause the performance of, the Interim DIP Order, and such other agreements, certificates, instruments, receipts, petitions, motions, or other papers or documents to which each Company is or will be a party, including, but not limited to, any security and pledge agreement or guaranty agreement (collectively with the Interim DIP Order, the “DIP Documents”), incur and pay or cause to be paid all fees and expenses and engage such persons, in each case, in the form or substantially in the form thereof submitted to the Member, with such changes, additions, and modifications thereto as the officers of each Company executing the same shall approve, such approval to be conclusively evidenced by such officers’ execution and delivery thereof.

RESOLVED, that each Company, as debtor and debtor in possession under the Bankruptcy Code be, and hereby is, authorized to incur the DIP Obligations and certain obligations related to the DIP Financing and to undertake any and all related transactions on substantially the same terms as contemplated under the DIP Document (collectively, the “DIP Transactions”), including granting liens on its assets to secure such obligations.

RESOLVED, that the Authorized Signatories of each Company be, and they hereby are, authorized and directed, and each of them acting alone hereby is, authorized, directed, and empowered in the name of, and on behalf of, each Company, as debtor and debtor in possession, to take such actions as in their discretion are determined to be necessary, desirable, or appropriate and execute the DIP Transactions, including delivery of: (a) the DIP Documents; (b) such other instruments, certificates, notices, assignments, and documents as may be reasonably requested by the agents; and (c) such forms of deposit, account control agreements, officer’s certificates, and compliance certificates as may be required by the DIP Documents.

RESOLVED, that each of the Authorized Signatories of each Company be, and hereby is, authorized, directed, and empowered in the name of, and on behalf of, each Company to



file or to authorize the agents to file any Uniform Commercial Code (the “UCC”) financing statements, any other equivalent filings, any intellectual property filings and recordation, and any necessary assignments for security or other documents in the name of each Company if the agents deem it necessary or appropriate to perfect any lien or security interest granted under the Interim DIP Order, including any such UCC financing statement containing a generic description of collateral, such as “all assets,” “all property now or hereafter acquired,” and other similar descriptions of like import, and to execute and deliver, and to record or authorize the recording of, such mortgages and deeds of trust in respect of real property of each Company and such other filings in respect of intellectual and other property of each Company, in each case as the agents may reasonably request to perfect the security interests of the agents under the Interim DIP Order or any of the other DIP Documents.

RESOLVED, that each of the Authorized Signatories of each Company be, and hereby are, authorized, directed, and empowered in the name of, and on behalf of, each Company to take all such further actions, including, without limitation, to pay or approve the payment of all fees and expenses payable in connection with the DIP Transactions and all fees and expenses incurred by or on behalf of each Company in connection with the foregoing resolutions, in accordance with the terms of the DIP Documents, which shall in their sole judgment be necessary, desirable, proper, or advisable to perform any of each Company’s obligations under or in connection with the Interim DIP Order or any of the other DIP Documents and the transactions contemplated therein and to carry out fully the intent of the foregoing resolutions.

General

RESOLVED, that, in addition to the specific authorizations heretofore conferred upon each Authorized Signatory, each Authorized Signatory (and his designees and delegates) be, and hereby is, authorized and empowered, in the name of and on behalf of each Company, to take or cause to be taken any and all such other and further actions, and to execute, acknowledge, deliver, and file any and all such agreements, certificates, instruments, and other documents with such additions, deletions, amendments, modifications or other changes as such Authorized Signatory may approve, and to pay all expenses, including but not limited to filing fees, in each case as in such Authorized Signatory’s (or his designee’s or delegate’s) judgment, shall be necessary, advisable, or desirable in order to fully carry out the intent and accomplish the purposes of the resolutions adopted herein, such determination to be conclusively evidenced by such Authorized Signatory’s execution and delivery of any of the agreements, certificates, instruments, or other documents, or the taking of any such action.

RESOLVED, that the Member has received sufficient notice of the actions and transactions relating to the matters contemplated by the foregoing resolutions, as may be required by the organizational documents of each Company, or hereby waives any right to have received such notice.

RESOLVED, that all acts, actions, and transactions relating to the matters contemplated or implied by the foregoing resolutions done in the name of and on behalf of each Company by any director, officer, employee or agent of the Company, or any person or persons



designated and authorized to act on behalf of the Company, which acts would have been approved by the foregoing resolutions except that such acts were taken before the adoption of these resolutions, are hereby in all respects approved and ratified as the true acts and deeds of each Company with the same force and effect as if each such act, transaction, agreement, or certificate had been specifically authorized and adopted in advance by resolution of the Member.

RESOLVED, that each Authorized Signatory (and his designees and delegates) be, and hereby is, authorized and empowered to take all actions, or to not take any action, in the name of each Company, with respect to the transactions contemplated by these resolutions hereunder, as such Authorized Signatory shall deem necessary or desirable in such Authorized Signatory's reasonable business judgment, as may be necessary or convenient to effectuate the purposes of the transactions contemplated herein.


This Written Consent may be executed in originals or electronically in as many counterparts as may be required; all counterparts shall collectively constitute one and the same Written Consent.

* * * * *



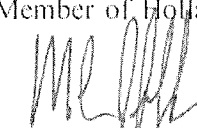
IN WITNESS WHEREOF, the undersigned have executed this Written Consent as of the date first written above and adopt the foregoing resolutions.

DREAM II HOLDINGS, LLC,
Sole Member of Hollander Home Fashions
Holdings, LLC



Name: Marc Pfefferle
Title: Chief Executive Officer

**HOLLANDER HOME FASHIONS
HOLDINGS, LLC,**
Sole Member of Hollander Sleep Products,
LLC



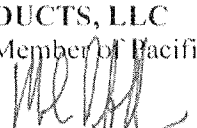
Name: Marc Pfefferle
Title: Chief Executive Officer

**HOLLANDER SLEEP
PRODUCTS, LLC,**
Sole Member of Hollander Sleep Products
Kentucky, LLC



Name: Marc Pfefferle
Title: Chief Executive Officer

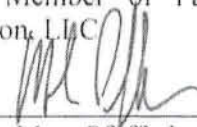
**HOLLANDER SLEEP
PRODUCTS, LLC**
Sole Member of Pacific Coast Feather, LLC



Name: Marc Pfefferle
Title: Chief Executive Officer



PACIFIC COAST FEATHER, LLC
Sole Member of Pacific Coast Feather
Cushion, LLC


Name: Marc Pfefferle
Title: Chief Executive Officer

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]



I HEREBY ATTEST AND CERTIFY ON 5-22-19
THAT THIS DOCUMENT IS A FULL, TRUE AND CORRECT
COPY OF THE ORIGINAL FILED ON OUR COURT'S
ELECTRONIC CASE FILING SYSTEM.

CLERK, US BANKRUPTCY COURT, SDNY

BY:  DEPUTY CLERK

THIS IS EXHIBIT "B" REFERRED TO IN THE
AFFIDAVIT OF EVAN BARZ SWORN
ON MAY 23, 2019.

A handwritten signature in black ink, appearing to read "Patrick Welsh", written over a horizontal line.

A Commissioner for Taking Affidavits

Patrick Welsh
LSC 60322P

Fill in this information to identify the case:

United States Bankruptcy Court for the:

Southern District of New York

(State)

Case number (if known): _____

Chapter 11☐ Check if this is an amended filing

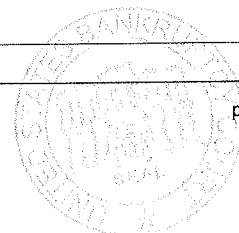
Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy

04/19

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals*, is available.

1. Debtor's Name	<u>Hollander Sleep Products Canada Limited</u>	
2. All other names debtor used in the last 8 years	<u>Hollander Canada Home Fashions Limited;</u> <u>Hollander Sleep Products Montreal Inc. / Produits de Sommeil Hollander Montreal Inc.;</u> Include any assumed names, trade names, and <i>doing business as</i> names <u>LBC Canada Inc.;</u> <u>Hollander Sleep Products Quebec Inc. / Produits de Sommeil Hollander Quebec Inc.;</u> <u>Louisville Bedding Canada Inc. / Literie Louisville Canada Inc.</u>	
3. Debtor's federal Employer Identification Number (EIN)	<u>13902-3477</u>	
4. Debtor's address	Principal place of business <u>724 Caledonia Road</u> Number Street <u>Toronto, Ontario, M6B 3X7</u> City State Zip Code County	Mailing address, if different from principal place of business Number Street P.O. Box City State Zip Code Location of principal assets, if different from principal place of business Number Street City State Zip Code
5. Debtor's website (URL)	<u>www.hollander.com</u>	
6. Type of debtor	<input checked="" type="checkbox"/> Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP)) <input type="checkbox"/> Partnership (excluding LLP) <input type="checkbox"/> Other. Specify: _____	



Debtor Hollander Sleep Products Canada Limited
Name

Case number (if known) _____

7. Describe debtor's business**A. Check One:**

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. Check all that apply:

- ☐ Tax-exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See <http://www.uscourts.gov/four-digit-national-association-naics-codes>.
4232

8. Under which chapter of the Bankruptcy Code is the debtor filing?**Check One:**

- ☐ Chapter 7
- ☐ Chapter 9

☒ Chapter 11. **Check all that apply:**

- ☐ Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,725,625 (amount subject to adjustment on 4/01/22 and every 3 years after that).
- ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). If the debtor is a small business debtor, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return, or if all of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
- ☒ A plan is being filed with this petition.
- ☐ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
- ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
- ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.

☐ Chapter 12**9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?**

- ☒ No
- ☐ Yes.

If more than 2 cases, attach a separate list.

District _____	When _____	Case number _____
	MM/DD/YYYY	
District _____	When _____	Case number _____
	MM/DD/YYYY	

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

- ☐ No
- ☒ Yes.

List all cases. If more than 1, attach a separate list.

Debtor <u>See Rider 1</u>	Relationship <u>Affiliate</u>
District <u>Southern District of New York</u>	
When <u>05/19/2019</u>	
Case number, if known _____	MM / DD / YYYY

Debtor Hollander Sleep Products Canada Limited
Name

Case number (if known) _____

11. Why is the case filed in this district?

Check all that apply:

- ☐ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
- ☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

- ☒ No
- ☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (Check all that apply.)

- ☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.
- What is the hazard? _____
- ☐ It needs to be physically secured or protected from the weather.
- ☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).
- ☐ Other _____

Where is the property?

Number Street

City

State

Zip Code

Is the property insured?

- ☐ No
- ☐ Yes. Insurance agency _____

Contact name _____

Phone _____

Statistical and administrative information**13. Debtor's estimation of available funds**

Check one:

- ☒ Funds will be available for distribution to unsecured creditors.¹
- ☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors (on a consolidated basis)

- | | | |
|----------------------------------|---|--|
| <input type="checkbox"/> 1-49 | <input type="checkbox"/> 1,000-5,000 | <input type="checkbox"/> 25,001-50,000 |
| <input type="checkbox"/> 50-99 | <input type="checkbox"/> 5,001-10,000 | <input type="checkbox"/> 50,001-100,000 |
| <input type="checkbox"/> 100-199 | <input checked="" type="checkbox"/> 10,001-25,000 | <input type="checkbox"/> More than 100,000 |
| <input type="checkbox"/> 200-999 | | |

15. Estimated assets (on a consolidated basis)

- | | | |
|--|---|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input checked="" type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

1. Availability of funds to unsecured creditors is subject to ongoing discussions with the debtor's secured creditors who, as of the date hereof, have not agreed to a recovery (other than \$0) for such unsecured creditors.

Debtor Hollander Sleep Products Canada Limited

Case number (if known) _____

Name

16. Estimated liabilities (on a consolidated basis)

- | | | |
|--|---|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input checked="" type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

Request for Relief, Declaration, and Signatures

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I have been authorized to file this petition on behalf of the debtor.

I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 05/19/2019
MM/DD/YYYY

✕

/s/ Marc Pfefferle

Signature of authorized representative of debtor

Marc Pfefferle

Printed name

Title Chief Executive Officer**18. Signature of attorney**

✕

/s/ Joshua A. Sussberg

Signature of attorney for debtor

Date 05/19/2019

MM/DD/YYYY

Joshua A. Sussberg, P.C.

Printed name

Kirkland & Ellis, LLP

Firm name

601 Lexington Avenue

Number Street

New York

City

New York

State

10022

ZIP Code

212-446-4800

Contact phone

jsussberg@kirkland.com

Email address

4216453

Bar number

New York

State

Fill in this information to identify the case:	
United States Bankruptcy Court for the:	
Southern District of New York	
(State)	
Case number (if known): _____	Chapter <u>11</u>

☐ Check if this is an amended filing

Rider 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the entities listed below (collectively, the "Debtors") filed a petition in the United States Bankruptcy Court for the Southern District of New York for relief under chapter 11 of title 11 of the United States Code. The Debtors have moved for joint administration of these cases under the case number assigned to the chapter 11 case of Hollander Sleep Products, LLC.

- Hollander Sleep Products, LLC
- Dream II Holdings, LLC
- Hollander Home Fashions Holdings, LLC
- Hollander Sleep Products Canada Limited
- Hollander Sleep Products Kentucky, LLC
- Pacific Coast Feather, LLC
- Pacific Coast Feather Cushion, LLC

Debtor name Hollander Sleep Products, LLC, et al.**UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK**

Case No. (If known) _____

Official Form 204**Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 50 Largest Unsecured Claims and Are Not Insiders**

12/15

A list of creditors holding the 50 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person who is an *insider*, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 50 largest unsecured claims.

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
1 Roind Hometex Co Ltd 3225 E Warm Springs Rd Las Vegas, NV 89120	Roind Hometex Co Ltd	Vendor				\$5,655,096.17
2 Funing Jincheng Home Textile Co Ltd Attn: Fn Group 5, Bisheng Neighborhood Comm ittee Funing Economical Devt Zone Jiangsu, 224400 China	Funing Jincheng Home Textile Co Ltd Email: David.Qian@Fw-Textile.Com	Vendor				\$5,273,061.34
3 Invista Inc Attn: Boykin Bank of America P.O. Box, #742926 Atlanta, GA 30374-2926	Invista Inc Tel: 770-792-4192 Email: Danielle.Boykin@INVISTA.COM	Vendor				\$5,023,243.64
4 Hangzhou Chuangyuan Feather Co Ltd Attn: Fumingfang No 5 Xinda Rd Miaojia Village Hangzhou, Suoqian Town China	Hangzhou Chuangyuan Feather Co Ltd Email: fumingfang@cyfeather.cn	Vendor				\$5,001,799.50

Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
5 Zhejiang Hengdi Bedding Co Ltd Attn: Terry Wang No 168 Hebeilou Fulou Village Xintang St Hangzhou China	Zhejiang Hengdi Bedding Co Ltd Email: WANGHR@MAIL.LQFEATHER.COM	Vendor				\$3,882,944.67
6 Zhejiang Liuqiao Home Textile Attn: Zhu Xinfeng Village-Xingtang St Zhejiang Hangzhou, 311201 China	Zhejiang Liuqiao Home Textile Email: amy715@mail.lqfeather.com	Vendor				\$3,465,270.30
7 Wuhu Fine Textile International Trading Co Ltd Attn: Wan 321 Jingxi Rd Wanzhi Town China	Wuhu Fine Textile International Trading Co Ltd Email: Mandy@Ahfantai.Com	Vendor				\$3,419,367.45
8 Packaging Corp Of America Attn: Cerasuolo 36596 Treasury Center Chicago, IL 60694-6500	Packaging Corp Of America Tel: 514 239 3993 Email: Ceraldesign@Hotmail.Com	Vendor				\$3,341,952.45
9 Sun Fiber Sales LLC Attn: Clinton, Ar Contact Rosenthal & Rosenthal Inc P.O. Box 88926 Chicago, IL 60695-1926	Sun Fiber Sales LLC Email: STEFANIE.CLINTON@SUNFIBERLLC.COM	Vendor				\$2,694,931.13

Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
10 Zhejiang Wanxiang Bedding Co Ltd Attn: Xu Wulian Xintang Xiaogan Hangzhou Zhejiang China	Zhejiang Wanxiang Bedding Co Ltd Email: MXU@WXBEDDING.COM	Vendor				\$2,492,406.62
11 Wuxi Jielong Textile Co Ltd Attn: Xie Shuang Miao Economic & Development Zone Jiangsu Wuxi, 214187 China	Wuxi Jielong Textile Co Ltd Tel: 510-88086388 Email: jerry@wuxijielong.com	Vendor				\$2,418,091.03
12 Zhejiang Liugiao Industrial Co Ltd Attn: Sheng 288 Dongkang Rd Xiaoshan District Hangzhou, Zhejiang China	Zhejiang Liugiao Industrial Co Ltd Email: Shenzf@Mail.Lqfeather.Com	Vendor				\$2,189,154.55
13 Topocean Consolidation Services Attn: Wong 99 W Hawthorne Ave, Ste 604 Valley Stream, NY 11580	Topocean Consolidation Services Tel: 7910112 Email: WILWONG@TOPOCEAN.COM	Vendor				\$1,924,219.39
14 Nap Industries Inc 667 Kent Ave Brooklyn, NY 11249	Nap Industries Inc	Vendor				\$1,882,143.39

Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
15 The Sea Feather Limited Company Of Luan Attn: Bian East Gaocheng Rd Economic Tech Devt Area Anhui, Luan 237161 China	The Sea Feather Limited Company Of Luan Email: tina.bian@theseafeather.com	Vendor				\$1,840,641.96
16 Hangzhou Huoju Down Products Co Ltd Attn: Wu Xintang Residential Community Xiaoshan District Hangzhou, Zhejiang China	Hangzhou Huoju Down Products Co Ltd Email: Hwjf@Hzhjyr.Com	Vendor				\$1,719,436.11
17 Wujiang City Xinyi Textile Co Ltd Attn: Chen Daxie Village Bali Shengze (South Ring Rd 3) Jiangsu China	Wujiang City Xinyi Textile Co Ltd	Vendor				\$1,718,438.97
18 Anhui Rongdi Down Product Co Ltd Attn: Wei Fudu Industrial Park Anhui, Wuwei China	Anhui Rongdi Down Product Co Ltd Email: waf72211@sina.com	Vendor				\$1,673,141.00
19 Elite Comfort Solutions LLC Attn: Griffith Elite Comfort Solutions LLC P.O. Box 603397 Charlotte, NC 28260-3397	Elite Comfort Solutions LLC Tel: 770-683-8271 Email: pgriffith@elitefoam.com	Vendor				\$1,506,538.35

Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
20 Span America Attn: Jackson 70 Commerce Center Greenville, SC 29615	Span America Tel: 678-6978 Email: Cjackson@Spanamerica.Com	Vendor				\$1,440,880.78
21 Stein Fibers Ltd Attn: Sprague, Sales P.O. Box 714522 Cincinnati, OH 45271-4522	Stein Fibers Ltd Tel: 599-2804 Email: Richard@steinfibers.com	Vendor				\$1,225,238.09
22 Cixi Jiangnan Chemical Fiber 159 Lingqiao Rd Ningbo China	Cixi Jiangnan Chemical Fiber	Vendor				\$1,217,846.96
23 Qingdao Fuyuan Arts & Crafts Co Ltd Attn: Cathy Rm 419 No 97 Fuzhou South Rd Qingdao, China	Qingdao Fuyuan Arts & Crafts Co Ltd Email: cathy@qd-fuyuan.com	Vendor				\$1,120,319.13
24 Be Be Jan Pakistan Limited Attn: Bebe Square No 7 Chak No R.B Faisalabad Pakistan	Be Be Jan Pakistan Limited Email: bebe@hollander.com	Vendor				\$1,017,821.47
25 Wuxi Yinxin Printing Co Ltd Attn: Ma Qian Lane Luoshe Town, Wuxi City Jiangsu Province China	Wuxi Yinxin Printing Co Ltd Email: Evanma@Wuxiyinxin.Com	Vendor				\$1,010,717.02

Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
26 Nan Ya Plastics Corporation America P.O. Box 402634 Atlanta, GA 30384	Nan Ya Plastics Corporation America	Vendor				\$904,004.64
27 International Paper (Edi) Attn: Davis 6211 Descanso Ave Buena Park, CA 90620	International Paper (Edi) Tel: 512-0404 Email: mary.davis1@ipaper.com	Vendor				\$797,481.18
28 Domfoam Inc Attn: Sansalone 8785 Boul Langelier St Leonard, QC H1P 2C9 Canada	Domfoam Inc Tel: 325-8120 Email: Julie@Domfoam.Com	Vendor				\$760,385.44
29 Hangzhou Huaying Xintang Down Xixu Village Xintang St, Xiaosha Hangzhou, Zhejiang Province China	Hangzhou Huaying Xintang Down	Vendor				\$758,683.47
30 Oracle America Inc Attn: Oracle America Inc P.O. Box 203448 Dallas, TX 75320-3448	Oracle America Inc	Vendor				\$732,377.25
31 Kuehne & Nagel Attn: Kirlew 77 Foster Crescent Mississauga, ON L5R 0K1 Canada	Kuehne & Nagel Tel: 502-4173 Email: Paulette.Kirlew@Kuehne-Nagel.Com	Vendor				\$687,576.17

Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
32 US CBP 1300 Pennsylvania Ave Nw Washington, DC 20229	US CBP Tel: 1 (877) CBP-5511	Vendor				\$666,199.63
33 Kapstone Container Corp Attn: Brest, Strategic Account Manager 2370 Sullivan Rd College Park, GA 30337	Kapstone Container Corp Tel: 935.8526 Email: mike.brest@kapstonepaper.com	Vendor				\$658,087.04
34 C H Robinson P.O. Box 9121 Minneapolis, MN 55480-9121	C H Robinson	Vendor				\$611,420.25
35 AV Logistics LLC Attn: Palencia P.O. Box 5657 Carol Stream, IL 60197-5657	AV Logistics LLC Tel: 6440936 Email: SPALENCIA@AV-LOGISTICS.COM	Vendor				\$498,586.22
36 Shi International P.O. Box 952121 Dallas, TX 75395-2121	Shi International	Vendor				\$410,744.40
37 Invista Canada P.O. Box B2918U P.O. Box 11585 Montreal, QC H3C 5N7 Canada	Invista Canada Tel: 821-5954 Email: A/R - CHRISTINE	Vendor				\$408,263.53

Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
38 Zhejiang Saifang Textile Technology Co Ltd Attn: Tang Santou Cun Industrial Park Zhejiang Daicun Town, Hangzhou China	Zhejiang Saifang Textile Technology Co Ltd Email: jasontang@hzsaifang.com	Vendor				\$387,987.72
39 Invista S.A.R.L. 7813 Collections Ctr. Dr Chicago, IL 60693-7913	Invista S.A.R.L.	Vendor				\$336,341.12
40 Progress Container & Display Attn: Markham 635 Patrick Mill Rd Sw Winder, GA 30680	Progress Container & Display Tel: 4252071 Email: TMARKHAM@PROGRESSCONTAINER.COM	Vendor				\$297,160.19
41 Strands Textile Mills Pvt Ltd Attn: Sharma Plot 3 270-271 Sector 4 Gandhidham Guja, 370230 India	Strands Textile Mills Pvt Ltd Email: MERCHANT@STRANDSTEXTILE.COM	Vendor				\$283,940.75
42 Exeter 25 Keystone LLC 101 West Elm Street Suite 600 Conshocken, PA 19428	Exeter 25 Keystone LLC	Vendor				\$276,975.69
43 Printcraft Co Inc 259 City Lake Rd Lexington, NC 27293	Printcraft Co Inc	Vendor				\$270,188.50

Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
44 Jasztex Fiber Inc Attn: Jakubik, Ar Contact 61 Hymus Ponte-Claire, QC H9R 1E2 Canada	Jasztex Fiber Inc Tel: 697-3096 Email: NATHALIE@JASZTEX.COM	Vendor				\$260,513.71
45 Kamyk Daunen S.R.O. Kamyk Nad Vitavou Cp 179 Pribram, S 262063 Czech Republic	Kamyk Daunen S.R.O.	Vendor				\$254,576.05
46 Navarpluma S.L. Poligono Industrial Arazuri Orcoyen Arazuri, 31170 Spain	Navarpluma S.L.	Vendor				\$244,576.44
47 Majestic/Amb Pico Rivera Assoc Llc 13191 Crossroads Pkwy North City of Industry, CA 91746-3497	Majestic/Amb Pico Rivera Assoc Llc	Vendor				\$238,286.36
48 Polypack Corporation Ltd Attn: Cataldo, General Manager 7900 E Jarry St Montreal, QC H1J 1H1 Canada	Polypack Corporation Ltd Tel: 353-1710 Email: phil500cataldo@gmail.com	Vendor				\$227,485.81
49 Atlas Feather Processing Corp 64 Greenpoint Ave Brooklyn, NY 11222-1504	Atlas Feather Processing Corp	Vendor				\$204,766.17

Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
50 Dusobox Corporation 2501 Investors Row, Ste 500 Orlando, FL 32837	Dusobox Corporation Tel: 800-393-5120	Vendor				\$204,685.78

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

HOLLANDER SLEEP PRODUCTS CANADA
LIMITED,

Debtor.

Chapter 11

Case No. 19-_____()

LIST OF EQUITY SECURITY HOLDERS²

Debtor	Equity Holders	Address of Equity Holder	Percentage of Equity Held
Hollander Sleep Products Canada Limited	Dream II Holdings, LLC	330 Madison Avenue, 27th Floor, New York, New York 10017	100%

² This list serves as the disclosure required to be made by the debtor pursuant to rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the chapter 11 case.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:	)	Chapter 11
)	
HOLLANDER SLEEP PRODUCTS CANADA	)	Case No. 19-_____()
LIMITED,)	
)	
Debtor.)	
)	

CORPORATE OWNERSHIP STATEMENT

Pursuant to rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, the following are corporations, other than a government unit, that directly or indirectly own 10% or more of any class of the debtor's equity interest:

Shareholder	Approximate Percentage of Shares Held
Dream II Holdings, LLC	100%
Sentinel Dream II Holdings, LLC	84%

Fill in this information to identify the case and this filing:		
Debtor Name	Hollander Sleep Products Canada Limited	
United States Bankruptcy Court for the:	Southern District of New York	NY (State)
Case number (If known):		

Official Form 202**Declaration Under Penalty of Perjury for Non-Individual Debtors**

12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ *Schedule A/B: Assets-Real and Personal Property (Official Form 206A/B)*
- ☐ *Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)*
- ☐ *Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)*
- ☐ *Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)*
- ☐ *Schedule H: Codebtors (Official Form 206H)*
- ☐ *Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)*
- ☐ Amended Schedule
- ☒ *Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 50 Largest Unsecured Claims and Are Not Insiders (Official Form 204)*
- ☒ Other document that requires a declaration List of Equity Security Holders, Corporate Ownership Statement

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

05/19/2019
MM/ DD/YYYY

☒ /s/ Marc Pfefferle

Signature of individual signing on behalf of debtor

Marc Pfefferle

Printed name

Chief Executive Officer

Position or relationship to debtor

HOLLANDER SLEEP PRODUCTS CANADA LIMITED**WRITTEN CONSENT OF THE
BOARD OF DIRECTORS IN LIEU OF MEETING****MAY 18, 2019**

Effective as of the date written above, the undersigned, being all of the directors (collectively, the "Board") of Hollander Sleep Products Canada Limited (the "Company") **HEREBY CONSENT** to the taking of the following actions and **HEREBY ADOPT** the following resolutions by unanimous written consent (this "Written Consent") pursuant to the organizational documents of the Company and the *Business Corporations Act* (British Columbia);

WHEREAS, the Board of the Company has considered presentations by the management and the financial and legal advisors of the Company regarding the liabilities and liquidity situation of the Company, the strategic alternatives available to them, and the effect of the foregoing on the Company's business;

WHEREAS, the Company and certain of its affiliates (together, the "Restructuring Parties") have negotiated a restructuring support agreement (the "RSA"), a substantially final copy of which has been provided to the Board, with certain of the holders of Hollander Sleep Products, LLC's secured term loan facility and their majority equityholder, which agreement contemplates a comprehensive restructuring of the Restructuring Parties' capital structure on the terms set forth therein;

WHEREAS, Matthew R. Kahn, in his role as the sole member (the "Independent Member") of the Independent Committee (as defined in that certain Resolution of the Directors dated May 17, 2019), has determined that entry into the RSA and the DIP Financing (as defined herein) are Conflict Matters (as defined in that certain Resolution of the Directors dated May 17, 2019);

WHEREAS, in the business judgment of the Independent Member, on behalf of the Board, it is desirable, and in the best interests of the Company, its creditors, and other parties in interest, to enter into the RSA and DIP Financing; and

WHEREAS, the Board of the Company has consulted with the management and the financial and legal advisors of the Company and fully considered each of the strategic alternatives available to the Company and, in the judgment of the Board of the Company, it is desirable and in the best interests of the Company to file for relief under the provisions of chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code").

NOW, THEREFORE, BE IT,

Restructuring Support Agreement; Chapter 11 Plan

RESOLVED, the Company is hereby authorized and directed to finalize, execute and deliver the RSA, and the Company's performance of its obligations under the RSA, including the negotiation and documentation of a plan of reorganization in connection with the Chapter 11 Case (as defined below), and all exhibits, schedules, attachments, and ancillary documents or agreements related thereto, is, in all respects, approved and authorized.

Chapter 11 Filing

RESOLVED, that the Company shall be, and hereby is, authorized and directed to file or cause to be filed a voluntary petition for relief (the "Chapter 11 Case") under the provisions of chapter 11 of title 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"); and

RESOLVED, that any officers or directors of the Company (collectively, the "Authorized Signatories"), acting alone or with one or more other Authorized Signatories be, and they hereby are, authorized, empowered, and directed to execute and file on behalf of the Company all motions, affidavits, papers, documents, or other filings, and to take any and all actions that they deem necessary or proper to obtain or in furtherance of such relief, including, without limitation, any action necessary to maintain the ordinary course operation of the Company's business.

Retention of Professionals

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the law firm of Kirkland & Ellis LLP and Kirkland & Ellis International LLP (together, "Kirkland") as general bankruptcy counsel to represent and assist the Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance the Company's rights and obligations, including filing any motions, objections, replies, applications, or pleadings, and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Kirkland.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the law firm of Osler, Hoskin & Harcourt LLP ("Osler") as acting Canadian counsel to represent and assist the Company in carrying out its duties under the *Companies' Creditors Arrangement Act* (Canada) ("CCAA"), and to take any and all actions to advance the Company's rights and obligations, including filing any motions, objections, replies, applications, or pleadings, and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Osler.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm Carl Marks Advisory Group LLC ("Carl Marks") to provide interim management services to represent and assist the Company in carrying out its duties under the Bankruptcy Code and the CCAA, and to take any and all actions to advance the Company's rights and obligations, and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Carl Marks.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm Houlihan Lokey Capital, Inc. ("Houlihan"), as financial advisor and investment banker to represent and assist the Company in carrying out its duties under the Bankruptcy Code and the CCAA, and to take any and all actions to advance the Company's rights and obligations, and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Houlihan.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm of Omni Management Group ("Omni") as notice and claims agent to represent and assist the Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance the Company's rights and obligations, and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed appropriate applications for authority to retain the services of Omni.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm of Proskauer Rose LLP ("Proskauer") as counsel to the Company to act solely at the direction of the Independent Committee in accordance with the delegation of conflict matters to the Independent Committee, and to take any and all actions to advance the Company's rights and obligations, and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed appropriate applications for authority to retain the services of Proskauer.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ any other professionals to assist the Company in carrying out its duties under the Bankruptcy Code and the CCAA, and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers and fees, and to cause to be filed an appropriate application for authority to retain the services of any other professionals as necessary.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, with power of delegation, authorized, empowered, and directed to execute and file all petitions, schedules, motions, lists, applications, pleadings, and other papers and, in connection therewith, to employ and retain all assistance by legal counsel, accountants, financial

advisors, and other professionals and to take and perform any and all further acts and deeds that each of the Authorized Signatories deem necessary, proper, or desirable in connection with the Company's Chapter 11 Case (including ancillary CCAA proceedings), with a view to the successful prosecution of such case.

Debtor-in-Possession Financing, Cash Collateral, and Adequate Protection

RESOLVED, that the Company will obtain benefits from (a) the use of collateral, including cash collateral, as that term is defined in section 363(a) of the Bankruptcy Code (the "Cash Collateral"), which is security for certain prepetition secured lenders (collectively, the "Secured Lenders") party to (i) that certain Term Loan Credit Agreement, dated as of June 9, 2017 (as amended from time to time), by and among Hollander Sleep Products, LLC, as borrower, and its subsidiaries as borrowers or guarantors, certain lenders party thereto, and Barings Finance, LLC, in its capacity as lender and administrative agent and (ii) that certain Third Amended and Restated Credit Agreement, dated as of June 9, 2017 (as amended from time to time), by and among Dream II Holdings, LLC, as borrower, and its subsidiaries as borrowers or guarantors, certain lenders party thereto, and Wells Fargo Bank, National Association, in its capacity as agent and (b) the incurrence of debtor-in-possession financing obligations (the "DIP Financing").

RESOLVED, that to use and obtain the benefits of (a) the DIP Financing and (b) the Cash Collateral, and in accordance with section 363 of the Bankruptcy Code, the Company will provide certain liens, claims, and adequate protection to the Secured Lenders (the "DIP Obligations"), as documented in a proposed interim order (the "Interim DIP Order") and submitted for approval to the Bankruptcy Court.

RESOLVED, that the form, terms, and provisions of the Interim DIP Order to which the Company is or will be subject, and the actions and transactions contemplated thereby be, and hereby are, authorized, adopted, and approved, and each of the Authorized Signatories of the Company be, and hereby is, authorized and empowered, in the name of and on behalf of the Company, to take such actions and negotiate or cause to be prepared and negotiated and to execute, deliver, perform, and cause the performance of, the Interim DIP Order, and such other agreements, certificates, instruments, receipts, petitions, motions, or other papers or documents to which the Company is or will be a party, including, but not limited to, any security and pledge agreement or guaranty agreement (collectively with the Interim DIP Order, the "DIP Documents"), incur and pay or cause to be paid all fees and expenses and engage such persons, in each case, in the form or substantially in the form thereof submitted to the Board of the Company, with such changes, additions, and modifications thereto as the officers of the Company executing the same shall approve, such approval to be conclusively evidenced by such officers' execution and delivery thereof.

RESOLVED, that the Company, as debtor and debtor in possession under the Bankruptcy Code be, and hereby is, authorized to incur the DIP Obligations and certain obligations related to the DIP Financing and to undertake any and all related transactions on substantially the same terms as contemplated under the DIP Document (collectively, the "DIP Transactions"), including granting liens on its assets to secure such obligations.

RESOLVED, that the Authorized Signatories of the Company be, and they hereby are, authorized and directed, and each of them acting alone hereby is, authorized, directed, and empowered in the name of, and on behalf of, the Company, as debtor and debtor in possession, to take such actions as in their discretion are determined to be necessary, desirable, or appropriate and execute the DIP Transactions, including delivery of: (a) the DIP Documents; (b) such other instruments, certificates, notices, assignments, and documents as may be reasonably requested by the agents; and (c) such forms of deposit, account control agreements, officer's certificates, and compliance certificates as may be required by the DIP Documents.

RESOLVED, that each of the Authorized Signatories of the Company be, and hereby is, authorized, directed, and empowered in the name of, and on behalf of, the Company to file or to authorize the agents to file any Uniform Commercial Code (the "UCC") financing statements, any other equivalent filings, any intellectual property filings and recordation, and any necessary assignments for security or other documents in the name of the Company if the agents deem it necessary or appropriate to perfect any lien or security interest granted under the Interim DIP Order, including any such UCC financing statement containing a generic description of collateral, such as "all assets," "all property now or hereafter acquired," and other similar descriptions of like import, and to execute and deliver, and to record or authorize the recording of, such mortgages and deeds of trust in respect of real property of the Company and such other filings in respect of intellectual and other property of the Company, in each case as the agents may reasonably request to perfect the security interests of the agents under the Interim DIP Order or any of the other DIP Documents.

RESOLVED, that each of the Authorized Signatories of the Company be, and hereby is, authorized, directed, and empowered in the name of, and on behalf of, the Company to take all such further actions, including, without limitation, to pay or approve the payment of all fees and expenses payable in connection with the DIP Transactions and all fees and expenses incurred by or on behalf of the Company in connection with the foregoing resolutions, in accordance with the terms of the DIP Documents, which shall in their sole judgment be necessary, desirable, proper, or advisable to perform any of the Company's obligations under or in connection with the Interim DIP Order or any of the other DIP Documents and the transactions contemplated therein and to carry out fully the intent of the foregoing resolutions.

General

RESOLVED, that, in addition to the specific authorizations heretofore conferred upon each Authorized Signatory, each Authorized Signatory (and his designees and delegates) be, and hereby is, authorized and empowered, in the name of and on behalf of the Company, to take or cause to be taken any and all such other and further actions, and to execute, acknowledge, deliver, and file any and all such agreements, certificates, instruments, and other documents with such additions, deletions, amendments, modifications, or other changes as such Authorized Signatory may approve, and to pay all expenses, including but not limited to filing fees, in each case as in such Authorized Signatory's (or his designee's or delegate's) judgment, shall be necessary, advisable, or desirable in order to fully carry out the intent and accomplish the purposes of the resolutions adopted herein, such determination to be conclusively evidenced by such Authorized Signatory's execution and

delivery of any of the agreements, certificates, instruments, or other documents or the taking of any such action.

RESOLVED, that the Board of the Company has received sufficient notice of the actions and transactions relating to the matters contemplated by the foregoing resolutions, as may be required by the organizational documents of the Company, or hereby waives any right to have received such notice.

RESOLVED, that all acts, actions, and transactions relating to the matters contemplated or implied by the foregoing resolutions done in the name of and on behalf of the Company by any director, officer, employee or agent of the Company, or any person or persons designated and authorized to act on behalf of the Company, which acts would have been approved by the foregoing resolutions except that such acts were taken before the adoption of these resolutions, are hereby in all respects approved and ratified as the true acts and deeds of the Company with the same force and effect as if each such act, transaction, agreement, or certificate had been specifically authorized and adopted in advance by resolution of the Board of the Company.

RESOLVED, that each Authorized Signatory (and his designees and delegates) be, and hereby is, authorized and empowered to take all actions, or to not take any action, in the name of the Company, with respect to the transactions contemplated by these resolutions hereunder, as such Authorized Signatory shall deem necessary or desirable in such Authorized Signatory's reasonable business judgment, as may be necessary or convenient to effectuate the purposes of the transactions contemplated herein.

This Written Consent may be executed in originals or electronically in as many counterparts as may be required; all counterparts shall collectively constitute one and the same Written Consent.

* * * * *

IN WITNESS WHEREOF, the undersigned have executed this Written Consent as of the date first written above and adopt the foregoing resolutions.

**HOLLANDER SLEEP
PRODUCTS CANADA LIMITED**



Name: Eric D. Bommer
Title: Director

Name: Michael J. Fabian
Title: Director

Name: Matthew Kahn
Title: Director

IN WITNESS WHEREOF, the undersigned have executed this Written Consent as of the date first written above and adopt the foregoing resolutions.

**HOLLANDER SLEEP
PRODUCTS CANADA LIMITED**

Name: Eric D. Bommer
Title: Director



Name: Michael J. Fabian
Title: Director

Name: Matthew Kahn
Title: Director

IN WITNESS WHEREOF, the undersigned have executed this Written Consent as of the date first written above and adopt the foregoing resolutions.

**HOLLANDER SLEEP
PRODUCTS CANADA LIMITED**

Name: Eric D. Bommer
Title: Director

Name: Michael J. Fabian
Title: Director


Name: Matthew Kahn
Title: Director



I HEREBY ATTEST AND CERTIFY ON 5-22-19
THAT THIS DOCUMENT IS A FULL, TRUE AND CORRECT
COPY OF THE ORIGINAL FILED ON OUR COURT'S
ELECTRONIC CASE FILING SYSTEM.

CLERK, US BANKRUPTCY COURT, SDNY

BY:  DEPUTY CLERK

THIS IS EXHIBIT "C" REFERRED TO IN THE
AFFIDAVIT OF EVAN BARZ SWORN
ON MAY 23 2019.



A Commissioner for Taking Affidavits

Patricia Webb
LSO 60322P

Fill in this information to identify the case:

United States Bankruptcy Court for the:

Southern District of New York

(State)

Case number (if known):

Chapter 11

☐ Check if this is an amended filingOfficial Form 201**Voluntary Petition for Non-Individuals Filing for Bankruptcy**

04/19

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals*, is available.

1. Debtor's Name Dream II Holdings, LLC

2. All other names debtor used in the last 8 years

Include any assumed names, trade names, and *doing business as* names

3. Debtor's federal Employer Identification Number (EIN)

47-1927915

4. Debtor's address

Principal place of business

Mailing address, if different from principal place of business

330 Madison Avenue

Number Street

27th FloorNew York, New York 10017

City State Zip Code

Number Street

P.O. Box

City State Zip Code

Location of principal assets, if different from principal place of business

New York County

County

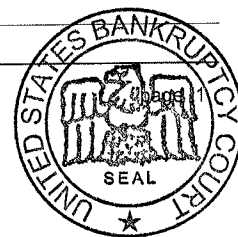
Number Street

City State Zip Code

5. Debtor's website (URL)

www.hollander.com

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))☐ Partnership (excluding LLP)☐ Other. Specify: _____

Debtor Dream II Holdings, LLC

Case number (if known) _____

Name

7. Describe debtor's business**A. Check One:**

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. Check all that apply:

- ☐ Tax-exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See <http://www.uscourts.gov/four-digit-national-association-naics-codes>.
4232

8. Under which chapter of the Bankruptcy Code is the debtor filing?**Check One:**

- ☐ Chapter 7
- ☐ Chapter 9
- ☒ Chapter 11. **Check all that apply:**

- ☐ Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,725,625 (amount subject to adjustment on 4/01/22 and every 3 years after that).
- ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). If the debtor is a small business debtor, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return, or if all of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
- ☒ A plan is being filed with this petition.
- ☐ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
- ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
- ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.

☐ Chapter 12**9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?**☒ No☐ Yes.

District _____

When _____

MM/DD/YYYY

Case number _____

If more than 2 cases, attach a separate list.

District _____

When _____

MM/DD/YYYY

Case number _____

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?☐ No☒ Yes.

Debtor

See Rider 1

Relationship

Affiliate

District

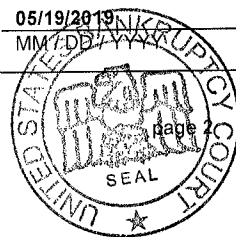
Southern District of New York

When

05/19/2019

List all cases. If more than 1, attach a separate list.

Case number, if known _____



Debtor Dream II Holdings, LLC

Case number (if known) _____

Name

11. Why is the case filed in this district?

Check all that apply:

- ☒ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
- ☐ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

- ☒ No
- ☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (Check all that apply.)

- ☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.
- What is the hazard? _____
- ☐ It needs to be physically secured or protected from the weather.
- ☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).
- ☐ Other _____

Where is the property?

Number Street

City State Zip Code

Is the property insured?

- ☐ No
- ☐ Yes. Insurance agency _____
- Contact name _____
- Phone _____

Statistical and administrative information**13. Debtor's estimation of available funds**

Check one:

- ☒ Funds will be available for distribution to unsecured creditors.¹
- ☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors (on a consolidated basis)

- | | | |
|----------------------------------|---|--|
| <input type="checkbox"/> 1-49 | <input type="checkbox"/> 1,000-5,000 | <input type="checkbox"/> 25,001-50,000 |
| <input type="checkbox"/> 50-99 | <input type="checkbox"/> 5,001-10,000 | <input type="checkbox"/> 50,001-100,000 |
| <input type="checkbox"/> 100-199 | <input checked="" type="checkbox"/> 10,001-25,000 | <input type="checkbox"/> More than 100,000 |
| <input type="checkbox"/> 200-999 | | |

15. Estimated assets (on a consolidated basis)

- | | | |
|--|---|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input checked="" type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

1. Availability of funds to unsecured creditors is subject to ongoing discussions with the debtor's secured creditors who, as of the date hereof, have not agreed to a recovery (other than \$0) for such unsecured creditors.



Debtor Dream II Holdings, LLC

Case number (if known) _____

Name

16. Estimated liabilities (on a consolidated basis)

- | | | |
|--|---|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input checked="" type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

Request for Relief, Declaration, and Signatures

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I have been authorized to file this petition on behalf of the debtor.

I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 05/19/2019
MM/ DD / YYYY

X

/s/ Marc Pfefferle

Signature of authorized representative of debtor

Marc Pfefferle

Printed name

Title Chief Executive Officer**18. Signature of attorney**

X

/s/ Joshua A. Sussberg

Signature of attorney for debtor

Date 05/19/2019

MM/ DD/YYYY

Joshua A. Sussberg, P.C.

Printed name

Kirkland & Ellis, LLP

Firm name

601 Lexington Avenue

Number Street

New York

City

New York

State

10022

ZIP Code

212-446-4800

Contact phone

jsussberg@kirkland.com

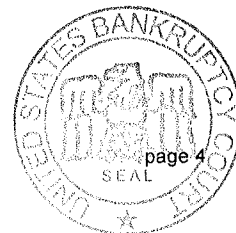
Email address

4216453

Bar number

New York

State



Fill in this information to identify the case:	
United States Bankruptcy Court for the:	
Southern District of New York	
(State)	
Case number (if known): _____	Chapter <u>11</u>

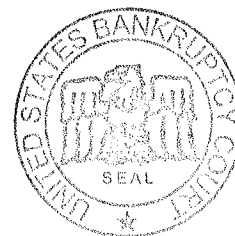
☐ Check if this is an amended filing

Rider 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the entities listed below (collectively, the "Debtors") filed a petition in the United States Bankruptcy Court for the Southern District of New York for relief under chapter 11 of title 11 of the United States Code. The Debtors have moved for joint administration of these cases under the case number assigned to the chapter 11 case of Hollander Sleep Products, LLC.

- Hollander Sleep Products, LLC
- Dream II Holdings, LLC
- Hollander Home Fashions Holdings, LLC
- Hollander Sleep Products Canada Limited
- Hollander Sleep Products Kentucky, LLC
- Pacific Coast Feather, LLC
- Pacific Coast Feather Cushion, LLC



Debtor name Hollander Sleep Products, LLC, et al.

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

Case No. (If known) _____

Official Form 204

Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 50 Largest Unsecured Claims and Are Not Insiders

12/15

A list of creditors holding the 50 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person who is an *insider*, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 50 largest unsecured claims.

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
1 Roind Hometex Co Ltd 3225 E Warm Springs Rd Las Vegas, NV 89120	Roind Hometex Co Ltd	Vendor				\$5,655,096.17
2 Funing Jincheng Home Textile Co Ltd Attn: Fn Group 5, Bisheng Neighborhood Committee Funing Economical Devt Zone Jiangsu, 224400 China	Funing Jincheng Home Textile Co Ltd Email: David.Qian@Fw-Textile.Com	Vendor				\$5,273,061.34
3 Invista Inc Attn: Boykin Bank of America P.O. Box, #742926 Atlanta, GA 30374-2926	Invista Inc Tel: 770-792-4192 Email: Danielle.Boykin@INVISTA.COM	Vendor				\$5,023,243.54
4 Hangzhou Chuangyuan Feather Co Ltd Attn: Fumingfang No 5 Xinda Rd Miaojia Village Hangzhou, Suoqian Town China	Hangzhou Chuangyuan Feather Co Ltd Email: fumingfang@cyfeather.cn	Vendor				\$5,001,799.50

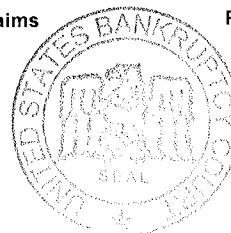


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
5 Zhejiang Hengdi Bedding Co Ltd Attn: Terry Wang No 168 Hebeilou Fulou Village Xintang St Hangzhou China	Zhejiang Hengdi Bedding Co Ltd Email: WANGHR@MAIL.LQFEATHER.COM	Vendor				\$3,882,944.67
6 Zhejiang Liugiao Home Textile Attn: Zhu Xinfeng Village-Xingtang St Zhejiang Hangzhou, 311201 China	Zhejiang Liugiao Home Textile Email: amy715@mail.lqfeather.com	Vendor				\$3,465,270.30
7 Wuhu Fine Textile International Trading Co Ltd Attn: Wan 321 Jingxi Rd Wanzhi Town China	Wuhu Fine Textile International Trading Co Ltd Email: Mandy@Ahfantai.Com	Vendor				\$3,419,367.45
8 Packaging Corp Of America Attn: Cerasuolo 36596 Treasury Center Chicago, IL 60694-6500	Packaging Corp Of America Tel: 514 239 3993 Email: Ceraldesign@Hotmail.Com	Vendor				\$3,341,952.45
9 Sun Fiber Sales LLC Attn: Clinton, Ar Contact Rosenthal & Rosenthal Inc P.O. Box 88926 Chicago, IL 60695-1926	Sun Fiber Sales LLC Email: STEFANIE.CLINTON@SUNFIBERLLC.COM	Vendor				\$2,694,931.13

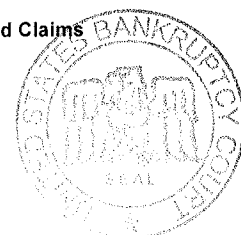


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
10 Zhejiang Wanxiang Bedding Co Ltd Attn: Xu Wulian Xintang Xiaosgan Hangzhou Zhejiang China	Zhejiang Wanxiang Bedding Co Ltd Email: MXU@WXBEDDING.COM	Vendor				\$2,492,406.62
11 Wuxi Jielong Textile Co Ltd Attn: Xie Shuang Miao Economic & Development Zone Jiangsu Wuxi, 214187 China	Wuxi Jielong Textile Co Ltd Tel: 510-88086388 Email: jerry@wuxijielong.com	Vendor				\$2,418,091.03
12 Zhejiang Liugiao Industrial Co Ltd Attn: Sheng 288 Dongkang Rd Xiaoshan District Hangzhou, Zhejiang China	Zhejiang Liugiao Industrial Co Ltd Email: Shenzf@Mail.Lqfeather.Com	Vendor				\$2,189,154.55
13 Topocean Consolidation Services Attn: Wong 99 W Hawthorne Ave, Ste 604 Valley Stream, NY 11580	Topocean Consolidation Services Tel: 7910112 Email: WILWONG@TOPOCEAN.COM	Vendor				\$1,924,219.39
14 Nap Industries Inc 667 Kent Ave Brooklyn, NY 11249	Nap Industries Inc	Vendor				\$1,882,143.39

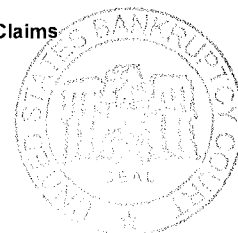


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
15 The Sea Feather Limited Company Of Luan Attn: Bian East Gaocheng Rd Economic Tech Devt Area Anhui, Luan 237161 China	The Sea Feather Limited Company Of Luan Email: tina.bian@theseafeather.com	Vendor				\$1,840,641.96
16 Hangzhou Huoju Down Products Co Ltd Attn: Wu Xintang Residential Community Xiaoshan District Hangzhou, Zhejiang China	Hangzhou Huoju Down Products Co Ltd Email: Hjjwf@Hzhjyr.Com	Vendor				\$1,719,436.11
17 Wujiang City Xinyi Textile Co Ltd Attn: Chen Daxie Village Bali Shengze (South Ring Rd 3) Jiangsu China	Wujiang City Xinyi Textile Co Ltd	Vendor				\$1,718,438.97
18 Anhui Rongdi Down Product Co Ltd Attn: Wei Fudu Industrial Park Anhui, Wuwei China	Anhui Rongdi Down Product Co Ltd Email: waf72211@sina.com	Vendor				\$1,673,141.00
19 Elite Comfort Solutions LLC Attn: Griffith Elite Comfort Solutions LLC P.O. Box 603397 Charlotte, NC 28260-3397	Elite Comfort Solutions LLC Tel: 770-683-8271 Email: pgriffith@elitefoam.com	Vendor				\$1,506,538.35

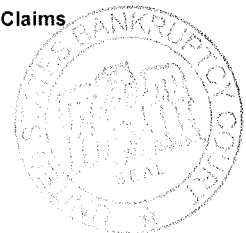


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
20 Span America Attn: Jackson 70 Commerce Center Greenville, SC 29615	Span America Tel: 678-6978 Email: Cjackson@Spanamerica.Com	Vendor				\$1,440,880.78
21 Stein Fibers Ltd Attn: Sprague, Sales P.O. Box 714522 Cincinnati, OH 45271-4522	Stein Fibers Ltd Tel: 599-2804 Email: Richard@steinfibers.com	Vendor				\$1,225,238.09
22 Cixi Jiangnan Chemical Fiber 159 Lingqiao Rd Ningbo China	Cixi Jiangnan Chemical Fiber	Vendor				\$1,217,846.96
23 Qingdao Fuyuan Arts & Crafts Co Ltd Attn: Cathy Rm 419 No 97 Fuzhou South Rd Qingdao, China	Qingdao Fuyuan Arts & Crafts Co Ltd Email: cathy@qd-fuyuan.com	Vendor				\$1,120,319.13
24 Be Be Jan Pakistan Limited Attn: Bebe Square No 7 Chak No R.B Faisalabad Pakistan	Be Be Jan Pakistan Limited Email: bebe@hollander.com	Vendor				\$1,017,821.47
25 Wuxi Yinxin Printing Co Ltd Attn: Ma Qian Lane Luoshe Town, Wuxi City Jiangsu Province China	Wuxi Yinxin Printing Co Ltd Email: Evanma@Wuxiyinxin.Com	Vendor				\$1,010,717.02

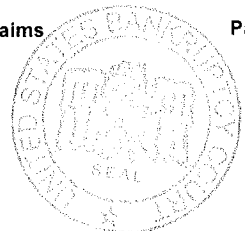


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
26 Nan Ya Plastics Corporation America P.O. Box 402634 Atlanta, GA 30384	Nan Ya Plastics Corporation America	Vendor				\$904,004.64
27 International Paper (Edi) Attn: Davis 6211 Descanso Ave Buena Park, CA 90620	International Paper (Edi) Tel: 512-0404 Email: mary.davis1@ipaper.com	Vendor				\$797,481.18
28 Domfoam Inc Attn: Sansalone 8785 Boul Langelier St Leonard, QC H1P 2C9 Canada	Domfoam Inc Tel: 325-8120 Email: Julie@Domfoam.Com	Vendor				\$760,385.44
29 Hangzhou Huaying Xintang Down Xixu Village Xintang St, Xiaosha Hangzhou, Zhejiang Province China	Hangzhou Huaying Xintang Down	Vendor				\$758,683.47
30 Oracle America Inc Attn: Oracle America Inc P.O. Box 203448 Dallas, TX 75320-3448	Oracle America Inc	Vendor				\$732,377.25
31 Kuehne & Nagel Attn: Kirlew 77 Foster Crescent Mississauga, ON L5R 0K1 Canada	Kuehne & Nagel Tel: 502-4173 Email: Paulette.Kirlew@Huehne-Nagel.Com	Vendor				\$687,576.17

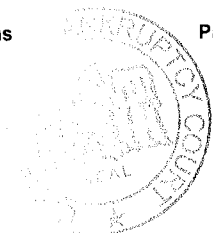


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
32 US CBP 1300 Pennsylvania Ave Nw Washington, DC 20229	US CBP Tel: 1 (877) CBP-5511	Vendor				\$666,199.63
33 Kapstone Container Corp Attn: Brest, Strategic Account Manager 2370 Sullivan Rd College Park, GA 30337	Kapstone Container Corp Tel: 935.8526 Email: mike.brest@kapstonepaper.com	Vendor				\$658,087.04
34 C H Robinson P.O. Box 9121 Minneapolis, MN 55480-9121	C H Robinson	Vendor				\$611,420.25
35 AV Logistics LLC Attn: Palencia P.O. Box 5657 Carol Stream, IL 60197-5657	AV Logistics LLC Tel: 6440936 Email: SPALENCIA@AV-LOGISTICS.COM	Vendor				\$498,586.22
36 Shi International P.O. Box 952121 Dallas, TX 75395-2121	Shi International	Vendor				\$410,744.40
37 Invista Canada P.O. Box B2918U P.O. Box 11585 Montreal, QC H3C 5N7 Canada	Invista Canada Tel: 821-5954 Email: A/R - CHRISTINE	Vendor				\$408,263.53

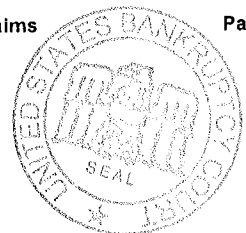


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
38 Zhejiang Saifang Textile Technology Co Ltd Attn: Tang Santou Cun Industrial Park Zhejiang Daicun Town, Hangzhou China	Zhejiang Saifang Textile Technology Co Ltd Email: jasontang@hzsaifang.com	Vendor				\$387,987.72
39 Invista S.A.R.L. 7813 Collections Ctr. Dr Chicago, IL 60693-7913	Invista S.A.R.L.	Vendor				\$336,341.12
40 Progress Container & Display Attn: Markham 635 Patrick Mill Rd Sw Winder, GA 30680	Progress Container & Display Tel: 4252071 Email: TMARKHAM@PROGRESSCONTAINER.COM	Vendor				\$297,160.19
41 Strands Textile Mills Pvt Ltd Attn: Shama Plot 3 270-271 Sector 4 Gandhidham Guja, 370230 India	Strands Textile Mills Pvt Ltd Email: MERCHANT@STRANDSTEXTILE.COM	Vendor				\$283,940.75
42 Exeter 25 Keystone LLC 101 West Elm Street Suite 600 Conshocken, PA 19428	Exeter 25 Keystone LLC	Vendor				\$276,975.59
43 Printcraft Co Inc 259 City Lake Rd Lexington, NC 27293	Printcraft Co Inc	Vendor				\$270,188.50

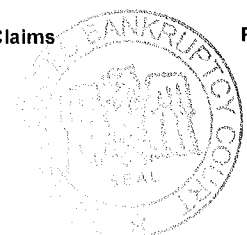


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
44 Jasztex Fiber Inc Attn: Jakubik, Ar Contact 61 Hymus Ponte-Claire, QC H9R 1E2 Canada	Jasztex Fiber Inc Tel: 697-3096 Email: NATHALIE@JASZTEX.COM	Vendor				\$260,613.71
45 Kamyk Daunen S.R.O. Kamyk Nad Vitavou Cp 179 Pribram, S 262063 Czech Republic	Kamyk Daunen S.R.O.	Vendor				\$254,578.05
46 Navarpluma S.L. Poligono Industrial Arazuri Orcoyen Arazuri, 31170 Spain	Navarpluma S.L.	Vendor				\$244,576.44
47 Majestic/Amb Pico Rivera Assoc Llc 13191 Crossroads Pkwy North City of Industry, CA 91746-3497	Majestic/Amb Pico Rivera Assoc Llc	Vendor				\$238,286.35
48 Polypack Corporation Ltd Attn: Cataldo, General Manager 7900 E Jarry St Montreal, QC H1J 1H1 Canada	Polypack Corporation Ltd Tel: 353-1710 Email: phil500cataldo@gmail.com	Vendor				\$227,485.81
49 Atlas Feather Processing Corp 64 Greenpoint Ave Brooklyn, NY 11222-1504	Atlas Feather Processing Corp	Vendor				\$204,766.17

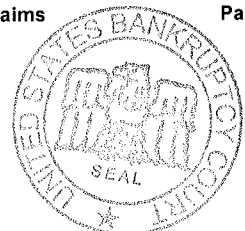


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
50 Dusobox Corporation 2501 Investors Row, Ste 500 Orlando, FL 32837	Dusobox Corporation Tel: 800-393-5120	Vendor				\$204,685.78



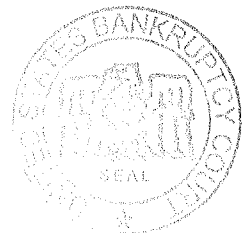
**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

)	
In re:	)	Chapter 11
)	
DREAM II HOLDINGS, LLC,	)	Case No. 19-_____()
)	
Debtor.)	
)	

LIST OF EQUITY SECURITY HOLDERS²

Debtor	Equity Holders	Address of Equity Holder	Percentage of Equity Held
Dream II Holdings, LLC	Sentinel Dream II Holdings, LLC	330 Madison Avenue, 27th Floor, New York, New York 10017	84%
Dream II Holdings, LLC	Chris Baker	901 Yamato Road, Suite 250, Boca Raton, Florida 33431	6%

² This list reflects single entity holders of five percent or more of Dream II Holdings, LLC. This list serves as the disclosure required to be made by the debtor pursuant to rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the chapter 11 case.



**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

_____)	
In re:	)	Chapter 11
)	
DREAM II HOLDINGS, LLC,	)	Case No. 19-_____()
)	
Debtor.)	
_____)	

CORPORATE OWNERSHIP STATEMENT

Pursuant to rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, the following are corporations, other than a government unit, that directly or indirectly own 10% or more of any class of the debtor's equity interest:

Shareholder	Approximate Percentage of Shares Held
Sentinel Dream II Holdings, LLC	84%



Fill in this information to identify the case and this filing:		
Debtor Name	Dream II Holdings, LLC	
United States Bankruptcy Court for the:	Southern District of New York	NY (State)
Case number (if known):		

Official Form 202**Declaration Under Penalty of Perjury for Non-Individual Debtors**

12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ *Schedule A/B: Assets-Real and Personal Property (Official Form 206A/B)*
- ☐ *Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)*
- ☐ *Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)*
- ☐ *Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)*
- ☐ *Schedule H: Codebtors (Official Form 206H)*
- ☐ *Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)*
- ☐ Amended Schedule
- ☒ *Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 50 Largest Unsecured Claims and Are Not Insiders (Official Form 204)*
- ☒ Other document that requires a declaration List of Equity Security Holders, Corporate Ownership Statement

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

05/19/2019
MM/ DD/YYYY

☒ /s/ Marc Pfefferle

Signature of individual signing on behalf of debtor

Marc Pfefferle

Printed name

Chief Executive Officer

Position or relationship to debtor



DREAM II HOLDINGS, LLC**WRITTEN CONSENT OF THE
BOARD OF DIRECTORS IN LIEU OF MEETING****MAY 18, 2019**

Effective as of the date written above, the undersigned members of the board of directors (collectively, the "Board") of Dream II Holdings, LLC (the "Company") **HEREBY CONSENT** to the taking of the following actions and **HEREBY ADOPT** the following resolutions by unanimous written consent (this "Written Consent") pursuant to the organizational documents of the Company and the laws of the state of Delaware;

WHEREAS, the Board of the Company has considered presentations by the management and the financial and legal advisors of the Company regarding the liabilities and liquidity situation of the Company, the strategic alternatives available to them, and the effect of the foregoing on the Company's business;

WHEREAS, the Company and certain of its direct and indirect subsidiaries (together, the "Restructuring Parties") have negotiated a restructuring support agreement (the "RSA"), a substantially final copy of which has been provided to the Board, with certain of the holders of their secured term loan facility and their majority equityholder, which agreement contemplates a comprehensive restructuring of the Restructuring Parties' capital structure on the terms set forth therein;

WHEREAS, Matthew R. Kahn, in his role as disinterested director (the "Disinterested Director"), has determined that entry into the RSA and the DIP Financing (as defined herein) are Conflict Matters (as defined in that certain Written Consent Regarding Disinterested Director dated May 3, 2019);

WHEREAS, in the business judgment of the Disinterested Director, on behalf of the Board, it is desirable, and in the best interests of the Company, its creditors, and other parties in interest, to enter into the RSA and DIP Financing; and

WHEREAS, the Board of the Company has consulted with the management and the financial and legal advisors of the Company and fully considered each of the strategic alternatives available to the Company and in the judgment of the Board of the Company, it is desirable and in the best interests of the Company to file for relief under the provisions of chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code").

NOW, THEREFORE, BE IT,

Restructuring Support Agreement; Chapter 11 Plan

RESOLVED, the Company is hereby authorized and directed to finalize, execute, and deliver the RSA, and the Company's performance of its obligations under the RSA,



including the negotiation and documentation of the chapter 11 plan, and all exhibits, schedules, attachments, and ancillary documents or agreements related thereto, is, in all respects, approved and authorized.

Chapter 11 Filing

RESOLVED, that the Company shall be, and hereby is, authorized and directed to file or cause to be filed a voluntary petition for relief (the "Chapter 11 Case") under the provisions of chapter 11 of title 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"); and

RESOLVED, that any officers or directors of the Company (collectively, the "Authorized Signatories"), acting alone or with one or more other Authorized Signatories be, and they hereby are, authorized, empowered, and directed to execute and file on behalf of the Company all motions, affidavits, papers, documents, or other filings, and to take any and all actions that they deem necessary or proper to obtain or in furtherance of such relief, including, without limitation, any action necessary to maintain the ordinary course operation of the Company's business.

Retention of Professionals

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the law firm of Kirkland & Ellis LLP and Kirkland & Ellis International LLP (together, "Kirkland") as general bankruptcy counsel to represent and assist the Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance the Company's rights and obligations, including filing any motions, objections, replies, applications, or pleadings; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Kirkland.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm Carl Marks Advisory Group LLC ("Carl Marks") to provide interim management services to represent and assist the Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance the Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Carl Marks.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm Houlihan Lokey Capital, Inc. ("Houlihan"), as financial advisor and investment banker to represent and assist the Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance the Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Houlihan.



RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm of Omni Management Group ("Omni") as notice and claims agent to represent and assist the Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance the Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed appropriate applications for authority to retain the services of Omni.

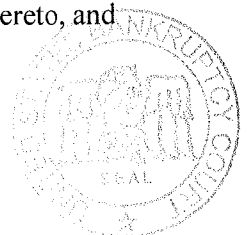
RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm of Proskauer Rose LLP ("Proskauer") as counsel to the Company to act solely at the direction of the disinterested director in accordance with the delegation of conflict matters to the disinterested director, and to take any and all actions to advance the Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed appropriate applications for authority to retain the services of Proskauer.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ any other professionals to assist the Company in carrying out its duties under the Bankruptcy Code; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers and fees, and to cause to be filed an appropriate application for authority to retain the services of any other professionals as necessary.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, with power of delegation, authorized, empowered, and directed to execute and file all petitions, schedules, motions, lists, applications, pleadings, and other papers and, in connection therewith, to employ and retain all assistance by legal counsel, accountants, financial advisors, and other professionals and to take and perform any and all further acts and deeds that each of the Authorized Signatories deem necessary, proper, or desirable in connection with the Company's Chapter 11 Case, with a view to the successful prosecution of such case.

Debtor-in-Possession Financing, Cash Collateral, and Adequate Protection

RESOLVED, that the Company will obtain benefits from (a) the use of collateral, including cash collateral, as that term is defined in section 363(a) of the Bankruptcy Code (the "Cash Collateral"), which is security for certain prepetition secured lenders (collectively, the "Secured Lenders") party to (i) that certain Term Loan Credit Agreement, dated as of June 9, 2017 (as amended from time to time), by and among Hollander Sleep Products, LLC, as borrower, and its subsidiaries as borrowers or guarantors, certain lenders party thereto, and Barings Finance, LLC, in its capacity as lender and administrative agent and (ii) that certain Third Amended and Restated Credit Agreement, dated as of June 9, 2017 (as amended from time to time), by and among Dream II Holdings, LLC, as borrower, and its subsidiaries as borrowers or guarantors, certain lenders party thereto, and



Wells Fargo Bank, National Association, in its capacity as agent and (b) the incurrence of debtor-in-possession financing obligations (the "DIP Financing").

RESOLVED, that to use and obtain the benefits of (a) the DIP Financing and (b) the Cash Collateral, and in accordance with section 363 of the Bankruptcy Code, the Company will provide certain liens, claims, and adequate protection to the Secured Lenders (the "DIP Obligations"), as documented in a proposed interim order (the "Interim DIP Order") and submitted for approval to the Bankruptcy Court.

RESOLVED, that the form, terms, and provisions of the Interim DIP Order to which the Company is or will be subject, and the actions and transactions contemplated thereby be, and hereby are, authorized, adopted, and approved, and each of the Authorized Signatories of the Company be, and hereby is, authorized and empowered, in the name of and on behalf of the Company, to take such actions and negotiate or cause to be prepared and negotiated and to execute, deliver, perform, and cause the performance of, the Interim DIP Order, and such other agreements, certificates, instruments, receipts, petitions, motions, or other papers or documents to which the Company is or will be a party, including, but not limited to, any security and pledge agreement or guaranty agreement (collectively with the Interim DIP Order, the "DIP Documents"), incur and pay or cause to be paid all fees and expenses and engage such persons, in each case, in the form or substantially in the form thereof submitted to the Board of the Company, with such changes, additions, and modifications thereto as the officers of the Company executing the same shall approve, such approval to be conclusively evidenced by such officers' execution and delivery thereof.

RESOLVED, that the Company, as debtor and debtor in possession under the Bankruptcy Code be, and hereby is, authorized to incur the DIP Obligations and certain obligations related to the DIP Financing and to undertake any and all related transactions on substantially the same terms as contemplated under the DIP Document (collectively, the "DIP Transactions"), including granting liens on its assets to secure such obligations.

RESOLVED, that the Authorized Signatories of the Company be, and they hereby are, authorized and directed, and each of them acting alone hereby is, authorized, directed, and empowered in the name of, and on behalf of, the Company, as debtor and debtor in possession, to take such actions as in their discretion are determined to be necessary, desirable, or appropriate and execute the DIP Transactions, including delivery of: (a) the DIP Documents; (b) such other instruments, certificates, notices, assignments, and documents as may be reasonably requested by the agents; and (c) such forms of deposit, account control agreements, officer's certificates, and compliance certificates as may be required by the DIP Documents.

RESOLVED, that each of the Authorized Signatories of the Company be, and hereby is, authorized, directed, and empowered in the name of, and on behalf of, the Company to file or to authorize the agents to file any Uniform Commercial Code (the "UCC") financing statements, any other equivalent filings, any intellectual property filings and recordation, and any necessary assignments for security or other documents in the name of the Company if the agents deem it necessary or appropriate to perfect any lien or security interest granted under the Interim DIP Order, including any such UCC financing statement containing a generic description of collateral, such as "all assets," "all property now or hereafter



acquired,” and other similar descriptions of like import, and to execute and deliver, and to record or authorize the recording of, such mortgages and deeds of trust in respect of real property of the Company and such other filings in respect of intellectual and other property of the Company, in each case as the agents may reasonably request to perfect the security interests of the agents under the Interim DIP Order or any of the other DIP Documents.

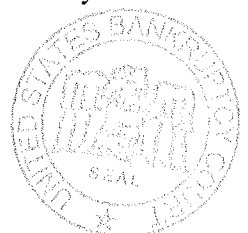
RESOLVED, that each of the Authorized Signatories of the Company be, and hereby is, authorized, directed, and empowered in the name of, and on behalf of, the Company to take all such further actions, including, without limitation, to pay or approve the payment of all fees and expenses payable in connection with the DIP Transactions and all fees and expenses incurred by or on behalf of the Company in connection with the foregoing resolutions, in accordance with the terms of the DIP Documents, which shall in their sole judgment be necessary, desirable, proper, or advisable to perform any of the Company’s obligations under or in connection with the Interim DIP Order or any of the other DIP Documents and the transactions contemplated therein and to carry out fully the intent of the foregoing resolutions.

General

RESOLVED, that, in addition to the specific authorizations heretofore conferred upon each Authorized Signatory, each Authorized Signatory (and his designees and delegates) be, and hereby is, authorized and empowered, in the name of and on behalf of the Company, to take or cause to be taken any and all such other and further actions, and to execute, acknowledge, deliver, and file any and all such agreements, certificates, instruments, and other documents with such additions, deletions, amendments, modifications, or other changes as such Authorized Signatory may approve, and to pay all expenses, including but not limited to filing fees, in each case as in such Authorized Signatory’s (or his designee’s or delegate’s) judgment, shall be necessary, advisable, or desirable in order to fully carry out the intent and accomplish the purposes of the resolutions adopted herein, such determination to be conclusively evidenced by such Authorized Signatory’s execution and delivery of any of the agreements, certificates, instruments, or other documents, or the taking of any such action.

RESOLVED, that the Board of the Company has received sufficient notice of the actions and transactions relating to the matters contemplated by the foregoing resolutions, as may be required by the organizational documents of the Company, or hereby waives any right to have received such notice.

RESOLVED, that all acts, actions, and transactions relating to the matters contemplated or implied by the foregoing resolutions done in the name of and on behalf of the Company by any director, officer, employee or agent of the Company, or any person or persons designated and authorized to act on behalf of the Company, which acts would have been approved by the foregoing resolutions except that such acts were taken before the adoption of these resolutions, are hereby in all respects approved and ratified as the true acts and deeds of the Company with the same force and effect as if each such act, transaction, agreement, or certificate had been specifically authorized and adopted in advance by resolution of the Board of the Company.



RESOLVED, that each Authorized Signatory (and his designees and delegates) be, and hereby is, authorized and empowered to take all actions, or to not take any action in the name of the Company, with respect to the transactions contemplated by these resolutions hereunder, as such Authorized Signatory shall deem necessary or desirable in such Authorized Signatory's reasonable business judgment, as may be necessary or convenient to effectuate the purposes of the transactions contemplated herein.

This Written Consent may be executed in originals or electronically in as many counterparts as may be required; all counterparts shall collectively constitute one and the same Written Consent.

* * * * *



IN WITNESS WHEREOF, the undersigned have executed this Written Consent as of the date first written above and adopt the foregoing resolutions.

DREAM II HOLDINGS, LLC



Name: Eric D. Bommer

Title: Board Member

Name: Michael J. Fabian

Title: Board Member

Name: Steve Cumbow

Title: Board Member

Name: Chris Baker

Title: Board Member

Name: Matthew Kahn

Title: Board Member




IN WITNESS WHEREOF, the undersigned have executed this Written Consent as of the date first written above and adopt the foregoing resolutions.

DREAM II HOLDINGS, LLC

Name: Eric D. Bommer

Title: Board Member



Name: Michael J. Fabian

Title: Board Member

Name: Steve Cumbow

Title: Board Member

Name: Chris Baker

Title: Board Member

Name: Matthew Kahn

Title: Board Member



IN WITNESS WHEREOF, the undersigned have executed this Written Consent as of the date first written above and adopt the foregoing resolutions.

DREAM II HOLDINGS, LLC

Name: Eric D. Bommer
Title: Board Member

Name: Michael J. Fabian
Title: Board Member


Name: Steve Cambow
Title: Board Member

Name: Chris Baker
Title: Board Member

Name: Matthew Kahn
Title: Board Member




IN WITNESS WHEREOF, the undersigned have executed this Written Consent as of the date first written above and adopt the foregoing resolutions.

DREAM II HOLDINGS, LLC

Name: Eric D. Bommer
Title: Board Member

Name: Michael J. Fabian
Title: Board Member

Name: Steve Cumbow
Title: Board Member



Name: Chris Baker
Title: Board Member

Name: Matthew Kahn
Title: Board Member



IN WITNESS WHEREOF, the undersigned have executed this Written Consent as of the date first written above and adopt the foregoing resolutions.

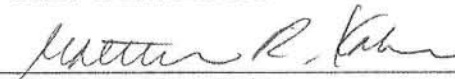
DREAM II HOLDINGS, LLC

Name: Eric D. Bommer
Title: Board Member

Name: Michael J. Fabian
Title: Board Member

Name: Steve Cumbow
Title: Board Member

Name: Chris Baker
Title: Board Member


Name: Matthew Kahn
Title: Board Member



I HEREBY ATTEST AND CERTIFY ON 5-22-19
THAT THIS DOCUMENT IS A FULL, TRUE AND CORRECT
COPY OF THE ORIGINAL FILED ON OUR COURT'S
ELECTRONIC CASE FILING SYSTEM.

CLERK, US BANKRUPTCY COURT, SDNY

BY:  DEPUTY CLERK

THIS IS EXHIBIT "D" REFERRED TO IN THE
AFFIDAVIT OF EVAN BARZ SWORN
ON MAY 23, 2019.



A Commissioner for Taking Affidavits

Patricia Leigh
LSO 603228

Fill in this information to identify the case:

United States Bankruptcy Court for the:

Southern District of New York
(State)

Case number (if known): _____

Chapter 11☐ Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy

04/19

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals*, is available.

1. Debtor's Name Hollander Home Fashions Holdings, LLC

2. All other names debtor used in the last 8 years

Include any assumed names, trade names, and *doing business as* names

3. Debtor's federal Employer Identification Number (EIN)

27-0542063

4. Debtor's address

Principal place of business

Mailing address, if different from principal place of business

901 Yamato Road

Number Street

Suite 250Boca Raton, Florida 33431

City State Zip Code

Number Street

P.O. Box

City State Zip Code

Location of principal assets, if different from principal place of business

Palm Beach County

County

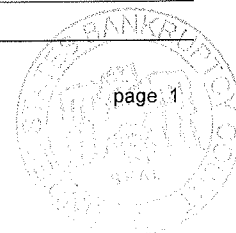
Number Street

City State Zip Code

5. Debtor's website (URL)

www.hollander.com

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))☐ Partnership (excluding LLP)☐ Other. Specify: _____

Debtor Hollander Home Fashions Holdings, LLC
Name

Case number (if known) _____

7. Describe debtor's business**A. Check One:**

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. Check all that apply:

- ☐ Tax-exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See <http://www.uscourts.gov/four-digit-national-association-naics-codes>.
4232

8. Under which chapter of the Bankruptcy Code is the debtor filing?**Check One:**

- ☐ Chapter 7
- ☐ Chapter 9
- ☒ Chapter 11. **Check all that apply:**

- ☐ Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,725,625 (amount subject to adjustment on 4/01/22 and every 3 years after that).
- ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). If the debtor is a small business debtor, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return, or if all of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
- ☒ A plan is being filed with this petition.
- ☐ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
- ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
- ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.

☐ Chapter 12**9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?**☒ No☐ Yes.

District _____

When _____

MM/DD/YYYY

Case number _____

If more than 2 cases, attach a separate list.

District _____

When _____

MM/DD/YYYY

Case number _____

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?☐ No☒ Yes.

Debtor

See Rider 1

Relationship

Affiliate

District

Southern District of New York

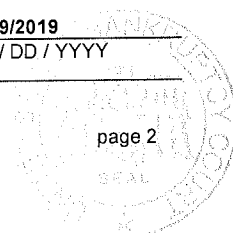
When

05/19/2019

List all cases. If more than 1, attach a separate list.

Case number, if known _____

MM / DD / YYYY



Debtor Hollander Home Fashions Holdings, LLC
Name

Case number (if known) _____

11. Why is the case filed in this district?

Check all that apply:

- ☐ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
- ☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

- ☒ No
- ☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (Check all that apply.)

- ☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.
- What is the hazard? _____
- ☐ It needs to be physically secured or protected from the weather.
- ☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).
- ☐ Other _____

Where is the property?

Number Street

City

State

Zip Code

Is the property insured?

- ☐ No
- ☐ Yes. Insurance agency _____
- Contact name _____
- Phone _____

Statistical and administrative information**13. Debtor's estimation of available funds**

Check one:

- ☒ Funds will be available for distribution to unsecured creditors.¹
- ☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors (on a consolidated basis)

- | | | |
|----------------------------------|---|--|
| <input type="checkbox"/> 1-49 | <input type="checkbox"/> 1,000-5,000 | <input type="checkbox"/> 25,001-50,000 |
| <input type="checkbox"/> 50-99 | <input type="checkbox"/> 5,001-10,000 | <input type="checkbox"/> 50,001-100,000 |
| <input type="checkbox"/> 100-199 | <input checked="" type="checkbox"/> 10,001-25,000 | <input type="checkbox"/> More than 100,000 |
| <input type="checkbox"/> 200-999 | | |

15. Estimated assets (on a consolidated basis)

- | | | |
|--|---|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input checked="" type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

1. Availability of funds to unsecured creditors is subject to ongoing discussions with the debtor's secured creditors who, as of the date hereof, have not agreed to a recovery (other than \$0) for such unsecured creditors.

Debtor Hollander Home Fashions Holdings, LLC
Name

Case number (if known) _____

16. Estimated liabilities (on a consolidated basis)

- | | | |
|--|---|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input checked="" type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

Request for Relief, Declaration, and Signatures

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I have been authorized to file this petition on behalf of the debtor.

I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 05/19/2019
MM/ DD / YYYY

X

/s/ Marc Pfefferle

Signature of authorized representative of debtor

Marc Pfefferle

Printed name

Title Chief Executive Officer**18. Signature of attorney**

X

/s/ Joshua A. Sussberg

Signature of attorney for debtor

Date 05/19/2019

MM/ DD/YYYY

Joshua A. Sussberg, P.C.

Printed name

Kirkland & Ellis, LLP

Firm name

601 Lexington Avenue

Number Street

New York

City

New York

State

10022

ZIP Code

212-446-4800

Contact phone

jsussberg@kirkland.com

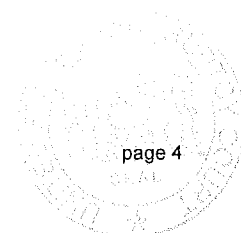
Email address

4216453

Bar number

New York

State



Fill in this information to identify the case:	
United States Bankruptcy Court for the:	
Southern District of New York	
(State)	
Case number (if known): _____	Chapter <u>11</u>

☐ Check if this is an amended filing

Rider 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the entities listed below (collectively, the "Debtors") filed a petition in the United States Bankruptcy Court for the Southern District of New York for relief under chapter 11 of title 11 of the United States Code. The Debtors have moved for joint administration of these cases under the case number assigned to the chapter 11 case of Hollander Sleep Products, LLC.

- Hollander Sleep Products, LLC
- Dream II Holdings, LLC
- Hollander Home Fashions Holdings, LLC
- Hollander Sleep Products Canada Limited
- Hollander Sleep Products Kentucky, LLC
- Pacific Coast Feather, LLC
- Pacific Coast Feather Cushion, LLC



Debtor name Hollander Sleep Products, LLC, et al.

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

Case No. (If known) _____

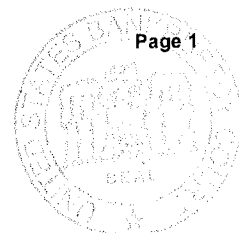
Official Form 204

Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 50 Largest Unsecured Claims and Are Not Insiders

12/15

A list of creditors holding the 50 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person who is an *insider*, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 50 largest unsecured claims.

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
1 Roind Hometex Co Ltd 3225 E Wam Springs Rd Las Vegas, NV 89120	Roind Hometex Co Ltd	Vendor				\$5,655,096.17
2 Funing Jincheng Home Textile Co Ltd Attn: Fn Group 5, Bisheng Neighborhood Committee Funing Economical Devt Zone Jiangsu, 224400 China	Funing Jincheng Home Textile Co Ltd Email: David.Qian@Fw-Textile.Com	Vendor				\$5,273,061.34
3 Invista Inc Attn: Boykin Bank of America P.O. Box, #742926 Atlanta, GA 30374-2926	Invista Inc Tel: 770-792-4192 Email: Danielle.Boykin@INVISTA.COM	Vendor				\$5,023,243.54
4 Hangzhou Chuangyuan Feather Co Ltd Attn: Fumingfang No 5 Xinda Rd Miaojia Village Hangzhou, Suoqian Town China	Hangzhou Chuangyuan Feather Co Ltd Email: fumingfang@cyfeather.cn	Vendor				\$5,001,799.50

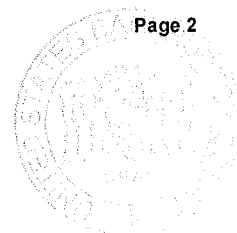


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
5 Zhejiang Hengdi Bedding Co Ltd Attn: Terry Wang No 168 Hebeilou Fulou Village Xintang St Hangzhou China	Zhejiang Hengdi Bedding Co Ltd Email: WANGHR@MAIL.LQFEATHER.COM	Vendor				\$3,882,944.67
6 Zhejiang Liuqiao Home Textile Attn: Zhu Xinfeng Village-Xingtang St Zhejiang Hangzhou, 311201 China	Zhejiang Liuqiao Home Textile Email: amy715@mail.lqfeather.com	Vendor				\$3,465,270.30
7 Wuhu Fine Textile International Trading Co Ltd Attn: Wan 321 Jingxi Rd Wanzhi Town China	Wuhu Fine Textile International Trading Co Ltd Email: Mandy@Ahfantai.Com	Vendor				\$3,419,367.45
8 Packaging Corp Of America Attn: Cerasuolo 36596 Treasury Center Chicago, IL 60694-6500	Packaging Corp Of America Tel: 514 239 3993 Email: Ceraldesign@Hotmail.Com	Vendor				\$3,341,952.45
9 Sun Fiber Sales LLC Attn: Clinton, Ar Contact Rosenthal & Rosenthal Inc P.O. Box 88926 Chicago, IL 60695-1926	Sun Fiber Sales LLC Email: STEFANIE.CLINTON@SUNFIBERLLC.COM	Vendor				\$2,694,931.13

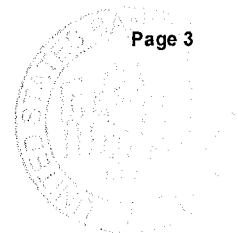


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
10 Zhejiang Wanxiang Bedding Co Ltd Attn: Xu Wulian Xintang Xiaosgan Hangzhou Zhejiang China	Zhejiang Wanxiang Bedding Co Ltd Email: MXU@WXBEDDING.COM	Vendor				\$2,492,406.52
11 Wuxi Jielong Textile Co Ltd Attn: Xie Shuang Miao Economic & Development Zone Jiangsu Wuxi, 214187 China	Wuxi Jielong Textile Co Ltd Tel: 510-88086388 Email: jerry@wuxijielong.com	Vendor				\$2,418,091.03
12 Zhejiang Liugiao Industrial Co Ltd Attn: Sheng 288 Dongkang Rd Xiaoshan District Hangzhou, Zhejiang China	Zhejiang Liugiao Industrial Co Ltd Email: Shenzf@Mail.Lqfeather.Com	Vendor				\$2,189,154.55
13 Topocean Consolidation Services Attn: Wong 99 W Hawthorne Ave, Ste 604 Valley Stream, NY 11580	Topocean Consolidation Services Tel: 7910112 Email: WILWONG@TOPOCEAN.COM	Vendor				\$1,924,219.39
14 Nap Industries Inc 667 Kent Ave Brooklyn, NY 11249	Nap Industries Inc	Vendor				\$1,882,143.39

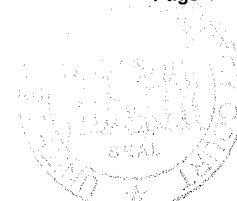


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
15 The Sea Feather Limited Company Of Luan Attn: Bian East Gaocheng Rd Economic Tech Devt Area Anhui, Luan 237161 China	The Sea Feather Limited Company Of Luan Email: tina.bian@theseafeather.com	Vendor				\$1,840,641.96
16 Hangzhou Huoju Down Products Co Ltd Attn: Wu Xintang Residential Community Xiaoshan District Hangzhou, Zhejiang China	Hangzhou Huoju Down Products Co Ltd Email: Hjjwf@Hzhjyr.Com	Vendor				\$1,719,436.11
17 Wujiang City Xinyi Textile Co Ltd Attn: Chen Daxie Village Bali Shengze (South Ring Rd 3) Jiangsu China	Wujiang City Xinyi Textile Co Ltd	Vendor				\$1,718,438.97
18 Anhui Rongdi Down Product Co Ltd Attn: Wei Fudu Industrial Park Anhui, Wuwei China	Anhui Rongdi Down Product Co Ltd Email: waf72211@sina.com	Vendor				\$1,673,141.00
19 Elite Comfort Solutions LLC Attn: Griffith Elite Comfort Solutions LLC P.O. Box 603397 Charlotte, NC 28260-3397	Elite Comfort Solutions LLC Tel: 770-683-8271 Email: pgriffith@elitefoam.com	Vendor				\$1,506,538.35

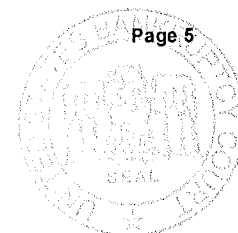


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
20 Span America Attn: Jackson 70 Commerce Center Greenville, SC 29615	Span America Tel: 678-6978 Email: Cjackson@Spanamerica.Com	Vendor				\$1,440,880.78
21 Stein Fibers Ltd Attn: Sprague, Sales P.O. Box 714522 Cincinnati, OH 45271-4522	Stein Fibers Ltd Tel: 599-2804 Email: Richard@steinfibers.com	Vendor				\$1,225,238.09
22 Cixi Jiangnan Chemical Fiber 159 Lingqiao Rd Ningbo China	Cixi Jiangnan Chemical Fiber	Vendor				\$1,217,846.96
23 Qingdao Fuyuan Arts & Crafts Co Ltd Attn: Cathy Rm 419 No 97 Fuzhou South Rd Qingdao, China	Qingdao Fuyuan Arts & Crafts Co Ltd Email: cathy@qd-fuyuan.com	Vendor				\$1,120,319.13
24 Be Be Jan Pakistan Limited Attn: Bebe Square No 7 Chak No R.B Faisalabad Pakistan	Be Be Jan Pakistan Limited Email: bebe@hollander.com	Vendor				\$1,017,821.47
25 Wuxi Yinxin Printing Co Ltd Attn: Ma Qian Lane Luoshe Town, Wuxi City Jiangsu Province China	Wuxi Yinxin Printing Co Ltd Email: Evanma@Wuxiyinxin.Com	Vendor				\$1,010,717.02

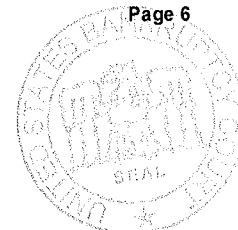


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
26 Nan Ya Plastics Corporation America P.O. Box 402634 Atlanta, GA 30384	Nan Ya Plastics Corporation America	Vendor				\$904,004.64
27 International Paper (Edi) Attn: Davis 6211 Descanso Ave Buena Park, CA 90620	International Paper (Edi) Tel: 512-0404 Email: mary.davis1@ipaper.com	Vendor				\$797,481.18
28 Domfoam Inc Attn: Sansalone 8785 Boul Langelier St Leonard, QC H1P 2C9 Canada	Domfoam Inc Tel: 325-8120 Email: Julie@Domfoam.Com	Vendor				\$760,385.44
29 Hangzhou Huaying Xintang Down Xixu Village Xintang St, Xiaosha Hangzhou, Zhejiang Province China	Hangzhou Huaying Xintang Down	Vendor				\$758,683.47
30 Oracle America Inc Attn: Oracle America Inc P.O. Box 203448 Dallas, TX 75320-3448	Oracle America Inc	Vendor				\$732,377.25
31 Kuehne & Nagel Attn: Kirlew 77 Foster Crescent Mississauga, ON L5R 0K1 Canada	Kuehne & Nagel Tel: 502-4173 Email: Paulette.Kirlew@Kuehne-Nagel.Com	Vendor				\$687,576.17

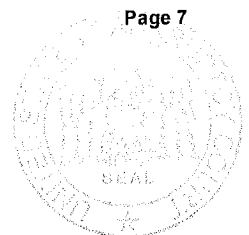


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (if known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
32 US CBP 1300 Pennsylvania Ave Nw Washington, DC 20229	US CBP Tel: 1 (877) CBP-5511	Vendor				\$666,199.63
33 Kapstone Container Corp Attn: Brest, Strategic Account Manager 2370 Sullivan Rd College Park, GA 30337	Kapstone Container Corp Tel: 935.8526 Email: mike.brest@kapstonepaper.com	Vendor				\$658,087.04
34 C H Robinson P.O. Box 9121 Minneapolis, MN 55480-9121	C H Robinson	Vendor				\$611,420.25
35 AV Logistics LLC Attn: Palencia P.O. Box 5657 Carol Stream, IL 60197-5657	AV Logistics LLC Tel: 6440936 Email: SPALENCIA@AV-LOGISTICS.COM	Vendor				\$498,586.22
36 Shi International P.O. Box 952121 Dallas, TX 75395-2121	Shi International	Vendor				\$410,744.40
37 Invista Canada P.O. Box B2918U P.O. Box 11585 Montreal, QC H3C 5N7 Canada	Invista Canada Tel: 821-5954 Email: A/R - CHRISTINE	Vendor				\$408,263.53



Debtor name Hollander Sleep Products, LLC, et al.

Case No. (if known) _____

(Continuation Sheet)

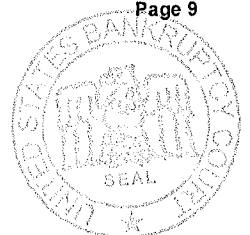
Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
38 Zhejiang Saifang Textile Technology Co Ltd Attn: Tang Santou Cun Industrial Park Zhejiang Daicun Town, Hangzhou China	Zhejiang Saifang Textile Technology Co Ltd Email: jasontang@hzsaifang.com	Vendor				\$387,987.72
39 Invista S.A.R.L. 7813 Collections Ctr. Dr Chicago, IL 60693-7913	Invista S.A.R.L.	Vendor				\$336,341.12
40 Progress Container & Display Attn: Markham 635 Patrick Mill Rd Sw Winder, GA 30680	Progress Container & Display Tel: 4252071 Email: TMARKHAM@PROGRESSCONTAINER.COM	Vendor				\$297,160.19
41 Strands Textile Mills Pvt Ltd Attn: Sharma Plot 3 270-271 Sector 4 Gandhidham Guja, 370230 India	Strands Textile Mills Pvt Ltd Email: MERCHANT@STRANDSTEXTILE.COM	Vendor				\$283,940.75
42 Exeter 25 Keystone LLC 101 West Elm Street Suite 600 Conshocken, PA 19428	Exeter 25 Keystone LLC	Vendor				\$276,975.59
43 Printcraft Co Inc 259 City Lake Rd Lexington, NC 27293	Printcraft Co Inc	Vendor				\$270,188.50

Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
44 Jasztex Fiber Inc Attn: Jakubik, Ar Contact 61 Hymus Ponte-Claire, QC H9R 1E2 Canada	Jasztex Fiber Inc Tel: 697-3096 Email: NATHALIE@JASZTEX.COM	Vendor				\$260,513.71
45 Kamyk Daunen S.R.O. Kamyk Nad Vitavou Cp 179 Přibram, S 262063 Czech Republic	Kamyk Daunen S.R.O.	Vendor				\$254,578.05
46 Navarpluma S.L. Poligono Industrial Arazuri Orcoyen Arazuri, 31170 Spain	Navarpluma S.L.	Vendor				\$244,576.44
47 Majestic/Amb Pico Rivera Assoc Llc 13191 Crossroads Pkwy North City of Industry, CA 91746-3497	Majestic/Amb Pico Rivera Assoc Llc	Vendor				\$238,286.35
48 Polypack Corporation Ltd Attn: Cataldo, General Manager 7900 E Jary St Montreal, QC H1J 1H1 Canada	Polypack Corporation Ltd Tel: 353-1710 Email: phil500cataldo@gmail.com	Vendor				\$227,485.81
49 Atlas Feather Processing Corp 64 Greenpoint Ave Brooklyn, NY 11222-1504	Atlas Feather Processing Corp	Vendor				\$204,766.17

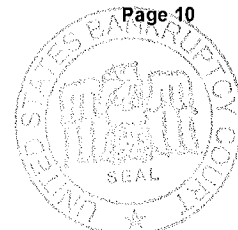


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

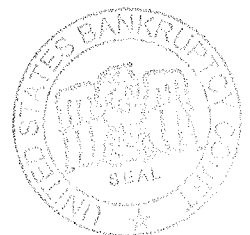
Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
50 Dusobox Corporation 2501 Investors Row, Ste 500 Orlando, FL 32837	Dusobox Corporation Tel: 800-393-5120	Vendor				\$204,685.78



In re:)
) Chapter 11
)
 HOLLANDER HOME FASHIONS HOLDINGS,) Case No. 19-_____()
 LLC,)
)
 Debtor.)
)

Debtor	Equity Holders	Address of Equity Holder	Percentage of Equity Held
Hollander Home Fashions Holdings, LLC	Dream II Holdings, LLC	330 Madison Avenue, 27th Floor, New York, New York 10017	100%

² This list serves as the disclosure required to be made by the debtor pursuant to rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the chapter 11 case.



**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:	)	Chapter 11
)	
HOLLANDER HOME FASHIONS HOLDINGS,	)	Case No. 19-_____()
LLC,)	
)	
Debtor.)	
)	

CORPORATE OWNERSHIP STATEMENT

Pursuant to rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, the following are corporations, other than a government unit, that directly or indirectly own 10% or more of any class of the debtor's equity interest:

Shareholder	Approximate Percentage of Shares Held
Sentinel Dream II Holdings, LLC	84%
Dream II Holdings, LLC	100%



Fill in this information to identify the case and this filing:		
Debtor Name	Hollander Home Fashions Holdings, LLC	
United States Bankruptcy Court for the:	Southern District of New York	NY (State)
Case number (If known):		

Official Form 202**Declaration Under Penalty of Perjury for Non-Individual Debtors**

12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ *Schedule A/B: Assets-Real and Personal Property (Official Form 206A/B)*
- ☐ *Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)*
- ☐ *Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)*
- ☐ *Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)*
- ☐ *Schedule H: Codebtors (Official Form 206H)*
- ☐ *Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)*
- ☐ Amended Schedule
- ☒ *Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 50 Largest Unsecured Claims and Are Not Insiders (Official Form 204)*
- ☒ Other document that requires a declaration List of Equity Security Holders, Corporate Ownership Statement

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

05/19/2019
MM/ DD/YYYY

☒ /s/ Marc Pfefferle

Signature of individual signing on behalf of debtor

Marc Pfefferle

Printed name

Chief Executive Officer

Position or relationship to debtor



**HOLLANDER HOME FASHIONS HOLDINGS, LLC
HOLLANDER SLEEP PRODUCTS, LLC
HOLLANDER SLEEP PRODUCTS KENTUCKY, LLC
PACIFIC COAST FEATHER, LLC
AND
PACIFIC COAST FEATHER CUSHION, LLC**

OMNIBUS WRITTEN CONSENT OF SOLE MEMBER IN LIEU OF MEETING

MAY 18, 2019

Effective as of the date written above, the undersigned, being the sole member (the "Member") of each of Hollander Home Fashions Holdings, LLC, a Delaware limited liability company, Hollander Sleep Products, LLC, a Delaware limited liability company, Hollander Sleep Products Kentucky, LLC, a Delaware limited liability company, Pacific Coast Feather, LLC, a Delaware limited liability company, and Pacific Coast Feather Cushion, LLC, a Delaware limited liability company (each a "Company," and together the "Companies"), in lieu of holding a special meeting of the Member, **HEREBY CONSENT** to the taking of the following actions and **HEREBY ADOPT** the following resolutions by written consent (this "Written Consent") pursuant to the organizational documents of the Companies and the laws of the state of Delaware;

WHEREAS, the Member has considered presentations by the management of each Company and the financial and legal advisors of the Companies regarding the liabilities and liquidity situation of each Company, the strategic alternatives available to each Company, and the effect of the foregoing on each Company's business;

WHEREAS, the Companies and certain of their affiliates (together, the "Restructuring Parties") have negotiated a restructuring support agreement (the "RSA"), a substantially final copy of which has been provided to the Member, with certain of the holders of their secured term loan facility and their majority equityholder, which agreement contemplates a comprehensive restructuring of the Restructuring Parties' capital structure on the terms set forth therein;

WHEREAS, in the business judgment of the Member, it is desirable, and in the best interests of each Company, its creditors, and other parties in interest, to enter into the RSA; and

WHEREAS, the Member has consulted with the management and the financial and legal advisors of the Companies and fully considered each of the strategic alternatives available to the Companies and, in the judgment of the Member it is desirable and in the best interest of the Companies to file for relief under the provisions of chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the "Bankruptcy Code").



NOW, THEREFORE, BE IT,**Restructuring Support Agreement; Chapter 11 Plan**

RESOLVED, the Member is hereby authorized and directed to finalize, execute, and deliver the RSA, and the Company's performance of its obligations under the RSA, including the negotiation and documentation of the chapter 11 plan, and all exhibits, schedules, attachments, and ancillary documents or agreements related thereto, is, in all respects, approved and authorized.

Chapter 11 Filing

RESOLVED, that the Company shall be, and hereby is, authorized and directed to file or cause to be filed a voluntary petition for relief (the "Chapter 11 Case") under the provisions of chapter 11 of title 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"); and

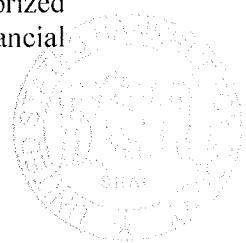
RESOLVED, that any officers or directors of each Company (collectively, the "Authorized Signatories"), acting alone or with one or more other Authorized Signatories be, and they hereby are, authorized, empowered, and directed to execute and file on behalf of each Company all motions, affidavits, papers, documents, or other filings, and to take any and all actions that they deem necessary or proper to obtain or in furtherance of such relief, including, without limitation, any action necessary to maintain the ordinary course operation of each Company's business.

Retention of Professionals

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the law firm of Kirkland & Ellis LLP and Kirkland & Ellis International LLP (together, "Kirkland") as general bankruptcy counsel to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each Company's rights and obligations, including filing any motions, objections, replies, applications, or pleadings; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Kirkland.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm Carl Marks Advisory Group LLC ("Carl Marks") to provide interim management services to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Carl Marks.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm Houlihan Lokey Capital, Inc. ("Houlihan"), as financial



advisor and investment banker to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Houlihan.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm of Omni Management Group ("Omni") as notice and claims agent to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed appropriate applications for authority to retain the services of Omni.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm of Proskauer Rose LLP ("Proskauer") as counsel to each Company to act solely at the direction of the disinterested director in accordance with the delegation of conflict matters to the disinterested director, and to take any and all actions to advance each Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed appropriate applications for authority to retain the services of Proskauer.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ any other professionals to assist each Company in carrying out its duties under the Bankruptcy Code; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers and fees, and to cause to be filed an appropriate application for authority to retain the services of any other professionals as necessary.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, with power of delegation, authorized, empowered, and directed to execute and file all petitions, schedules, motions, lists, applications, pleadings, and other papers and, in connection therewith, to employ and retain all assistance by legal counsel, accountants, financial advisors, and other professionals and to take and perform any and all further acts and deeds that each of the Authorized Signatories deem necessary, proper, or desirable in connection with each Company's Chapter 11 Case, with a view to the successful prosecution of such cases.

Debtor-in-Possession Financing, Cash Collateral, and Adequate Protection

RESOLVED, that each Company will obtain benefits from (a) the use of collateral, including cash collateral, as that term is defined in section 363(a) of the Bankruptcy Code (the "Cash Collateral"), which is security for certain prepetition secured lenders (collectively, the "Secured Lenders") party to (i) that certain Term Loan Credit Agreement,

dated as of June 9, 2017 (as amended from time to time), by and among Hollander Sleep Products, LLC, as borrower, and its subsidiaries as borrowers or guarantors, certain lenders party thereto, and Barings Finance, LLC, in its capacity as lender and administrative agent and (ii) that certain Third Amended and Restated Credit Agreement, dated as of June 9, 2017 (as amended from time to time), by and among Dream II Holdings, LLC, as borrower, and its subsidiaries as borrowers or guarantors, certain lenders party thereto, and Wells Fargo Bank, National Association, in its capacity as agent and (b) the incurrence of debtor-in-possession financing obligations (the “DIP Financing”).

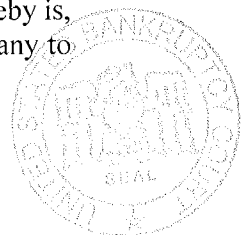
RESOLVED, that to use and obtain the benefits of (a) the DIP Financing and (b) the Cash Collateral, and in accordance with section 363 of the Bankruptcy Code, each Company will provide certain liens, claims, and adequate protection to the Secured Lenders (the “DIP Obligations”), as documented in a proposed interim order (the “Interim DIP Order”) and submitted for approval to the Bankruptcy Court.

RESOLVED, that the form, terms, and provisions of the Interim DIP Order to which each Company is or will be subject, and the actions and transactions contemplated thereby be, and hereby are, authorized, adopted, and approved, and each of the Authorized Signatories of each Company be, and hereby is, authorized and empowered, in the name of and on behalf of each Company, to take such actions and negotiate or cause to be prepared and negotiated and to execute, deliver, perform, and cause the performance of, the Interim DIP Order, and such other agreements, certificates, instruments, receipts, petitions, motions, or other papers or documents to which each Company is or will be a party, including, but not limited to, any security and pledge agreement or guaranty agreement (collectively with the Interim DIP Order, the “DIP Documents”), incur and pay or cause to be paid all fees and expenses and engage such persons, in each case, in the form or substantially in the form thereof submitted to the Member, with such changes, additions, and modifications thereto as the officers of each Company executing the same shall approve, such approval to be conclusively evidenced by such officers’ execution and delivery thereof.

RESOLVED, that each Company, as debtor and debtor in possession under the Bankruptcy Code be, and hereby is, authorized to incur the DIP Obligations and certain obligations related to the DIP Financing and to undertake any and all related transactions on substantially the same terms as contemplated under the DIP Document (collectively, the “DIP Transactions”), including granting liens on its assets to secure such obligations.

RESOLVED, that the Authorized Signatories of each Company be, and they hereby are, authorized and directed, and each of them acting alone hereby is, authorized, directed, and empowered in the name of, and on behalf of, each Company, as debtor and debtor in possession, to take such actions as in their discretion are determined to be necessary, desirable, or appropriate and execute the DIP Transactions, including delivery of: (a) the DIP Documents; (b) such other instruments, certificates, notices, assignments, and documents as may be reasonably requested by the agents; and (c) such forms of deposit, account control agreements, officer’s certificates, and compliance certificates as may be required by the DIP Documents.

RESOLVED, that each of the Authorized Signatories of each Company be, and hereby is, authorized, directed, and empowered in the name of, and on behalf of, each Company to



file or to authorize the agents to file any Uniform Commercial Code (the “UCC”) financing statements, any other equivalent filings, any intellectual property filings and recordation, and any necessary assignments for security or other documents in the name of each Company if the agents deem it necessary or appropriate to perfect any lien or security interest granted under the Interim DIP Order, including any such UCC financing statement containing a generic description of collateral, such as “all assets,” “all property now or hereafter acquired,” and other similar descriptions of like import, and to execute and deliver, and to record or authorize the recording of, such mortgages and deeds of trust in respect of real property of each Company and such other filings in respect of intellectual and other property of each Company, in each case as the agents may reasonably request to perfect the security interests of the agents under the Interim DIP Order or any of the other DIP Documents.

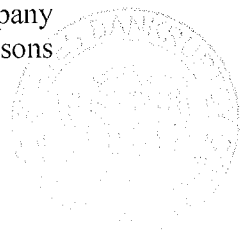
RESOLVED, that each of the Authorized Signatories of each Company be, and hereby are, authorized, directed, and empowered in the name of, and on behalf of, each Company to take all such further actions, including, without limitation, to pay or approve the payment of all fees and expenses payable in connection with the DIP Transactions and all fees and expenses incurred by or on behalf of each Company in connection with the foregoing resolutions, in accordance with the terms of the DIP Documents, which shall in their sole judgment be necessary, desirable, proper, or advisable to perform any of each Company’s obligations under or in connection with the Interim DIP Order or any of the other DIP Documents and the transactions contemplated therein and to carry out fully the intent of the foregoing resolutions.

General

RESOLVED, that, in addition to the specific authorizations heretofore conferred upon each Authorized Signatory, each Authorized Signatory (and his designees and delegates) be, and hereby is, authorized and empowered, in the name of and on behalf of each Company, to take or cause to be taken any and all such other and further actions, and to execute, acknowledge, deliver, and file any and all such agreements, certificates, instruments, and other documents with such additions, deletions, amendments, modifications or other changes as such Authorized Signatory may approve, and to pay all expenses, including but not limited to filing fees, in each case as in such Authorized Signatory’s (or his designee’s or delegate’s) judgment, shall be necessary, advisable, or desirable in order to fully carry out the intent and accomplish the purposes of the resolutions adopted herein, such determination to be conclusively evidenced by such Authorized Signatory’s execution and delivery of any of the agreements, certificates, instruments, or other documents, or the taking of any such action.

RESOLVED, that the Member has received sufficient notice of the actions and transactions relating to the matters contemplated by the foregoing resolutions, as may be required by the organizational documents of each Company, or hereby waives any right to have received such notice.

RESOLVED, that all acts, actions, and transactions relating to the matters contemplated or implied by the foregoing resolutions done in the name of and on behalf of each Company by any director, officer, employee or agent of the Company, or any person or persons



designated and authorized to act on behalf of the Company, which acts would have been approved by the foregoing resolutions except that such acts were taken before the adoption of these resolutions, are hereby in all respects approved and ratified as the true acts and deeds of each Company with the same force and effect as if each such act, transaction, agreement, or certificate had been specifically authorized and adopted in advance by resolution of the Member.

RESOLVED, that each Authorized Signatory (and his designees and delegates) be, and hereby is, authorized and empowered to take all actions, or to not take any action, in the name of each Company, with respect to the transactions contemplated by these resolutions hereunder, as such Authorized Signatory shall deem necessary or desirable in such Authorized Signatory's reasonable business judgment, as may be necessary or convenient to effectuate the purposes of the transactions contemplated herein.

This Written Consent may be executed in originals or electronically in as many counterparts as may be required; all counterparts shall collectively constitute one and the same Written Consent.

* * * * *



IN WITNESS WHEREOF, the undersigned have executed this Written Consent as of the date first written above and adopt the foregoing resolutions.

DREAM II HOLDINGS, LLC,

Sole Member of Hollander Home Fashions
Holdings, LLC



Name: Marc Pfefferle

Title: Chief Executive Officer

**HOLLANDER HOME FASHIONS
HOLDINGS, LLC,**

Sole Member of Hollander Sleep Products,
LLC

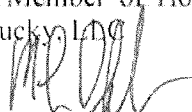


Name: Marc Pfefferle

Title: Chief Executive Officer

**HOLLANDER SLEEP
PRODUCTS, LLC,**

Sole Member of Hollander Sleep Products
Kentucky, LLC



Name: Marc Pfefferle

Title: Chief Executive Officer

**HOLLANDER SLEEP
PRODUCTS, LLC**

Sole Member of Pacific Coast Feather, LLC



Name: Marc Pfefferle

Title: Chief Executive Officer



PACIFIC COAST FEATHER, LLC

Sole Member of Pacific Coast Feather
Cushion, LLC



Name: Marc Pfefferle

Title: Chief Executive Officer

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

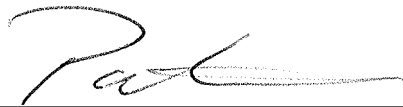


I HEREBY ATTEST AND CERTIFY ON 5-22-19
THAT THIS DOCUMENT IS A FULL, TRUE AND CORRECT
COPY OF THE ORIGINAL FILED ON OUR COURT'S
ELECTRONIC CASE FILING SYSTEM.

CLERK, US BANKRUPTCY COURT, SDNY

BY: Michael Pate DEPUTY CLERK

THIS IS EXHIBIT "E" REFERRED TO IN THE
AFFIDAVIT OF EVAN BARZ SWORN
ON MAY 23 2019.



A Commissioner for Taking Affidavits

Patrick Weigh
250 603229

Fill in this information to identify the case:

United States Bankruptcy Court for the:

Southern District of New York

(State)

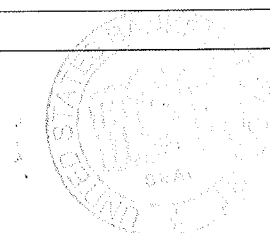
Case number (if known): _____

Chapter 11☐ Check if this is an amended filingOfficial Form 201**Voluntary Petition for Non-Individuals Filing for Bankruptcy**

04/19

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals*, is available.

1. Debtor's Name	<u>Pacific Coast Feather, LLC</u>	
2. All other names debtor used in the last 8 years	<u>Pacific Coast Feather Company</u>	
Include any assumed names, trade names, and <i>doing business as</i> names		
3. Debtor's federal Employer Identification Number (EIN)	<u>91-0891445</u>	
4. Debtor's address	Principal place of business <u>1964 Fourth Avenue South</u> Number Street <u>Seattle, Washington 98134</u> City State Zip Code <u>King County</u> County	Mailing address, if different from principal place of business Number Street P.O. Box City State Zip Code Location of principal assets, if different from principal place of business Number Street City State Zip Code
5. Debtor's website (URL)	<u>www.hollander.com</u>	
6. Type of debtor	<input checked="" type="checkbox"/> Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP)) <input type="checkbox"/> Partnership (excluding LLP) <input type="checkbox"/> Other. Specify: _____	



Debtor Pacific Coast Feather, LLC

Case number (if known) _____

Name

7. Describe debtor's business**A. Check One:**

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. Check all that apply:

- ☐ Tax-exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See <http://www.uscourts.gov/four-digit-national-association-naics-codes>.
4232

8. Under which chapter of the Bankruptcy Code is the debtor filing?**Check One:**

- ☐ Chapter 7
- ☐ Chapter 9

☒ Chapter 11. **Check all that apply:**

- ☐ Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,725,625 (amount subject to adjustment on 4/01/22 and every 3 years after that).
- ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). If the debtor is a small business debtor, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return, or if all of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
- ☒ A plan is being filed with this petition.
- ☐ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
- ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
- ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.

☐ Chapter 12**9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?**☒ No☐ Yes.

District _____

When _____

Case number _____

MM/DD/YYYY

If more than 2 cases, attach a separate list.

District _____

When _____

Case number _____

MM/DD/YYYY

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?☐ No☒ Yes.

Debtor

See Rider 1

Relationship

Affiliate

District

Southern District of New York

When

05/19/2019

List all cases. If more than 1, attach a separate list.

Case number, if known _____

MM / DD / YYYY

Debtor Pacific Coast Feather, LLC
Name

Case number (if known) _____

11. Why is the case filed in this district?

Check all that apply:

- ☐ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
- ☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

- ☒ No
- ☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (Check all that apply.)

- ☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.
- What is the hazard? _____
- ☐ It needs to be physically secured or protected from the weather.
- ☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).
- ☐ Other _____

Where is the property?

Number Street

City

State

Zip Code

Is the property insured?

- ☐ No
- ☐ Yes. Insurance agency _____

Contact name _____

Phone _____

Statistical and administrative information**13. Debtor's estimation of available funds**

Check one:

- ☒ Funds will be available for distribution to unsecured creditors.¹
- ☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors (on a consolidated basis)

- | | | |
|----------------------------------|---|--|
| <input type="checkbox"/> 1-49 | <input type="checkbox"/> 1,000-5,000 | <input type="checkbox"/> 25,001-50,000 |
| <input type="checkbox"/> 50-99 | <input type="checkbox"/> 5,001-10,000 | <input type="checkbox"/> 50,001-100,000 |
| <input type="checkbox"/> 100-199 | <input checked="" type="checkbox"/> 10,001-25,000 | <input type="checkbox"/> More than 100,000 |
| <input type="checkbox"/> 200-999 | | |

15. Estimated assets (on a consolidated basis)

- | | | |
|--|---|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input checked="" type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

1. Availability of funds to unsecured creditors is subject to ongoing discussions with the debtor's secured creditors who, as of the date hereof, have not agreed to a recovery (other than \$0) for such unsecured creditors.

Debtor Pacific Coast Feather, LLC
Name

Case number (if known) _____

16. Estimated liabilities (on a consolidated basis)
- | | | |
|--|---|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input checked="" type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

Request for Relief, Declaration, and Signatures

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I have been authorized to file this petition on behalf of the debtor.

I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 05/19/2019
MM/DD/YYYY

X/s/ Marc Pfeffeler

Signature of authorized representative of debtor

Marc Pfeffeler

Printed name

Title Chief Executive Officer**18. Signature of attorney****X**/s/ Joshua A. Sussberg

Signature of attorney for debtor

Date 05/19/2019

MM/DD/YYYY

Joshua A. Sussberg, P.C.

Printed name

Kirkland & Ellis, LLP

Firm name

601 Lexington Avenue

Number Street

New York

City

New York

State

10022

ZIP Code

212-446-4800

Contact phone

jsussberg@kirkland.com

Email address

4216453

Bar number

New York

State

Fill in this information to identify the case:	
United States Bankruptcy Court for the:	
Southern District of New York	
(State)	
Case number (if known): _____	Chapter <u>11</u>

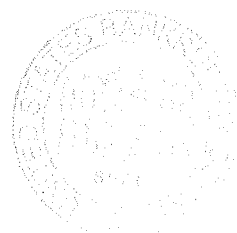
☐ Check if this is an amended filing

Rider 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the entities listed below (collectively, the "Debtors") filed a petition in the United States Bankruptcy Court for the Southern District of New York for relief under chapter 11 of title 11 of the United States Code. The Debtors have moved for joint administration of these cases under the case number assigned to the chapter 11 case of Hollander Sleep Products, LLC.

- Hollander Sleep Products, LLC
- Dream II Holdings, LLC
- Hollander Home Fashions Holdings, LLC
- Hollander Sleep Products Canada Limited
- Hollander Sleep Products Kentucky, LLC
- Pacific Coast Feather, LLC
- Pacific Coast Feather Cushion, LLC



Debtor name Hollander Sleep Products, LLC, et al.

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

Case No. (If known) _____

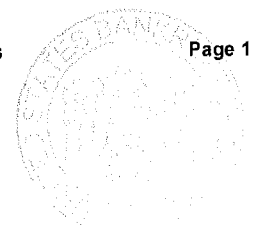
Official Form 204

Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 50 Largest Unsecured Claims and Are Not Insiders

12/15

A list of creditors holding the 50 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person who is an *insider*, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 50 largest unsecured claims.

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
1 Roind Hometex Co Ltd 3225 E Warm Springs Rd Las Vegas, NV 89120	Roind Hometex Co Ltd	Vendor				\$5,655,096.17
2 Funing Jincheng Home Textile Co Ltd Attn: Fn Group 5, Bisheng Neighborhood Committee Funing Economical Devt Zone Jiangsu, 224400 China	Funing Jincheng Home Textile Co Ltd Email: David.Qian@Fw-Textile.Com	Vendor				\$5,273,061.34
3 Invista Inc Attn: Boykin Bank of America P.O. Box, #742926 Atlanta, GA 30374-2926	Invista Inc Tel: 770-792-4192 Email: Danielle.Boykin@INVISTA.COM	Vendor				\$5,023,243.54
4 Hangzhou Chuangyuan Feather Co Ltd Attn: Fumingfang No 5 Xinda Rd Miaojia Village Hangzhou, Suoqian Town China	Hangzhou Chuangyuan Feather Co Ltd Email: fumingfang@cyfeather.cn	Vendor				\$5,001,799.50



Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

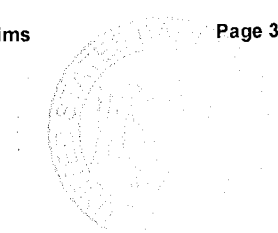
Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
5 Zhejiang Hengdi Bedding Co Ltd Attn: Terry Wang No 168 Hebeilou Fulo u Village Xintang St Hangzhou China	Zhejiang Hengdi Bedding Co Ltd Email: WANGHR@MAIL.LQFEATHER.COM	Vendor				\$3,882,944.67
6 Zhejiang Liugiao Home Textile Attn: Zhu Xinfeng Village-Xintang St Zhejiang Hangzhou, 311201 China	Zhejiang Liugiao Home Textile Email: amy715@mail.lqfeather.com	Vendor				\$3,465,270.30
7 Wuhu Fine Textile International Trading Co Ltd Attn: Wan 321 Jingxi Rd Wanzhi Town China	Wuhu Fine Textile International Trading Co Ltd Email: Mandy@Ahfantai.Com	Vendor				\$3,419,367.45
8 Packaging Corp Of America Attn: Cerasuolo 36596 Treasury Center Chicago, IL 60694-6500	Packaging Corp Of America Tel: 514 239 3993 Email: Ceraldesign@Hotmail.Com	Vendor				\$3,341,952.45
9 Sun Fiber Sales LLC Attn: Clinton, Ar Contact Rosenthal & Rosenthal Inc P.O. Box 88926 Chicago, IL 60695-1926	Sun Fiber Sales LLC Email: STEFANIE.CLINTON@SUNFIBERLLC.COM	Vendor				\$2,694,931.13

Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
10 Zhejiang Wanxiang Bedding Co Ltd Attn: Xu Wulian Xintang Xiaosgan Hangzhou Zhejiang China	Zhejiang Wanxiang Bedding Co Ltd Email: MXU@WXBEDDING.COM	Vendor				\$2,492,406.52
11 Wuxi Jielong Textile Co Ltd Attn: Xie Shuang Miao Economic & Development Zone Jiangsu Wuxi, 214187 China	Wuxi Jielong Textile Co Ltd Tel: 510-88086388 Email: jerry@wuxijielong.com	Vendor				\$2,418,091.03
12 Zhejiang Liucqiao Industrial Co Ltd Attn: Sheng 288 Dongkang Rd Xiaoshan District Hangzhou, Zhejiang China	Zhejiang Liucqiao Industrial Co Ltd Email: Shenzf@Mail.Lqfeather.Com	Vendor				\$2,189,154.55
13 Topocean Consolidation Services Attn: Wong 99 W Hawthorne Ave, Ste 604 Valley Stream, NY 11580	Topocean Consolidation Services Tel: 7910112 Email: WILWONG@TOPOCEAN.COM	Vendor				\$1,924,219.39
14 Nap Industries Inc 667 Kent Ave Brooklyn, NY 11249	Nap Industries Inc	Vendor				\$1,882,143.39



Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

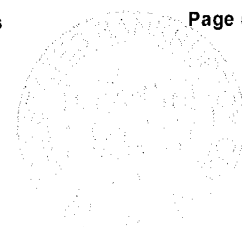
Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
15 The Sea Feather Limited Company Of Luan Attn: Bian East Gaocheng Rd Economic Tech Devt Area Anhui, Luan 237161 China	The Sea Feather Limited Company Of Luan Email: tina.bian@theseafeather.com	Vendor				\$1,840,841.96
16 Hangzhou Huoju Down Products Co Ltd Attn: Wu Xintang Residential Community Xiaoshan District Hangzhou, Zhejiang China	Hangzhou Huoju Down Products Co Ltd Email: Hwjf@Hzhjyr.Com	Vendor				\$1,719,438.11
17 Wujiang City Xinyi Textile Co Ltd Attn: Chen Daxie Village Bali Shengze (South Ring Rd 3) Jiangsu China	Wujiang City Xinyi Textile Co Ltd	Vendor				\$1,718,438.97
18 Anhui Rongdi Down Product Co Ltd Attn: Wei Fudu Industrial Park Anhui, Wuwei China	Anhui Rongdi Down Product Co Ltd Email: waf72211@sina.com	Vendor				\$1,673,141.00
19 Elite Comfort Solutions LLC Attn: Griffith Elite Comfort Solutions LLC P.O. Box 603397 Charlotte, NC 28260-3397	Elite Comfort Solutions LLC Tel: 770-683-8271 Email: pgriffith@elitefoam.com	Vendor				\$1,606,538.35

Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
20 Span America Attn: Jackson 70 Commerce Center Greenville, SC 29615	Span America Tel: 678-6978 Email: Cjackson@Spanamerica.Com	Vendor				\$1,440,880.78
21 Stein Fibers Ltd Attn: Sprague, Sales P.O. Box 714522 Cincinnati, OH 45271-4522	Stein Fibers Ltd Tel: 599-2804 Email: Richard@steinfibers.com	Vendor				\$1,225,238.09
22 Cixi Jiangnan Chemical Fiber 159 Lingqiao Rd Ningbo China	Cixi Jiangnan Chemical Fiber	Vendor				\$1,217,846.96
23 Qingdao Fuyuan Arts & Crafts Co Ltd Attn: Cathy Rm 419 No 97 Fuzhou South Rd Qingdao, China	Qingdao Fuyuan Arts & Crafts Co Ltd Email: cathy@qd-fuyuan.com	Vendor				\$1,120,319.13
24 Be Be Jan Pakistan Limited Attn: Bebe Square No 7 Chak No R.B Faisalabad Pakistan	Be Be Jan Pakistan Limited Email: bebe@hollander.com	Vendor				\$1,017,821.47
25 Wuxi Yinxin Printing Co Ltd Attn: Ma Qian Lane Luoshe Town, Wuxi City Jiangsu Province China	Wuxi Yinxin Printing Co Ltd Email: Evanma@Wuxiyinxin.Com	Vendor				\$1,010,717.02

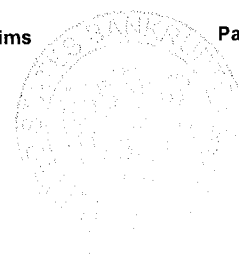


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
26 Nan Ya Plastics Corporation America P.O. Box 402634 Atlanta, GA 30384	Nan Ya Plastics Corporation America	Vendor				\$904,004.64
27 International Paper (Edi) Attn: Davis 6211 Descanso Ave Buena Park, CA 90620	International Paper (Edi) Tel: 512-0404 Email: mary.davis1@ipaper.com	Vendor				\$797,481.18
28 Domfoam Inc Attn: Sansalone 8785 Boul Langelier St Leonard, QC H1P 2C9 Canada	Domfoam Inc Tel: 325-8120 Email: Julie@Domfoam.Com	Vendor				\$760,385.44
29 Hangzhou Huaying Xintang Down Xixu Village Xintang St, Xiaosha Hangzhou, Zhejiang Province China	Hangzhou Huaying Xintang Down	Vendor				\$758,683.47
30 Oracle America Inc Attn: Oracle America Inc P.O. Box 203448 Dallas, TX 75320-3448	Oracle America Inc	Vendor				\$732,377.25
31 Kuehne & Nagel Attn: Kirlaw 77 Foster Crescent Mississauga, ON L5R 0K1 Canada	Kuehne & Nagel Tel: 502-4173 Email: Paulette.Kirlaw@Kuehne-Nagel.Com	Vendor				\$687,576.17

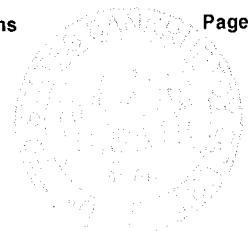


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
32 US CBP 1300 Pennsylvania Ave Nw Washington, DC 20229	US CBP Tel: 1 (877) CBP-5511	Vendor				\$666,199.63
33 Kapstone Container Corp Attn: Brest, Strategic Account Manager 2370 Sullivan Rd College Park, GA 30337	Kapstone Container Corp Tel: 935.8526 Email: mike.brest@kapstonepaper.com	Vendor				\$658,087.04
34 C H Robinson P.O. Box 9121 Minneapolis, MN 55480-9121	C H Robinson	Vendor				\$611,420.25
35 AV Logistics LLC Attn: Palencia P.O. Box 5657 Carol Stream, IL 60197-5657	AV Logistics LLC Tel: 6440936 Email: SPALENCIA@AV-LOGISTICS.COM	Vendor				\$498,586.22
36 Shi International P.O. Box 952121 Dallas, TX 75395-2121	Shi International	Vendor				\$410,744.40
37 Invista Canada P.O. Box B2918U P.O. Box 11585 Montreal, QC H3C 5N7 Canada	Invista Canada Tel: 821-5954 Email: A/R - CHRISTINE	Vendor				\$408,263.53



Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
38 Zhejiang Saifang Textile Technology Co Ltd Attn: Tang Santou Cun Industrial Park Zhejiang Daicun Town, Hangzhou China	Zhejiang Saifang Textile Technology Co Ltd Email: jasontang@hzsaifang.com	Vendor				\$387,987.72
39 Invista S.A.R.L. 7813 Collections Ctr. Dr Chicago, IL 60693-7913	Invista S.A.R.L.	Vendor				\$336,341.12
40 Progress Container & Display Attn: Markham 635 Patrick Mill Rd Sw Winder, GA 30680	Progress Container & Display Tel: 4252071 Email: TMARKHAM@PROGRESSCONTAINER.COM	Vendor				\$297,160.19
41 Strands Textile Mills Pvt Ltd Attn: Sharma Plot 3 270-271 Sector 4 Gandhidham Guja, 370230 India	Strands Textile Mills Pvt Ltd Email: MERCHANT@STRANDSTEXTILE.COM	Vendor				\$283,940.75
42 Exeter 25 Keystone LLC 101 West Elm Street Suite 600 Conshocken, PA 19428	Exeter 25 Keystone LLC	Vendor				\$276,975.59
43 Printcraft Co Inc 259 City Lake Rd Lexington, NC 27293	Printcraft Co Inc	Vendor				\$270,188.50

Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
44 Jasztex Fiber Inc Attn: Jakubik, Ar Contact 61 Hymus Ponte-Claire, QC H9R 1E2 Canada	Jasztex Fiber Inc Tel: 697-3096 Email: NATHALIE@JASZTEX.COM	Vendor				\$260,513.71
45 Kamyk Daunen S.R.O. Kamyk Nad Vitavou Cp 179 Pribram, S 262063 Czech Republic	Kamyk Daunen S.R.O.	Vendor				\$254,578.05
46 Navarpluma S.L. Poligono Industrial Arazuri Orcoyen Arazuri, 31170 Spain	Navarpluma S.L.	Vendor				\$244,576.44
47 Majestic/Amb Pico Rivera Assoc Llc 13191 Crossroads Pkwy North City of Industry, CA 91746-3497	Majestic/Amb Pico Rivera Assoc Llc	Vendor				\$238,286.35
48 Polypack Corporation Ltd Attn: Cataldo, General Manager 7900 E Jary St Montreal, QC H1J 1H1 Canada	Polypack Corporation Ltd Tel: 353-1710 Email: phil500cataldo@gmail.com	Vendor				\$227,485.81
49 Atlas Feather Processing Corp 64 Greenpoint Ave Brooklyn, NY 11222-1504	Atlas Feather Processing Corp	Vendor				\$204,766.17

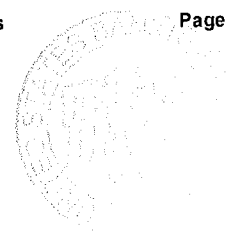


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
50 Dusobox Corporation 2501 Investors Row, Ste 500 Orlando, FL 32837	Dusobox Corporation Tel: 800-393-5120	Vendor				\$204,685.78



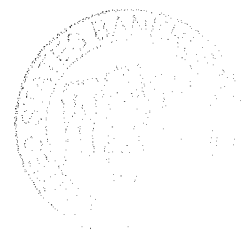
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	)	Chapter 11
PACIFIC COAST FEATHER, LLC,	)	Case No. 19-_____()
Debtor.)	

LIST OF EQUITY SECURITY HOLDERS²

Debtor	Equity Holders	Address of Equity Holder	Percentage of Equity Held
Pacific Coast Feather, LLC	Hollander Sleep Products, LLC	901 Yamato Road, Suite 250, Boca Raton, Florida 33431	100%

² This list serves as the disclosure required to be made by the debtor pursuant to rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the chapter 11 case.



In re:

PACIFIC COAST FEATHER, LLC,

Debtor.

Chapter 11

Case No. 19-_____ (____)

Pursuant to rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, the following are corporations, other than a government unit, that directly or indirectly own 10% or more of any class of the debtor's equity interest:

Shareholder	Approximate Percentage of Shares Held
Hollander Sleep Products, LLC	100%
Hollander Home Fashions Holdings, LLC	100%
Dream II Holdings, LLC	100%
Sentinel Dream II Holdings, LLC	84%

Fill in this information to identify the case and this filing:		
Debtor Name	Pacific Coast Feather, LLC	
United States Bankruptcy Court for the:	Southern District of New York	NY (State)
Case number (If known):		

Official Form 202**Declaration Under Penalty of Perjury for Non-Individual Debtors**

12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ *Schedule A/B: Assets-Real and Personal Property (Official Form 206A/B)*
- ☐ *Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)*
- ☐ *Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)*
- ☐ *Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)*
- ☐ *Schedule H: Codebtors (Official Form 206H)*
- ☐ *Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)*
- ☐ Amended Schedule
- ☒ *Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 50 Largest Unsecured Claims and Are Not Insiders (Official Form 204)*
- ☒ Other document that requires a declaration List of Equity Security Holders, Corporate Ownership Statement

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

05/19/2019
MM/ DD/YYYY

☒ /s/ Marc Pfefferle

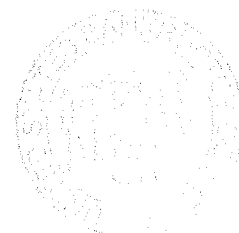
Signature of individual signing on behalf of debtor

Marc Pfefferle

Printed name

Chief Executive Officer

Position or relationship to debtor



**HOLLANDER HOME FASHIONS HOLDINGS, LLC
HOLLANDER SLEEP PRODUCTS, LLC
HOLLANDER SLEEP PRODUCTS KENTUCKY, LLC
PACIFIC COAST FEATHER, LLC
AND
PACIFIC COAST FEATHER CUSHION, LLC**

OMNIBUS WRITTEN CONSENT OF SOLE MEMBER IN LIEU OF MEETING

MAY 18, 2019

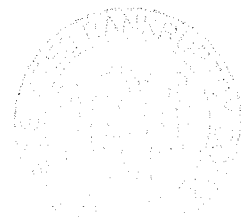
Effective as of the date written above, the undersigned, being the sole member (the "Member") of each of Hollander Home Fashions Holdings, LLC, a Delaware limited liability company, Hollander Sleep Products, LLC, a Delaware limited liability company, Hollander Sleep Products Kentucky, LLC, a Delaware limited liability company, Pacific Coast Feather, LLC, a Delaware limited liability company, and Pacific Coast Feather Cushion, LLC, a Delaware limited liability company (each a "Company," and together the "Companies"), in lieu of holding a special meeting of the Member, **HEREBY CONSENT** to the taking of the following actions and **HEREBY ADOPT** the following resolutions by written consent (this "Written Consent") pursuant to the organizational documents of the Companies and the laws of the state of Delaware;

WHEREAS, the Member has considered presentations by the management of each Company and the financial and legal advisors of the Companies regarding the liabilities and liquidity situation of each Company, the strategic alternatives available to each Company, and the effect of the foregoing on each Company's business;

WHEREAS, the Companies and certain of their affiliates (together, the "Restructuring Parties") have negotiated a restructuring support agreement (the "RSA"), a substantially final copy of which has been provided to the Member, with certain of the holders of their secured term loan facility and their majority equityholder, which agreement contemplates a comprehensive restructuring of the Restructuring Parties' capital structure on the terms set forth therein;

WHEREAS, in the business judgment of the Member, it is desirable, and in the best interests of each Company, its creditors, and other parties in interest, to enter into the RSA; and

WHEREAS, the Member has consulted with the management and the financial and legal advisors of the Companies and fully considered each of the strategic alternatives available to the Companies and, in the judgment of the Member it is desirable and in the best interest of the Companies to file for relief under the provisions of chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code").



NOW, THEREFORE, BE IT,**Restructuring Support Agreement; Chapter 11 Plan**

RESOLVED, the Member is hereby authorized and directed to finalize, execute, and deliver the RSA, and the Company's performance of its obligations under the RSA, including the negotiation and documentation of the chapter 11 plan, and all exhibits, schedules, attachments, and ancillary documents or agreements related thereto, is, in all respects, approved and authorized.

Chapter 11 Filing

RESOLVED, that the Company shall be, and hereby is, authorized and directed to file or cause to be filed a voluntary petition for relief (the "Chapter 11 Case") under the provisions of chapter 11 of title 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"); and

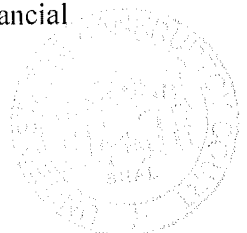
RESOLVED, that any officers or directors of each Company (collectively, the "Authorized Signatories"), acting alone or with one or more other Authorized Signatories be, and they hereby are, authorized, empowered, and directed to execute and file on behalf of each Company all motions, affidavits, papers, documents, or other filings, and to take any and all actions that they deem necessary or proper to obtain or in furtherance of such relief, including, without limitation, any action necessary to maintain the ordinary course operation of each Company's business.

Retention of Professionals

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the law firm of Kirkland & Ellis LLP and Kirkland & Ellis International LLP (together, "Kirkland") as general bankruptcy counsel to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each Company's rights and obligations, including filing any motions, objections, replies, applications, or pleadings; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Kirkland.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm Carl Marks Advisory Group LLC ("Carl Marks") to provide interim management services to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Carl Marks.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm Houlihan Lokey Capital, Inc. ("Houlihan"), as financial



advisor and investment banker to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Houlihan.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm of Omni Management Group ("Omni") as notice and claims agent to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed appropriate applications for authority to retain the services of Omni.

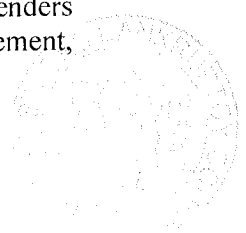
RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm of Proskauer Rose LLP ("Proskauer") as counsel to each Company to act solely at the direction of the disinterested director in accordance with the delegation of conflict matters to the disinterested director, and to take any and all actions to advance each Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed appropriate applications for authority to retain the services of Proskauer.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ any other professionals to assist each Company in carrying out its duties under the Bankruptcy Code; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers and fees, and to cause to be filed an appropriate application for authority to retain the services of any other professionals as necessary.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, with power of delegation, authorized, empowered, and directed to execute and file all petitions, schedules, motions, lists, applications, pleadings, and other papers and, in connection therewith, to employ and retain all assistance by legal counsel, accountants, financial advisors, and other professionals and to take and perform any and all further acts and deeds that each of the Authorized Signatories deem necessary, proper, or desirable in connection with each Company's Chapter 11 Case, with a view to the successful prosecution of such cases.

Debtor-in-Possession Financing, Cash Collateral, and Adequate Protection

RESOLVED, that each Company will obtain benefits from (a) the use of collateral, including cash collateral, as that term is defined in section 363(a) of the Bankruptcy Code (the "Cash Collateral"), which is security for certain prepetition secured lenders (collectively, the "Secured Lenders") party to (i) that certain Term Loan Credit Agreement,



dated as of June 9, 2017 (as amended from time to time), by and among Hollander Sleep Products, LLC, as borrower, and its subsidiaries as borrowers or guarantors, certain lenders party thereto, and Barings Finance, LLC, in its capacity as lender and administrative agent and (ii) that certain Third Amended and Restated Credit Agreement, dated as of June 9, 2017 (as amended from time to time), by and among Dream II Holdings, LLC, as borrower, and its subsidiaries as borrowers or guarantors, certain lenders party thereto, and Wells Fargo Bank, National Association, in its capacity as agent and (b) the incurrence of debtor-in-possession financing obligations (the “DIP Financing”).

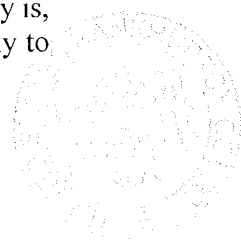
RESOLVED, that to use and obtain the benefits of (a) the DIP Financing and (b) the Cash Collateral, and in accordance with section 363 of the Bankruptcy Code, each Company will provide certain liens, claims, and adequate protection to the Secured Lenders (the “DIP Obligations”), as documented in a proposed interim order (the “Interim DIP Order”) and submitted for approval to the Bankruptcy Court.

RESOLVED, that the form, terms, and provisions of the Interim DIP Order to which each Company is or will be subject, and the actions and transactions contemplated thereby be, and hereby are, authorized, adopted, and approved, and each of the Authorized Signatories of each Company be, and hereby is, authorized and empowered, in the name of and on behalf of each Company, to take such actions and negotiate or cause to be prepared and negotiated and to execute, deliver, perform, and cause the performance of, the Interim DIP Order, and such other agreements, certificates, instruments, receipts, petitions, motions, or other papers or documents to which each Company is or will be a party, including, but not limited to, any security and pledge agreement or guaranty agreement (collectively with the Interim DIP Order, the “DIP Documents”), incur and pay or cause to be paid all fees and expenses and engage such persons, in each case, in the form or substantially in the form thereof submitted to the Member, with such changes, additions, and modifications thereto as the officers of each Company executing the same shall approve, such approval to be conclusively evidenced by such officers’ execution and delivery thereof.

RESOLVED, that each Company, as debtor and debtor in possession under the Bankruptcy Code be, and hereby is, authorized to incur the DIP Obligations and certain obligations related to the DIP Financing and to undertake any and all related transactions on substantially the same terms as contemplated under the DIP Document (collectively, the “DIP Transactions”), including granting liens on its assets to secure such obligations.

RESOLVED, that the Authorized Signatories of each Company be, and they hereby are, authorized and directed, and each of them acting alone hereby is, authorized, directed, and empowered in the name of, and on behalf of, each Company, as debtor and debtor in possession, to take such actions as in their discretion are determined to be necessary, desirable, or appropriate and execute the DIP Transactions, including delivery of: (a) the DIP Documents; (b) such other instruments, certificates, notices, assignments, and documents as may be reasonably requested by the agents; and (c) such forms of deposit, account control agreements, officer’s certificates, and compliance certificates as may be required by the DIP Documents.

RESOLVED, that each of the Authorized Signatories of each Company be, and hereby is, authorized, directed, and empowered in the name of, and on behalf of, each Company to



file or to authorize the agents to file any Uniform Commercial Code (the “UCC”) financing statements, any other equivalent filings, any intellectual property filings and recordation, and any necessary assignments for security or other documents in the name of each Company if the agents deem it necessary or appropriate to perfect any lien or security interest granted under the Interim DIP Order, including any such UCC financing statement containing a generic description of collateral, such as “all assets,” “all property now or hereafter acquired,” and other similar descriptions of like import, and to execute and deliver, and to record or authorize the recording of, such mortgages and deeds of trust in respect of real property of each Company and such other filings in respect of intellectual and other property of each Company, in each case as the agents may reasonably request to perfect the security interests of the agents under the Interim DIP Order or any of the other DIP Documents.

RESOLVED, that each of the Authorized Signatories of each Company be, and hereby are, authorized, directed, and empowered in the name of, and on behalf of, each Company to take all such further actions, including, without limitation, to pay or approve the payment of all fees and expenses payable in connection with the DIP Transactions and all fees and expenses incurred by or on behalf of each Company in connection with the foregoing resolutions, in accordance with the terms of the DIP Documents, which shall in their sole judgment be necessary, desirable, proper, or advisable to perform any of each Company’s obligations under or in connection with the Interim DIP Order or any of the other DIP Documents and the transactions contemplated therein and to carry out fully the intent of the foregoing resolutions.

General

RESOLVED, that, in addition to the specific authorizations heretofore conferred upon each Authorized Signatory, each Authorized Signatory (and his designees and delegates) be, and hereby is, authorized and empowered, in the name of and on behalf of each Company, to take or cause to be taken any and all such other and further actions, and to execute, acknowledge, deliver, and file any and all such agreements, certificates, instruments, and other documents with such additions, deletions, amendments, modifications or other changes as such Authorized Signatory may approve, and to pay all expenses, including but not limited to filing fees, in each case as in such Authorized Signatory’s (or his designee’s or delegate’s) judgment, shall be necessary, advisable, or desirable in order to fully carry out the intent and accomplish the purposes of the resolutions adopted herein, such determination to be conclusively evidenced by such Authorized Signatory’s execution and delivery of any of the agreements, certificates, instruments, or other documents, or the taking of any such action.

RESOLVED, that the Member has received sufficient notice of the actions and transactions relating to the matters contemplated by the foregoing resolutions, as may be required by the organizational documents of each Company, or hereby waives any right to have received such notice.

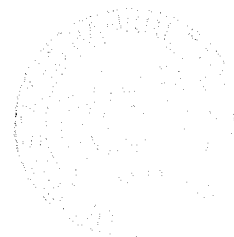
RESOLVED, that all acts, actions, and transactions relating to the matters contemplated or implied by the foregoing resolutions done in the name of and on behalf of each Company by any director, officer, employee or agent of the Company, or any person or persons

designated and authorized to act on behalf of the Company, which acts would have been approved by the foregoing resolutions except that such acts were taken before the adoption of these resolutions, are hereby in all respects approved and ratified as the true acts and deeds of each Company with the same force and effect as if each such act, transaction, agreement, or certificate had been specifically authorized and adopted in advance by resolution of the Member.

RESOLVED, that each Authorized Signatory (and his designees and delegates) be, and hereby is, authorized and empowered to take all actions, or to not take any action, in the name of each Company, with respect to the transactions contemplated by these resolutions hereunder, as such Authorized Signatory shall deem necessary or desirable in such Authorized Signatory's reasonable business judgment, as may be necessary or convenient to effectuate the purposes of the transactions contemplated herein.

This Written Consent may be executed in originals or electronically in as many counterparts as may be required; all counterparts shall collectively constitute one and the same Written Consent.

* * * * *



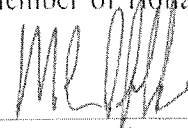
IN WITNESS WHEREOF, the undersigned have executed this Written Consent as of the date first written above and adopt the foregoing resolutions.

DREAM II HOLDINGS, LLC,
Sole Member of Hollander Home Fashions
Holdings, LLC



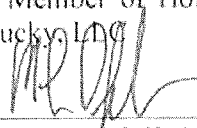
Name: Marc Pfefferle
Title: Chief Executive Officer

**HOLLANDER HOME FASHIONS
HOLDINGS, LLC,**
Sole Member of Hollander Sleep Products,
LLC



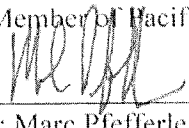
Name: Marc Pfefferle
Title: Chief Executive Officer

**HOLLANDER SLEEP
PRODUCTS, LLC,**
Sole Member of Hollander Sleep Products
Kentucky, LLC

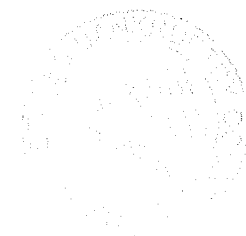


Name: Marc Pfefferle
Title: Chief Executive Officer

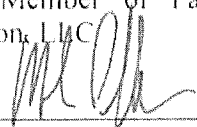
**HOLLANDER SLEEP
PRODUCTS, LLC**
Sole Member of Pacific Coast Feather, LLC



Name: Marc Pfefferle
Title: Chief Executive Officer

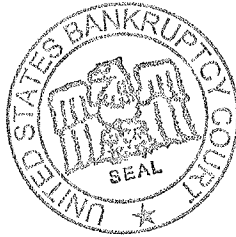


PACIFIC COAST FEATHER, LLC
Sole Member of Pacific Coast Feather
Cushion, LLC



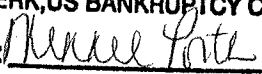
Name: Marc Pfefferle
Title: Chief Executive Officer

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]



I HEREBY ATTEST AND CERTIFY ON 5-22-19
THAT THIS DOCUMENT IS A FULL, TRUE AND CORRECT
COPY OF THE ORIGINAL FILED ON OUR COURT'S
ELECTRONIC CASE FILING SYSTEM.

CLERK, US BANKRUPTCY COURT, SDNY

BY:  DEPUTY CLERK

THIS IS EXHIBIT "F" REFERRED TO IN THE
AFFIDAVIT OF EVAN BARZ SWORN
ON MAY 23, 2019.



A Commissioner for Taking Affidavits

Patrick Welsh
LSO 603224

Fill in this information to identify the case:

United States Bankruptcy Court for the:

Southern District of New York

(State)

Case number (if known): _____

Chapter 11☐ Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy

04/19

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals*, is available.

1. Debtor's Name Hollander Sleep Products Kentucky, LLC

2. All other names debtor used in the last 8 years

Include any assumed names, trade names, and *doing business as* names

3. Debtor's federal Employer Identification Number (EIN)

90-1014119

4. Debtor's address

Principal place of business

Mailing address, if different from principal place of business

901 Yamato Road

Number Street

Suite 250Boca Raton, Florida 33431

City State Zip Code

Number Street

P.O. Box

City State Zip Code

Location of principal assets, if different from principal place of business

Palm Beach County

County

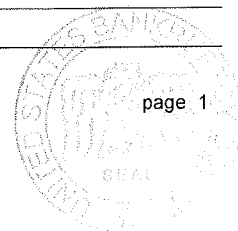
Number Street

City State Zip Code

5. Debtor's website (URL)

www.hollander.com

6. Type of debtor

☒ Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))☐ Partnership (excluding LLP)☐ Other. Specify: _____

Debtor **Hollander Sleep Products Kentucky, LLC**

Case number (if known) _____

Name

7. Describe debtor's business**A. Check One:**

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. Check all that apply:

- ☐ Tax-exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See <http://www.uscourts.gov/four-digit-national-association-naics-codes>.

4232**8. Under which chapter of the Bankruptcy Code is the debtor filing?****Check One:**

- ☐ Chapter 7
- ☐ Chapter 9
- ☒ Chapter 11. **Check all that apply:**

- ☐ Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,725,625 (amount subject to adjustment on 4/01/22 and every 3 years after that).
- ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). If the debtor is a small business debtor, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return, or if all of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
- ☒ A plan is being filed with this petition.
- ☐ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
- ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
- ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.

☐ Chapter 12**9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?**☒ No☐ Yes.

District _____

When _____

MM/DD/YYYY

Case number _____

If more than 2 cases, attach a separate list.

District _____

When _____

MM/DD/YYYY

Case number _____

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?☐ No☒ Yes.

Debtor

See Rider 1

Relationship

Affiliate

District

Southern District of New York

When

05/19/2019

List all cases. If more than 1, attach a separate list.

Case number, if known _____

MM / DD / YYYY

Debtor Hollander Sleep Products Kentucky, LLC
Name

Case number (if known) _____

11. Why is the case filed in this district?

Check all that apply:

- ☐ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
- ☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

- ☒ No
- ☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (Check all that apply.)

- ☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard? _____

- ☐ It needs to be physically secured or protected from the weather.
- ☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).
- ☐ Other _____

Where is the property?

Number Street

City

State

Zip Code

Is the property insured?

- ☐ No
- ☐ Yes. Insurance agency _____

Contact name _____

Phone _____

Statistical and administrative information**13. Debtor's estimation of available funds**

Check one:

- ☒ Funds will be available for distribution to unsecured creditors.¹
- ☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

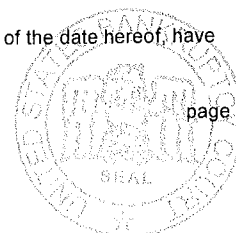
14. Estimated number of creditors (on a consolidated basis)

- | | | |
|----------------------------------|---|--|
| <input type="checkbox"/> 1-49 | <input type="checkbox"/> 1,000-5,000 | <input type="checkbox"/> 25,001-50,000 |
| <input type="checkbox"/> 50-99 | <input type="checkbox"/> 5,001-10,000 | <input type="checkbox"/> 50,001-100,000 |
| <input type="checkbox"/> 100-199 | <input checked="" type="checkbox"/> 10,001-25,000 | <input type="checkbox"/> More than 100,000 |
| <input type="checkbox"/> 200-999 | | |

15. Estimated assets (on a consolidated basis)

- | | | |
|--|---|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input checked="" type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

1. Availability of funds to unsecured creditors is subject to ongoing discussions with the debtor's secured creditors who, as of the date hereof, have not agreed to a recovery (other than \$0) for such unsecured creditors.



Debtor Hollander Sleep Products Kentucky, LLC
Name

Case number (if known) _____

16. Estimated liabilities (on a consolidated basis)

<input type="checkbox"/> \$0-\$50,000	<input type="checkbox"/> \$1,000,001-\$10 million	<input type="checkbox"/> \$500,000,001-\$1 billion
<input type="checkbox"/> \$50,001-\$100,000	<input type="checkbox"/> \$10,000,001-\$50 million	<input type="checkbox"/> \$1,000,000,001-\$10 billion
<input type="checkbox"/> \$100,001-\$500,000	<input type="checkbox"/> \$50,000,001-\$100 million	<input type="checkbox"/> \$10,000,000,001-\$50 billion
<input type="checkbox"/> \$500,001-\$1 million	<input checked="" type="checkbox"/> \$100,000,001-\$500 million	<input type="checkbox"/> More than \$50 billion

Request for Relief, Declaration, and Signatures

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I have been authorized to file this petition on behalf of the debtor.

I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 05/19/2019
MM/DD/YYYY

X

/s/ Marc Pfefferle

Signature of authorized representative of debtor

Marc Pfefferle

Printed name

Title Chief Executive Officer**18. Signature of attorney**

X

/s/ Joshua A. Sussberg

Signature of attorney for debtor

Date 05/19/2019

MM/DD/YYYY

Joshua A. Sussberg, P.C.

Printed name

Kirkland & Ellis, LLP

Firm name

601 Lexington Avenue

Number Street

New York

City

New York

State

10022

ZIP Code

212-446-4800

Contact phone

jsussberg@kirkland.com

Email address

4216453

Bar number

New York

State



Fill in this information to identify the case:	
United States Bankruptcy Court for the:	
Southern District of New York	
(State)	
Case number (if known): _____	Chapter <u>11</u>

☐ Check if this is an amended filing

Rider 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the entities listed below (collectively, the "Debtors") filed a petition in the United States Bankruptcy Court for the Southern District of New York for relief under chapter 11 of title 11 of the United States Code. The Debtors have moved for joint administration of these cases under the case number assigned to the chapter 11 case of Hollander Sleep Products, LLC.

- Hollander Sleep Products, LLC
- Dream II Holdings, LLC
- Hollander Home Fashions Holdings, LLC
- Hollander Sleep Products Canada Limited
- Hollander Sleep Products Kentucky, LLC
- Pacific Coast Feather, LLC
- Pacific Coast Feather Cushion, LLC



Debtor name Hollander Sleep Products, LLC, et al.

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

Case No. (If known) _____

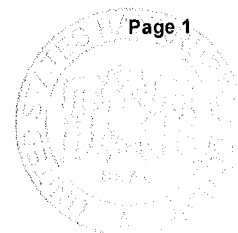
Official Form 204

Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 50 Largest Unsecured Claims and Are Not Insiders

12/15

A list of creditors holding the 50 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person who is an *insider*, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 50 largest unsecured claims.

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
1 Roind Hometex Co Ltd 3225 E Warm Springs Rd Las Vegas, NV 89120	Roind Hometex Co Ltd	Vendor				\$5,655,096.17
2 Funing Jincheng Home Textile Co Ltd Attn: Fn Group 5, Bisheng Neighborhood Committee Funing Economical Devt Zone Jiangsu, 224400 China	Funing Jincheng Home Textile Co Ltd Email: David.Qian@Fw-Textile.Com	Vendor				\$5,273,061.34
3 Invista Inc Attn: Boykin Bank of America P.O. Box, #742926 Atlanta, GA 30374-2926	Invista Inc Tel: 770-792-4192 Email: Danielle.Boykin@INVISTA.COM	Vendor				\$5,023,243.54
4 Hangzhou Chuangyuan Feather Co Ltd Attn: Fumingfang No 5 Xinda Rd Miaojia Village Hangzhou, Suoqian Town China	Hangzhou Chuangyuan Feather Co Ltd Email: fumingfang@cyfeather.cn	Vendor				\$5,001,799.50

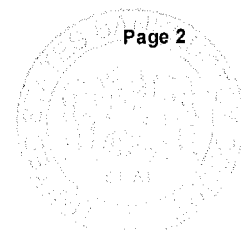


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
5 Zhejiang Hengdi Bedding Co Ltd Attn: Terry Wang No 168 Hebeilou Fulou Village Xintang St Hangzhou China	Zhejiang Hengdi Bedding Co Ltd Email: WANGHR@MAIL.LQFEATHER.COM	Vendor				\$3,882,944.67
6 Zhejiang Liugiao Home Textile Attn: Zhu Xinfeng Village-Xingtang St Zhejiang Hangzhou, 311201 China	Zhejiang Liugiao Home Textile Email: amy715@mail.lqfeather.com	Vendor				\$3,465,270.30
7 Wuhu Fine Textile International Trading Co Ltd Attn: Wan 321 Jingxi Rd Wanzhi Town China	Wuhu Fine Textile International Trading Co Ltd Email: Mandy@Ahfantai.Com	Vendor				\$3,419,367.45
8 Packaging Corp Of America Attn: Cerasuolo 36596 Treasury Center Chicago, IL 60694-6500	Packaging Corp Of America Tel: 514 239 3993 Email: Ceraldesign@Hotmail.Com	Vendor				\$3,341,952.45
9 Sun Fiber Sales LLC Attn: Clinton, Ar Contact Rosenthal & Rosenthal Inc P.O. Box 88926 Chicago, IL 60695-1926	Sun Fiber Sales LLC Email: STEFANIE.CLINTON@SUNFIBERLLC.COM	Vendor				\$2,694,931.13

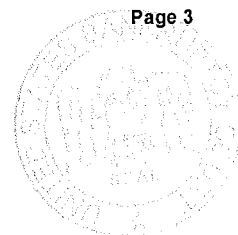


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
10 Zhejiang Wanxiang Bedding Co Ltd Attn: Xu Wulian Xintang Xiaogan Hangzhou Zhejiang China	Zhejiang Wanxiang Bedding Co Ltd Email: MXU@WXBEDDING.COM	Vendor				\$2,492,406.52
11 Wuxi Jielong Textile Co Ltd Attn: Xie Shuang Miao Economic & Development Zone Jiangsu Wuxi, 214187 China	Wuxi Jielong Textile Co Ltd Tel: 510-88086388 Email: jerry@wuxijielong.com	Vendor				\$2,418,091.03
12 Zhejiang Liugiao Industrial Co Ltd Attn: Sheng 288 Dongkang Rd Xiaoshan District Hangzhou, Zhejiang China	Zhejiang Liugiao Industrial Co Ltd Email: Shenzf@Mail.Lqfeather.Com	Vendor				\$2,189,154.55
13 Topocean Consolidation Services Attn: Wong 99 W Hawthorne Ave, Ste 604 Valley Stream, NY 11580	Topocean Consolidation Services Tel: 7910112 Email: WILWONG@TOPOCEAN.COM	Vendor				\$1,924,219.39
14 Nap Industries Inc 667 Kent Ave Brooklyn, NY 11249	Nap Industries Inc	Vendor				\$1,882,143.39

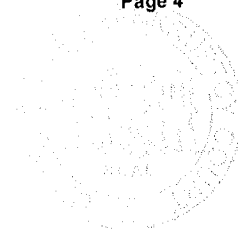


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
15 The Sea Feather Limited Company Of Luan Attn: Bian East Gaocheng Rd Economic Tech Devt Area Anhui, Luan 237161 China	The Sea Feather Limited Company Of Luan Email: tina.bian@theseafeather.com	Vendor				\$1,840,641.96
16 Hangzhou Huoju Down Products Co Ltd Attn: Wu Xintang Residential Community Xiaoshan District Hangzhou, Zhejiang China	Hangzhou Huoju Down Products Co Ltd Email: Hwjwfr@Hzhjyr.Com	Vendor				\$1,719,436.11
17 Wujiang City Xinyi Textile Co Ltd Attn: Chen Daxie Village Bali Shengze (South Ring Rd 3) Jiangsu China	Wujiang City Xinyi Textile Co Ltd	Vendor				\$1,718,438.97
18 Anhui Rongdi Down Product Co Ltd Attn: Wei Fudu Industrial Park Anhui, Wuwei China	Anhui Rongdi Down Product Co Ltd Email: waf72211@sina.com	Vendor				\$1,673,141.00
19 Elite Comfort Solutions LLC Attn: Griffith Elite Comfort Solutions LLC P.O. Box 603397 Charlotte, NC 28260-3397	Elite Comfort Solutions LLC Tel: 770-683-8271 Email: pgriffith@elitefoam.com	Vendor				\$1,506,538.35

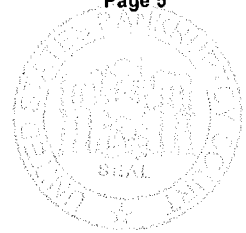


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
20 Span America Attn: Jackson 70 Commerce Center Greenville, SC 29615	Span America Tel: 678-6978 Email: Cjackson@Spanamerica.Com	Vendor				\$1,440,880.78
21 Stein Fibers Ltd Attn: Sprague, Sales P.O. Box 714522 Cincinnati, OH 45271-4522	Stein Fibers Ltd Tel: 599-2804 Email: Richard@steinfibers.com	Vendor				\$1,225,238.09
22 Cixi Jiangnan Chemical Fiber 159 Lingqiao Rd Ningbo China	Cixi Jiangnan Chemical Fiber	Vendor				\$1,217,846.96
23 Qingdao Fuyuan Arts & Crafts Co Ltd Attn: Cathy Rm 419 No 97 Fuzhou South Rd Qingdao, China	Qingdao Fuyuan Arts & Crafts Co Ltd Email: cathy@qd-fuyuan.com	Vendor				\$1,120,319.13
24 Be Be Jan Pakistan Limited Attn: Bebe Square No 7 Chak No R.B Faisalabad Pakistan	Be Be Jan Pakistan Limited Email: bebe@hollander.com	Vendor				\$1,017,821.47
25 Wuxi Yinxin Printing Co Ltd Attn: Ma Qian Lane Luoshe Town, Wuxi City Jiangsu Province China	Wuxi Yinxin Printing Co Ltd Email: Evanma@Wuxiyinxin.Com	Vendor				\$1,010,717.02



Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

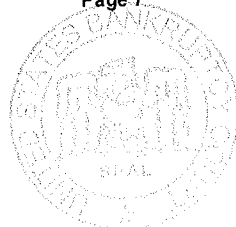
Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
26 Nan Ya Plastics Corporation America P.O. Box 402634 Atlanta, GA 30384	Nan Ya Plastics Corporation America	Vendor				\$904,004.64
27 International Paper (Edi) Attn: Davis 6211 Descanso Ave Buena Park, CA 90620	International Paper (Edi) Tel: 512-0404 Email: mary.davis1@ipaper.com	Vendor				\$797,481.18
28 Domfoam Inc Attn: Sansalone 8785 Boul Langelier St Leonard, QC H1P 2C9 Canada	Domfoam Inc Tel: 325-8120 Email: Julie@Domfoam.Com	Vendor				\$760,385.44
29 Hangzhou Huaying Xintang Down Xixu Village Xintang St, Xiaosha Hangzhou, Zhejiang Province China	Hangzhou Huaying Xintang Down	Vendor				\$758,683.47
30 Oracle America Inc Attn: Oracle America Inc P.O. Box 203448 Dallas, TX 75320-3448	Oracle America Inc	Vendor				\$732,377.25
31 Kuehne & Nagel Attn: Kirlew 77 Foster Crescent Mississauga, ON L5R 0K1 Canada	Kuehne & Nagel Tel: 502-4173 Email: Paulette.Kirlew@Kuehne-Nagel.Com	Vendor				\$687,576.17

Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
32 US CBP 1300 Pennsylvania Ave Nw Washington, DC 20229	US CBP Tel: 1 (877) CBP-5511	Vendor				\$666,199.63
33 Kapstone Container Corp Attn: Brest, Strategic Account Manager 2370 Sullivan Rd College Park, GA 30337	Kapstone Container Corp Tel: 935.8526 Email: mike.brest@kapstonepaper.com	Vendor				\$658,087.04
34 C H Robinson P.O. Box 9121 Minneapolis, MN 55480-9121	C H Robinson	Vendor				\$611,420.25
35 AV Logistics LLC Attn: Palencia P.O. Box 5657 Carol Stream, IL 60197-5657	AV Logistics LLC Tel: 6440936 Email: SPALENCIA@AV-LOGISTICS.COM	Vendor				\$498,586.22
36 Shi International P.O. Box 952121 Dallas, TX 75395-2121	Shi International	Vendor				\$410,744.40
37 Invista Canada P.O. Box B2918U P.O. Box 11585 Montreal, QC H3C 5N7 Canada	Invista Canada Tel: 821-5954 Email: A/R - CHRISTINE	Vendor				\$408,263.53



Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

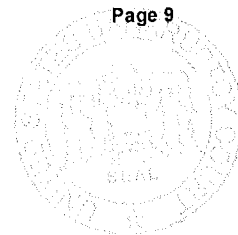
Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
38 Zhejiang Saifang Textile Technology Co Ltd Attn: Tang Santou Cun Industrial Park Zhejiang Daicun Town, Hangzhou China	Zhejiang Saifang Textile Technology Co Ltd Email: jasontang@hzsaifang.com	Vendor				\$387,987.72
39 Invista S.A.R.L. 7813 Collections Ctr. Dr Chicago, IL 60693-7913	Invista S.A.R.L.	Vendor				\$336,341.12
40 Progress Container & Display Attn: Markham 635 Patrick Mill Rd Sw Winder, GA 30680	Progress Container & Display Tel: 4252071 Email: TMARKHAM@PROGRESSCONTAINER.COM	Vendor				\$297,160.19
41 Strands Textile Mills Pvt Ltd Attn: Shama Plot 3 270-271 Sector 4 Gandhidham Guja, 370230 India	Strands Textile Mills Pvt Ltd Email: MERCHANT@STRANDSTEXTILE.COM	Vendor				\$283,940.75
42 Exeter 25 Keystone LLC 101 West Elm Street Suite 600 Conshocken, PA 19428	Exeter 25 Keystone LLC	Vendor				\$276,975.59
43 Printcraft Co Inc 259 City Lake Rd Lexington, NC 27293	Printcraft Co Inc	Vendor				\$270,188.50

Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
44 Jasztex Fiber Inc Attn: Jakubik, Ar Contact 61 Hymus Ponte-Claire, QC H9R 1E2 Canada	Jasztex Fiber Inc Tel: 697-3096 Email: NATHALIE@JASZTEX.COM	Vendor				\$260,513.71
45 Kamyk Daunen S.R.O. Kamyk Nad Vitavou Cp 179 Pribram, S 262063 Czech Republic	Kamyk Daunen S.R.O.	Vendor				\$254,578.05
46 Navarpluma S.L. Poligono Industrial Arazuri Orcoyen Arazuri, 31170 Spain	Navarpluma S.L.	Vendor				\$244,576.44
47 Majestic/Amb Pico Rivera Assoc Llc 13191 Crossroads Pkwy North City of Industry, CA 91746-3497	Majestic/Amb Pico Rivera Assoc Llc	Vendor				\$238,286.35
48 Polypack Corporation Ltd Attn: Cataldo, General Manager 7900 E Jarry St Montreal, QC H1J 1H1 Canada	Polypack Corporation Ltd Tel: 353-1710 Email: phil500cataldo@gmail.com	Vendor				\$227,485.81
49 Atlas Feather Processing Corp 64 Greenpoint Ave Brooklyn, NY 11222-1504	Atlas Feather Processing Corp	Vendor				\$204,766.17



Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
50 Dusobox Corporation 2501 Investors Row, Ste 500 Orlando, FL 32837	Dusobox Corporation Tel: 800-393-5120	Vendor				\$204,685.78

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

Chapter 11

HOLLANDER SLEEP PRODUCTS KENTUCKY,
LLC,

Case No. 19-_____()

Debtor.

LIST OF EQUITY SECURITY HOLDERS²

Debtor	Equity Holders	Address of Equity Holder	Percentage of Equity Held
Hollander Sleep Products Kentucky, LLC	Hollander Sleep Products, LLC	901 Yamato Road, Suite 250, Boca Raton, Florida 33431	100%

² This list serves as the disclosure required to be made by the debtor pursuant to rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the chapter 11 case.



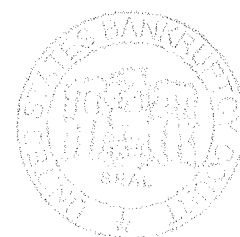
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	)	Chapter 11
HOLLANDER SLEEP PRODUCTS KENTUCKY, LLC,	)	Case No. 19-_____()
)	
Debtor.)	

CORPORATE OWNERSHIP STATEMENT

Pursuant to rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, the following are corporations, other than a government unit, that directly or indirectly own 10% or more of any class of the debtor's equity interest:

Shareholder	Approximate Percentage of Shares Held
Hollander Sleep Products, LLC	100%
Hollander Home Fashions Holdings, LLC	100%
Dream II Holdings, LLC	100%
Sentinel Dream II Holdings, LLC	84%



Fill in this information to identify the case and this filing:		
Debtor Name	Hollander Sleep Products Kentucky, LLC	
United States Bankruptcy Court for the:	Southern District of New York	NY (State)
Case number (if known):		

Official Form 202**Declaration Under Penalty of Perjury for Non-Individual Debtors**

12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ *Schedule A/B: Assets-Real and Personal Property (Official Form 206A/B)*
- ☐ *Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)*
- ☐ *Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)*
- ☐ *Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)*
- ☐ *Schedule H: Codebtors (Official Form 206H)*
- ☐ *Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)*
- ☐ Amended Schedule
- ☒ *Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 50 Largest Unsecured Claims and Are Not Insiders (Official Form 204)*
- ☒ Other document that requires a declaration List of Equity Security Holders, Corporate Ownership Statement

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

05/19/2019
MM/DD/YYYY

☒ /s/ Marc Pfefferle

Signature of individual signing on behalf of debtor

Marc Pfefferle

Printed name

Chief Executive Officer

Position or relationship to debtor



**HOLLANDER HOME FASHIONS HOLDINGS, LLC
HOLLANDER SLEEP PRODUCTS, LLC
HOLLANDER SLEEP PRODUCTS KENTUCKY, LLC
PACIFIC COAST FEATHER, LLC
AND
PACIFIC COAST FEATHER CUSHION, LLC**

OMNIBUS WRITTEN CONSENT OF SOLE MEMBER IN LIEU OF MEETING

MAY 18, 2019

Effective as of the date written above, the undersigned, being the sole member (the "Member") of each of Hollander Home Fashions Holdings, LLC, a Delaware limited liability company, Hollander Sleep Products, LLC, a Delaware limited liability company, Hollander Sleep Products Kentucky, LLC, a Delaware limited liability company, Pacific Coast Feather, LLC, a Delaware limited liability company, and Pacific Coast Feather Cushion, LLC, a Delaware limited liability company (each a "Company," and together the "Companies"), in lieu of holding a special meeting of the Member, **HEREBY CONSENT** to the taking of the following actions and **HEREBY ADOPT** the following resolutions by written consent (this "Written Consent") pursuant to the organizational documents of the Companies and the laws of the state of Delaware;

WHEREAS, the Member has considered presentations by the management of each Company and the financial and legal advisors of the Companies regarding the liabilities and liquidity situation of each Company, the strategic alternatives available to each Company, and the effect of the foregoing on each Company's business;

WHEREAS, the Companies and certain of their affiliates (together, the "Restructuring Parties") have negotiated a restructuring support agreement (the "RSA"), a substantially final copy of which has been provided to the Member, with certain of the holders of their secured term loan facility and their majority equityholder, which agreement contemplates a comprehensive restructuring of the Restructuring Parties' capital structure on the terms set forth therein;

WHEREAS, in the business judgment of the Member, it is desirable, and in the best interests of each Company, its creditors, and other parties in interest, to enter into the RSA; and

WHEREAS, the Member has consulted with the management and the financial and legal advisors of the Companies and fully considered each of the strategic alternatives available to the Companies and, in the judgment of the Member it is desirable and in the best interest of the Companies to file for relief under the provisions of chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code").



NOW, THEREFORE, BE IT,**Restructuring Support Agreement; Chapter 11 Plan**

RESOLVED, the Member is hereby authorized and directed to finalize, execute, and deliver the RSA, and the Company's performance of its obligations under the RSA, including the negotiation and documentation of the chapter 11 plan, and all exhibits, schedules, attachments, and ancillary documents or agreements related thereto, is, in all respects, approved and authorized.

Chapter 11 Filing

RESOLVED, that the Company shall be, and hereby is, authorized and directed to file or cause to be filed a voluntary petition for relief (the "Chapter 11 Case") under the provisions of chapter 11 of title 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"); and

RESOLVED, that any officers or directors of each Company (collectively, the "Authorized Signatories"), acting alone or with one or more other Authorized Signatories be, and they hereby are, authorized, empowered, and directed to execute and file on behalf of each Company all motions, affidavits, papers, documents, or other filings, and to take any and all actions that they deem necessary or proper to obtain or in furtherance of such relief, including, without limitation, any action necessary to maintain the ordinary course operation of each Company's business.

Retention of Professionals

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the law firm of Kirkland & Ellis LLP and Kirkland & Ellis International LLP (together, "Kirkland") as general bankruptcy counsel to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each Company's rights and obligations, including filing any motions, objections, replies, applications, or pleadings; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Kirkland.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm Carl Marks Advisory Group LLC ("Carl Marks") to provide interim management services to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Carl Marks.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm Houlihan Lokey Capital, Inc. ("Houlihan"), as financial

advisor and investment banker to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Houlihan.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm of Omni Management Group ("Omni") as notice and claims agent to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed appropriate applications for authority to retain the services of Omni.

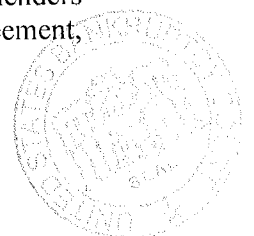
RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm of Proskauer Rose LLP ("Proskauer") as counsel to each Company to act solely at the direction of the disinterested director in accordance with the delegation of conflict matters to the disinterested director, and to take any and all actions to advance each Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed appropriate applications for authority to retain the services of Proskauer.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ any other professionals to assist each Company in carrying out its duties under the Bankruptcy Code; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers and fees, and to cause to be filed an appropriate application for authority to retain the services of any other professionals as necessary.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, with power of delegation, authorized, empowered, and directed to execute and file all petitions, schedules, motions, lists, applications, pleadings, and other papers and, in connection therewith, to employ and retain all assistance by legal counsel, accountants, financial advisors, and other professionals and to take and perform any and all further acts and deeds that each of the Authorized Signatories deem necessary, proper, or desirable in connection with each Company's Chapter 11 Case, with a view to the successful prosecution of such cases.

Debtor-in-Possession Financing, Cash Collateral, and Adequate Protection

RESOLVED, that each Company will obtain benefits from (a) the use of collateral, including cash collateral, as that term is defined in section 363(a) of the Bankruptcy Code (the "Cash Collateral"), which is security for certain prepetition secured lenders (collectively, the "Secured Lenders") party to (i) that certain Term Loan Credit Agreement,



dated as of June 9, 2017 (as amended from time to time), by and among Hollander Sleep Products, LLC, as borrower, and its subsidiaries as borrowers or guarantors, certain lenders party thereto, and Barings Finance, LLC, in its capacity as lender and administrative agent and (ii) that certain Third Amended and Restated Credit Agreement, dated as of June 9, 2017 (as amended from time to time), by and among Dream II Holdings, LLC, as borrower, and its subsidiaries as borrowers or guarantors, certain lenders party thereto, and Wells Fargo Bank, National Association, in its capacity as agent and (b) the incurrence of debtor-in-possession financing obligations (the "DIP Financing").

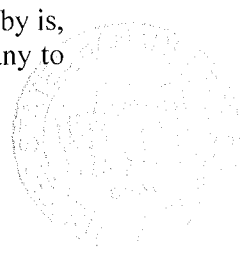
RESOLVED, that to use and obtain the benefits of (a) the DIP Financing and (b) the Cash Collateral, and in accordance with section 363 of the Bankruptcy Code, each Company will provide certain liens, claims, and adequate protection to the Secured Lenders (the "DIP Obligations"), as documented in a proposed interim order (the "Interim DIP Order") and submitted for approval to the Bankruptcy Court.

RESOLVED, that the form, terms, and provisions of the Interim DIP Order to which each Company is or will be subject, and the actions and transactions contemplated thereby be, and hereby are, authorized, adopted, and approved, and each of the Authorized Signatories of each Company be, and hereby is, authorized and empowered, in the name of and on behalf of each Company, to take such actions and negotiate or cause to be prepared and negotiated and to execute, deliver, perform, and cause the performance of, the Interim DIP Order, and such other agreements, certificates, instruments, receipts, petitions, motions, or other papers or documents to which each Company is or will be a party, including, but not limited to, any security and pledge agreement or guaranty agreement (collectively with the Interim DIP Order, the "DIP Documents"), incur and pay or cause to be paid all fees and expenses and engage such persons, in each case, in the form or substantially in the form thereof submitted to the Member, with such changes, additions, and modifications thereto as the officers of each Company executing the same shall approve, such approval to be conclusively evidenced by such officers' execution and delivery thereof.

RESOLVED, that each Company, as debtor and debtor in possession under the Bankruptcy Code be, and hereby is, authorized to incur the DIP Obligations and certain obligations related to the DIP Financing and to undertake any and all related transactions on substantially the same terms as contemplated under the DIP Document (collectively, the "DIP Transactions"), including granting liens on its assets to secure such obligations.

RESOLVED, that the Authorized Signatories of each Company be, and they hereby are, authorized and directed, and each of them acting alone hereby is, authorized, directed, and empowered in the name of, and on behalf of, each Company, as debtor and debtor in possession, to take such actions as in their discretion are determined to be necessary, desirable, or appropriate and execute the DIP Transactions, including delivery of: (a) the DIP Documents; (b) such other instruments, certificates, notices, assignments, and documents as may be reasonably requested by the agents; and (c) such forms of deposit, account control agreements, officer's certificates, and compliance certificates as may be required by the DIP Documents.

RESOLVED, that each of the Authorized Signatories of each Company be, and hereby is, authorized, directed, and empowered in the name of, and on behalf of, each Company to



file or to authorize the agents to file any Uniform Commercial Code (the “UCC”) financing statements, any other equivalent filings, any intellectual property filings and recordation, and any necessary assignments for security or other documents in the name of each Company if the agents deem it necessary or appropriate to perfect any lien or security interest granted under the Interim DIP Order, including any such UCC financing statement containing a generic description of collateral, such as “all assets,” “all property now or hereafter acquired,” and other similar descriptions of like import, and to execute and deliver, and to record or authorize the recording of, such mortgages and deeds of trust in respect of real property of each Company and such other filings in respect of intellectual and other property of each Company, in each case as the agents may reasonably request to perfect the security interests of the agents under the Interim DIP Order or any of the other DIP Documents.

RESOLVED, that each of the Authorized Signatories of each Company be, and hereby are, authorized, directed, and empowered in the name of, and on behalf of, each Company to take all such further actions, including, without limitation, to pay or approve the payment of all fees and expenses payable in connection with the DIP Transactions and all fees and expenses incurred by or on behalf of each Company in connection with the foregoing resolutions, in accordance with the terms of the DIP Documents, which shall in their sole judgment be necessary, desirable, proper, or advisable to perform any of each Company’s obligations under or in connection with the Interim DIP Order or any of the other DIP Documents and the transactions contemplated therein and to carry out fully the intent of the foregoing resolutions.

General

RESOLVED, that, in addition to the specific authorizations heretofore conferred upon each Authorized Signatory, each Authorized Signatory (and his designees and delegates) be, and hereby is, authorized and empowered, in the name of and on behalf of each Company, to take or cause to be taken any and all such other and further actions, and to execute, acknowledge, deliver, and file any and all such agreements, certificates, instruments, and other documents with such additions, deletions, amendments, modifications or other changes as such Authorized Signatory may approve, and to pay all expenses, including but not limited to filing fees, in each case as in such Authorized Signatory’s (or his designee’s or delegate’s) judgment, shall be necessary, advisable, or desirable in order to fully carry out the intent and accomplish the purposes of the resolutions adopted herein, such determination to be conclusively evidenced by such Authorized Signatory’s execution and delivery of any of the agreements, certificates, instruments, or other documents, or the taking of any such action.

RESOLVED, that the Member has received sufficient notice of the actions and transactions relating to the matters contemplated by the foregoing resolutions, as may be required by the organizational documents of each Company, or hereby waives any right to have received such notice.

RESOLVED, that all acts, actions, and transactions relating to the matters contemplated or implied by the foregoing resolutions done in the name of and on behalf of each Company by any director, officer, employee or agent of the Company, or any person or persons



designated and authorized to act on behalf of the Company, which acts would have been approved by the foregoing resolutions except that such acts were taken before the adoption of these resolutions, are hereby in all respects approved and ratified as the true acts and deeds of each Company with the same force and effect as if each such act, transaction, agreement, or certificate had been specifically authorized and adopted in advance by resolution of the Member.

RESOLVED, that each Authorized Signatory (and his designees and delegates) be, and hereby is, authorized and empowered to take all actions, or to not take any action, in the name of each Company, with respect to the transactions contemplated by these resolutions hereunder, as such Authorized Signatory shall deem necessary or desirable in such Authorized Signatory's reasonable business judgment, as may be necessary or convenient to effectuate the purposes of the transactions contemplated herein.

This Written Consent may be executed in originals or electronically in as many counterparts as may be required; all counterparts shall collectively constitute one and the same Written Consent.

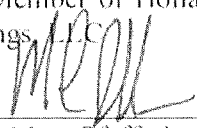
* * * * *



IN WITNESS WHEREOF, the undersigned have executed this Written Consent as of the date first written above and adopt the foregoing resolutions.

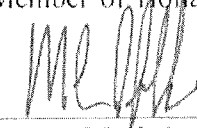
DREAM II HOLDINGS, LLC,

Sole Member of Hollander Home Fashions
Holdings, LLC


Name: Marc Pfefferle
Title: Chief Executive Officer

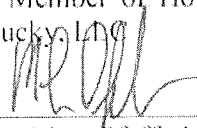
**HOLLANDER HOME FASHIONS
HOLDINGS, LLC,**

Sole Member of Hollander Sleep Products,
LLC


Name: Marc Pfefferle
Title: Chief Executive Officer


**HOLLANDER SLEEP
PRODUCTS, LLC,**

Sole Member of Hollander Sleep Products
Kentucky, LLC


Name: Marc Pfefferle
Title: Chief Executive Officer

**HOLLANDER SLEEP
PRODUCTS, LLC**

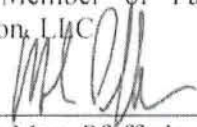
Sole Member of Pacific Coast Feather, LLC


Name: Marc Pfefferle
Title: Chief Executive Officer



PACIFIC COAST FEATHER, LLC

Sole Member of Pacific Coast Feather
Cushion, LLC


Name: Marc Pfefferle

Title: Chief Executive Officer

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]



I HEREBY ATTEST AND CERTIFY ON 5-22-19
THAT THIS DOCUMENT IS A FULL, TRUE AND CORRECT
COPY OF THE ORIGINAL FILED ON OUR COURT'S
ELECTRONIC CASE FILING SYSTEM.

CLERK, US BANKRUPTCY COURT, SDNY

BY:  DEPUTY CLERK

THIS IS EXHIBIT "G" REFERRED TO IN THE
AFFIDAVIT OF EVAN BARZ SWORN
ON MAY 22, 2019.



A Commissioner for Taking Affidavits

Patrick Welsh
Lso 60322A

Fill in this information to identify the case:

United States Bankruptcy Court for the:

Southern District of New York

(State)

Case number (if known): _____

Chapter 11☐ Check if this is an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy

04/19

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals*, is available.

1. Debtor's Name	<u>Pacific Coast Feather Cushion, LLC</u>	
2. All other names debtor used in the last 8 years	<u>Pacific Coast Feather Cushion Co.</u>	
Include any assumed names, trade names, and <i>doing business as</i> names		
3. Debtor's federal Employer Identification Number (EIN)	<u>93-1063119</u>	
4. Debtor's address	Principal place of business <u>7600 Industry Avenue</u> Number Street <u>Pico Rivera, California 90660</u> City State Zip Code <u>Los Angeles County</u> County	Mailing address, if different from principal place of business Number Street P.O. Box City State Zip Code Location of principal assets, if different from principal place of business Number Street City State Zip Code
5. Debtor's website (URL)	<u>www.hollander.com</u>	
6. Type of debtor	<input checked="" type="checkbox"/> Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP)) <input type="checkbox"/> Partnership (excluding LLP) <input type="checkbox"/> Other. Specify: _____	

Debtor Pacific Coast Feather Cushion, LLC

Case number (if known) _____

Name

7. Describe debtor's business**A. Check One:**

- ☐ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ☐ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ☐ Railroad (as defined in 11 U.S.C. § 101(44))
- ☐ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ☐ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ☐ Clearing Bank (as defined in 11 U.S.C. § 781(3))
- ☒ None of the above

B. Check all that apply:

- ☐ Tax-exempt entity (as described in 26 U.S.C. § 501)
- ☐ Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- ☐ Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See <http://www.uscourts.gov/four-digit-national-association-naics-codes>.

4232**8. Under which chapter of the Bankruptcy Code is the debtor filing?****Check One:**

- ☐ Chapter 7
- ☐ Chapter 9
- ☒ Chapter 11. **Check all that apply:**

- ☐ Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,725,625 (amount subject to adjustment on 4/01/22 and every 3 years after that).
- ☐ The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). If the debtor is a small business debtor, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return, or if all of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
- ☒ A plan is being filed with this petition.
- ☐ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
- ☐ The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11* (Official Form 201A) with this form.
- ☐ The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.

☐ Chapter 12**9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?**☒ No☐ Yes.

District _____

When _____

Case number _____

If more than 2 cases, attach a separate list.

District _____

When _____

Case number _____

MM/DD/YYYY

MM/DD/YYYY

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?☐ No☒ Yes.

Debtor

See Rider 1

Relationship

Affiliate

District

Southern District of New York

When

05/19/2019

List all cases. If more than 1, attach a separate list.

Case number, if known _____

MM/DD/YYYY

Debtor **Pacific Coast Feather Cushion, LLC**
Name

Case number (if known)

11. Why is the case filed in this district?

Check all that apply:

- ☐ Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
- ☒ A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

- ☒ No
- ☐ Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (Check all that apply.)

- ☐ It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.
- What is the hazard? _____
- ☐ It needs to be physically secured or protected from the weather.
- ☐ It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).
- ☐ Other _____

Where is the property?

Number Street

City State Zip Code

Is the property insured?

- ☐ No
- ☐ Yes. Insurance agency _____
- Contact name _____
- Phone _____

Statistical and administrative information**13. Debtor's estimation of available funds**

Check one:

- ☒ Funds will be available for distribution to unsecured creditors.¹
- ☐ After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

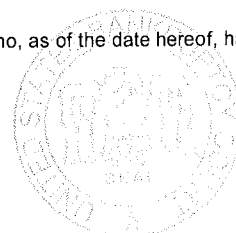
14. Estimated number of creditors (on a consolidated basis)

- | | | |
|----------------------------------|---|--|
| <input type="checkbox"/> 1-49 | <input type="checkbox"/> 1,000-5,000 | <input type="checkbox"/> 25,001-50,000 |
| <input type="checkbox"/> 50-99 | <input type="checkbox"/> 5,001-10,000 | <input type="checkbox"/> 50,001-100,000 |
| <input type="checkbox"/> 100-199 | <input checked="" type="checkbox"/> 10,001-25,000 | <input type="checkbox"/> More than 100,000 |
| <input type="checkbox"/> 200-999 | | |

15. Estimated assets (on a consolidated basis)

- | | | |
|--|---|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input checked="" type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

1. Availability of funds to unsecured creditors is subject to ongoing discussions with the debtor's secured creditors who, as of the date hereof, have not agreed to a recovery (other than \$0) for such unsecured creditors.



Debtor Pacific Coast Feather Cushion, LLC Case number (if known) _____
 Name _____

16. Estimated liabilities (on a consolidated basis)
- | | | |
|--|---|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input checked="" type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

Request for Relief, Declaration, and Signatures

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I have been authorized to file this petition on behalf of the debtor.

I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 05/19/2019
 MM/DD/YYYY

X

/s/ Marc Pfefferle

Signature of authorized representative of debtor

Marc Pfefferle

Printed name

Title Chief Executive Officer

18. Signature of attorney

X

/s/ Joshua A. Sussberg

Signature of attorney for debtor

Date 05/19/2019

MM/DD/YYYY

Joshua A. Sussberg, P.C.

Printed name

Kirkland & Ellis, LLP

Firm name

601 Lexington Avenue

Number Street

New York

City

New York

State

10022

ZIP Code

212-446-4800

Contact phone

jsussberg@kirkland.com

Email address

4216453

Bar number

New York

State

Fill in this information to identify the case:	
United States Bankruptcy Court for the:	
Southern District of New York	
(State)	
Case number (if known): _____	Chapter <u>11</u>

☐ Check if this is an amended filing

Rider 1

Pending Bankruptcy Cases Filed by the Debtor and Affiliates of the Debtor

On the date hereof, each of the entities listed below (collectively, the "Debtors") filed a petition in the United States Bankruptcy Court for the Southern District of New York for relief under chapter 11 of title 11 of the United States Code. The Debtors have moved for joint administration of these cases under the case number assigned to the chapter 11 case of Hollander Sleep Products, LLC.

- Hollander Sleep Products, LLC
- Dream II Holdings, LLC
- Hollander Home Fashions Holdings, LLC
- Hollander Sleep Products Canada Limited
- Hollander Sleep Products Kentucky, LLC
- Pacific Coast Feather, LLC
- Pacific Coast Feather Cushion, LLC



Debtor name Hollander Sleep Products, LLC, et al.

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

Case No. (If known) _____

Official Form 204

Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 50 Largest Unsecured Claims and Are Not Insiders

12/15

A list of creditors holding the 50 largest unsecured claims must be filed in a Chapter 11 or Chapter 9 case. Include claims which the debtor disputes. Do not include claims by any person who is an *insider*, as defined in 11 U.S.C. § 101(31). Also, do not include claims by secured creditors, unless the unsecured claim resulting from inadequate collateral value places the creditor among the holders of the 50 largest unsecured claims.

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
1 Roind Hometex Co Ltd 3225 E Warm Springs Rd Las Vegas, NV 89120	Roind Hometex Co Ltd	Vendor				\$5,655,096.17
2 Funing Jincheng Home Textile Co Ltd Attn: Fn Group 5, Bisheng Neighborhood Committee Funing Economical Devt Zone Jiangsu, 224400 China	Funing Jincheng Home Textile Co Ltd Email: David.Qian@Fw-Textile.Com	Vendor				\$5,273,061.34
3 Invista Inc Attn: Boykin Bank of America P.O. Box, #742926 Atlanta, GA 30374-2926	Invista Inc Tel: 770-792-4192 Email: Danielle.Boykin@INVISTA.COM	Vendor				\$5,023,243.54
4 Hangzhou Chuangyuan Feather Co Ltd Attn: Fumingfang No 5 Xinda Rd Miaojia Village Hangzhou, Suoqian Town China	Hangzhou Chuangyuan Feather Co Ltd Email: fumingfang@cyfeather.cn	Vendor				\$5,001,799.50

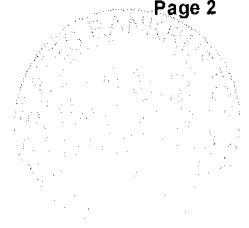


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
5 Zhejiang Hengdi Bedding Co Ltd Attn: Terry Wang No 168 Hebeilou Fulou Village Xintang St Hangzhou China	Zhejiang Hengdi Bedding Co Ltd Email: WANGHR@MAIL.LQFEATHER.COM	Vendor				\$3,882,944.67
6 Zhejiang Liujiao Home Textile Attn: Zhu Xinfeng Village-Xingtang St Zhejiang Hangzhou, 311201 China	Zhejiang Liujiao Home Textile Email: amy715@mail.lqfeather.com	Vendor				\$3,465,270.30
7 Wuhu Fine Textile International Trading Co Ltd Attn: Wan 321 Jingxi Rd Wanzhi Town China	Wuhu Fine Textile International Trading Co Ltd Email: Mandy@Ahfantai.Com	Vendor				\$3,419,367.45
8 Packaging Corp Of America Attn: Cerasuolo 36596 Treasury Center Chicago, IL 60694-6500	Packaging Corp Of America Tel: 514 239 3993 Email: Ceraldesign@Hotmail.Com	Vendor				\$3,341,962.45
9 Sun Fiber Sales LLC Attn: Clinton, Ar Contact Rosenthal & Rosenthal Inc P.O. Box 88926 Chicago, IL 60695-1926	Sun Fiber Sales LLC Email: STEFANIE.CLINTON@SUNFIBERLLC.COM	Vendor				\$2,694,931.13

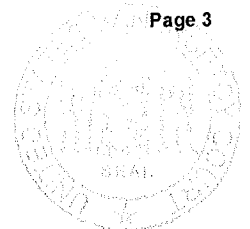


Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
10 Zhejiang Wanxiang Bedding Co Ltd Attn: Xu Wulian Xintang Xiaosgan Hangzhou Zhejiang China	Zhejiang Wanxiang Bedding Co Ltd Email: MXU@WXBEDDING.COM	Vendor				\$2,492,406.52
11 Wuxi Jielong Textile Co Ltd Attn: Xie Shuang Miao Economic & Development Zone Jiangsu Wuxi, 214187 China	Wuxi Jielong Textile Co Ltd Tel: 510-88086388 Email: jerry@wuxijielong.com	Vendor				\$2,418,091.03
12 Zhejiang Liugao Industrial Co Ltd Attn: Sheng 288 Dongkang Rd Xiaoshan District Hangzhou, Zhejiang China	Zhejiang Liugao Industrial Co Ltd Email: Shenzf@Mail.Lqfeather.Com	Vendor				\$2,189,154.55
13 Topocean Consolidation Services Attn: Wong 99 W Hawthorne Ave, Ste 604 Valley Stream, NY 11580	Topocean Consolidation Services Tel: 7910112 Email: WILWONG@TOPOCEAN.COM	Vendor				\$1,924,219.39
14 Nap Industries Inc 667 Kent Ave Brooklyn, NY 11249	Nap Industries Inc	Vendor				\$1,882,143.39



Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
15 The Sea Feather Limited Company Of Luan Attn: Bian East Gaocheng Rd Economic Tech Devt Area Anhui, Luan 237161 China	The Sea Feather Limited Company Of Luan Email: tina.bian@theseafeather.com	Vendor				\$1,840,641.96
16 Hangzhou Huoju Down Products Co Ltd Attn: Wu Xintang Residential Community Xiaoshan District Hangzhou, Zhejiang China	Hangzhou Huoju Down Products Co Ltd Email: Hwjf@Hzhjyr.Com	Vendor				\$1,719,436.11
17 Wujiang City Xinyi Textile Co Ltd Attn: Chen Daxie Village Bali Shengze (South Ring Rd 3) Jiangsu China	Wujiang City Xinyi Textile Co Ltd	Vendor				\$1,718,438.97
18 Anhui Rongdi Down Product Co Ltd Attn: Wei Fudu Industrial Park Anhui, Wuwei China	Anhui Rongdi Down Product Co Ltd Email: waf72211@sina.com	Vendor				\$1,673,141.00
19 Elite Comfort Solutions LLC Attn: Griffith Elite Comfort Solutions LLC P.O. Box 603397 Charlotte, NC 28260-3397	Elite Comfort Solutions LLC Tel: 770-683-8271 Email: pgriffith@elitefoam.com	Vendor				\$1,506,538.35

Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

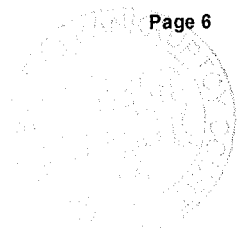
Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
20 Span America Attn: Jackson 70 Commerce Center Greenville, SC 29615	Span America Tel: 678-6978 Email: Cjackson@Spanamerica.Com	Vendor				\$1,440,880.78
21 Stein Fibers Ltd Attn: Sprague, Sales P.O. Box 714522 Cincinnati, OH 45271-4522	Stein Fibers Ltd Tel: 599-2804 Email: Richard@steinfibers.com	Vendor				\$1,225,238.09
22 Cixi Jiangnan Chemical Fiber 159 Lingqiao Rd Ningbo China	Cixi Jiangnan Chemical Fiber	Vendor				\$1,217,846.96
23 Qingdao Fuyuan Arts & Crafts Co Ltd Attn: Cathy Rm 419 No 97 Fuzhou South Rd Qingdao, China	Qingdao Fuyuan Arts & Crafts Co Ltd Email: cathy@qd-fuyuan.com	Vendor				\$1,120,319.13
24 Be Be Jan Pakistan Limited Attn: Bebe Square No 7 Chak No R.B Faisalabad Pakistan	Be Be Jan Pakistan Limited Email: bebe@hollander.com	Vendor				\$1,017,821.47
25 Wuxi Yinxin Printing Co Ltd Attn: Ma Qian Lane Luoshe Town, Wuxi City Jiangsu Province China	Wuxi Yinxin Printing Co Ltd Email: Evanma@Wuxiyinxin.Com	Vendor				\$1,010,717.02

Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
26 Nan Ya Plastics Corporation America P.O. Box 402634 Atlanta, GA 30384	Nan Ya Plastics Corporation America	Vendor				\$904,004.64
27 International Paper (Edi) Attn: Davis 6211 Descanso Ave Buena Park, CA 90620	International Paper (Edi) Tel: 512-0404 Email: mary.davis1@ipaper.com	Vendor				\$797,481.18
28 Domfoam Inc Attn: Sansalone 8785 Boul Langelier St Leonard, QC H1P 2C9 Canada	Domfoam Inc Tel: 325-8120 Email: Julie@Domfoam.Com	Vendor				\$760,386.44
29 Hangzhou Huaying Xintang Down Xixu Village Xintang St, Xiaosha Hangzhou, Zhejiang Province China	Hangzhou Huaying Xintang Down	Vendor				\$758,683.47
30 Oracle America Inc Attn: Oracle America Inc P.O. Box 203448 Dallas, TX 75320-3448	Oracle America Inc	Vendor				\$732,377.25
31 Kuehne & Nagel Attn: Kirlew 77 Foster Crescent Mississauga, ON L5R 0K1 Canada	Kuehne & Nagel Tel: 502-4173 Email: Paulette.Kirlew@Kuehne-Nagel.Com	Vendor				\$687,576.17



Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

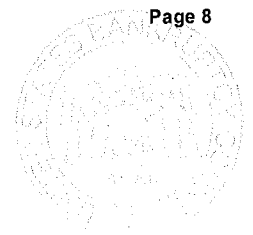
Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
32 US CBP 1300 Pennsylvania Ave Nw Washington, DC 20229	US CBP Tel: 1 (877) CBP-5511	Vendor				\$666,199.63
33 Kapstone Container Corp Attn: Brest, Strategic Account Manager 2370 Sullivan Rd College Park, GA 30337	Kapstone Container Corp Tel: 935.8526 Email: mike.brest@kapstonepaper.com	Vendor				\$668,087.04
34 C H Robinson P.O. Box 9121 Minneapolis, MN 55480-9121	C H Robinson	Vendor				\$611,420.25
35 AV Logistics LLC Attn: Palencia P.O. Box 5657 Carol Stream, IL 60197-5657	AV Logistics LLC Tel: 6440936 Email: SPALENCIA@AV-LOGISTICS.COM	Vendor				\$498,586.22
36 Shi International P.O. Box 952121 Dallas, TX 75395-2121	Shi International	Vendor				\$410,744.40
37 Invista Canada P.O. Box B2918U P.O. Box 11585 Montreal, QC H3C 5N7 Canada	Invista Canada Tel: 821-5954 Email: A/R - CHRISTINE	Vendor				\$408,263.53

Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
38 Zhejiang Saifang Textile Technology Co Ltd Attn: Tang Santou Cun Industrial Park Zhejiang Daicun Town, Hangzhou China	Zhejiang Saifang Textile Technology Co Ltd Email: jasontang@hzsaifang.com	Vendor				\$387,987.72
39 Invista S.A.R.L. 7813 Collections Ctr. Dr Chicago, IL 60693-7913	Invista S.A.R.L.	Vendor				\$336,341.12
40 Progress Container & Display Attn: Markham 635 Patrick Mill Rd Sw Winder, GA 30680	Progress Container & Display Tel: 4252071 Email: TMARKHAM@PROGRESSCONTAINER.COM	Vendor				\$297,160.19
41 Strands Textile Mills Pvt Ltd Attn: Sharma Plot 3 270-271 Sector 4 Gandhidham Guja, 370230 India	Strands Textile Mills Pvt Ltd Email: MERCHANT@STRANDSTEXTILE.COM	Vendor				\$283,940.75
42 Exeter 25 Keystone LLC 101 West Elm Street Suite 600 Conshocken, PA 19428	Exeter 25 Keystone LLC	Vendor				\$276,975.69
43 Printcraft Co Inc 259 City Lake Rd Lexington, NC 27293	Printcraft Co Inc	Vendor				\$270,188.50



Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
44 Jasztex Fiber Inc Attn: Jakubik, Ar Contact 61 Hymus Ponte-Claire, QC H9R 1E2 Canada	Jasztex Fiber Inc Tel: 697-3096 Email: NATHALIE@JASZTEX.COM	Vendor				\$260,513.71
45 Kamyk Daunen S.R.O. Kamyk Nad Vitavou Cp 179 Pribram, S 262063 Czech Republic	Kamyk Daunen S.R.O.	Vendor				\$254,578.05
46 Navarpluma S.L. Poligono Industrial Arazuri Orcoyen Arazuri, 31170 Spain	Navarpluma S.L.	Vendor				\$244,576.44
47 Majestic/Amb Pico Rivera Assoc Llc 13191 Crossroads Pkwy North City of Industry, CA 91746-3497	Majestic/Amb Pico Rivera Assoc Llc	Vendor				\$238,286.35
48 Polypack Corporation Ltd Attn: Cataldo, General Manager 7900 E Jany St Montreal, QC H1J 1H1 Canada	Polypack Corporation Ltd Tel: 353-1710 Email: phil500cataldo@gmail.com	Vendor				\$227,485.81
49 Atlas Feather Processing Corp 64 Greenpoint Ave Brooklyn, NY 11222-1504	Atlas Feather Processing Corp	Vendor				\$204,766.17

Debtor name Hollander Sleep Products, LLC, et al.

Case No. (If known) _____

(Continuation Sheet)

Name of creditor and complete mailing address, including zip code.	Name, telephone number, and email address of creditor contact	Nature of the claim (for example, trade debts, bank loans, professional services, and government contracts)	Indicate if claim is contingent, unliquidated, or disputed	Amount of unsecured claim If the claim is fully unsecured, fill in only unsecured claim amount. If claim is partially secured, fill in total claim amount and deduction for value of collateral or setoff to calculate unsecured claim.		
				Total Claim, if partially secured	Deduction for value of collateral or setoff	Unsecured claim
50 Dusobox Corporation 2501 Investors Row, Ste 500 Orlando, FL 32837	Dusobox Corporation Tel: 800-393-5120	Vendor				\$204,685.78

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	)	Chapter 11
PACIFIC COAST FEATHER CUSHION, LLC,	)	Case No. 19-_____()
Debtor.)	

LIST OF EQUITY SECURITY HOLDERS²

Debtor	Equity Holders	Address of Equity Holder	Percentage of Equity Held
Pacific Coast Feather Cushion, LLC	Pacific Coast Feather, LLC	1964 Fourth Avenue South Seattle, WA 98134	100%

² This list serves as the disclosure required to be made by the debtor pursuant to rule 1007 of the Federal Rules of Bankruptcy Procedure. All equity positions listed are as of the date of commencement of the chapter 11 case.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

_____)	
In re:	)	Chapter 11
)	
PACIFIC COAST FEATHER CUSHION, LLC,	)	Case No. 19-_____()
)	
Debtor.)	
_____)	

CORPORATE OWNERSHIP STATEMENT

Pursuant to rules 1007(a)(1) and 7007.1 of the Federal Rules of Bankruptcy Procedure, the following are corporations, other than a government unit, that directly or indirectly own 10% or more of any class of the debtor's equity interest:

Shareholder	Approximate Percentage of Shares Held
Pacific Coast Feather, LLC	100%
Hollander Sleep Products, LLC	100%
Hollander Home Fashions Holdings, LLC	100%
Dream II Holdings, LLC	100%
Sentinel Dream II Holdings, LLC	84%

Fill in this information to identify the case and this filing:		
Debtor Name	Pacific Coast Feather Cushion, LLC	
United States Bankruptcy Court for the:	Southern District of New York	NY (State)
Case number (If known):		

Official Form 202**Declaration Under Penalty of Perjury for Non-Individual Debtors**

12/15

An individual who is authorized to act on behalf of a non-individual debtor, such as a corporation or partnership, must sign and submit this form for the schedules of assets and liabilities, any other document that requires a declaration that is not included in the document, and any amendments of those documents. This form must state the individual's position or relationship to the debtor, the identity of the document, and the date. Bankruptcy Rules 1008 and 9011.

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

Declaration and signature

I am the president, another officer, or an authorized agent of the corporation; a member or an authorized agent of the partnership; or another individual serving as a representative of the debtor in this case.

I have examined the information in the documents checked below and I have a reasonable belief that the information is true and correct:

- ☐ *Schedule A/B: Assets-Real and Personal Property (Official Form 206A/B)*
- ☐ *Schedule D: Creditors Who Have Claims Secured by Property (Official Form 206D)*
- ☐ *Schedule E/F: Creditors Who Have Unsecured Claims (Official Form 206E/F)*
- ☐ *Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G)*
- ☐ *Schedule H: Codebtors (Official Form 206H)*
- ☐ *Summary of Assets and Liabilities for Non-Individuals (Official Form 206Sum)*
- ☐ Amended Schedule
- ☒ *Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 50 Largest Unsecured Claims and Are Not Insiders (Official Form 204)*
- ☒ Other document that requires a declaration List of Equity Security Holders, Corporate Ownership Statement

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

05/19/2019
MM/DD/YYYY

☒ /s/ Marc Pfefferle

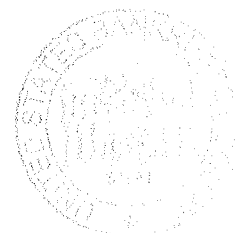
Signature of individual signing on behalf of debtor

Marc Pfefferle

Printed name

Chief Executive Officer

Position or relationship to debtor



**HOLLANDER HOME FASHIONS HOLDINGS, LLC
HOLLANDER SLEEP PRODUCTS, LLC
HOLLANDER SLEEP PRODUCTS KENTUCKY, LLC
PACIFIC COAST FEATHER, LLC
AND
PACIFIC COAST FEATHER CUSHION, LLC**

OMNIBUS WRITTEN CONSENT OF SOLE MEMBER IN LIEU OF MEETING

MAY 18, 2019

Effective as of the date written above, the undersigned, being the sole member (the "Member") of each of Hollander Home Fashions Holdings, LLC, a Delaware limited liability company, Hollander Sleep Products, LLC, a Delaware limited liability company, Hollander Sleep Products Kentucky, LLC, a Delaware limited liability company, Pacific Coast Feather, LLC, a Delaware limited liability company, and Pacific Coast Feather Cushion, LLC, a Delaware limited liability company (each a "Company," and together the "Companies"), in lieu of holding a special meeting of the Member, **HEREBY CONSENT** to the taking of the following actions and **HEREBY ADOPT** the following resolutions by written consent (this "Written Consent") pursuant to the organizational documents of the Companies and the laws of the state of Delaware;

WHEREAS, the Member has considered presentations by the management of each Company and the financial and legal advisors of the Companies regarding the liabilities and liquidity situation of each Company, the strategic alternatives available to each Company, and the effect of the foregoing on each Company's business;

WHEREAS, the Companies and certain of their affiliates (together, the "Restructuring Parties") have negotiated a restructuring support agreement (the "RSA"), a substantially final copy of which has been provided to the Member, with certain of the holders of their secured term loan facility and their majority equityholder, which agreement contemplates a comprehensive restructuring of the Restructuring Parties' capital structure on the terms set forth therein;

WHEREAS, in the business judgment of the Member, it is desirable, and in the best interests of each Company, its creditors, and other parties in interest, to enter into the RSA; and

WHEREAS, the Member has consulted with the management and the financial and legal advisors of the Companies and fully considered each of the strategic alternatives available to the Companies and, in the judgment of the Member it is desirable and in the best interest of the Companies to file for relief under the provisions of chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code").

NOW, THEREFORE, BE IT,**Restructuring Support Agreement; Chapter 11 Plan**

RESOLVED, the Member is hereby authorized and directed to finalize, execute, and deliver the RSA, and the Company's performance of its obligations under the RSA, including the negotiation and documentation of the chapter 11 plan, and all exhibits, schedules, attachments, and ancillary documents or agreements related thereto, is, in all respects, approved and authorized.

Chapter 11 Filing

RESOLVED, that the Company shall be, and hereby is, authorized and directed to file or cause to be filed a voluntary petition for relief (the "Chapter 11 Case") under the provisions of chapter 11 of title 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"); and

RESOLVED, that any officers or directors of each Company (collectively, the "Authorized Signatories"), acting alone or with one or more other Authorized Signatories be, and they hereby are, authorized, empowered, and directed to execute and file on behalf of each Company all motions, affidavits, papers, documents, or other filings, and to take any and all actions that they deem necessary or proper to obtain or in furtherance of such relief, including, without limitation, any action necessary to maintain the ordinary course operation of each Company's business.

Retention of Professionals

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the law firm of Kirkland & Ellis LLP and Kirkland & Ellis International LLP (together, "Kirkland") as general bankruptcy counsel to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each Company's rights and obligations, including filing any motions, objections, replies, applications, or pleadings; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Kirkland.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm Carl Marks Advisory Group LLC ("Carl Marks") to provide interim management services to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Carl Marks.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm Houlihan Lokey Capital, Inc. ("Houlihan"), as financial

advisor and investment banker to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed an appropriate application for authority to retain the services of Houlihan.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm of Omni Management Group ("Omni") as notice and claims agent to represent and assist each Company in carrying out its duties under the Bankruptcy Code, and to take any and all actions to advance each Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed appropriate applications for authority to retain the services of Omni.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ the firm of Proskauer Rose LLP ("Proskauer") as counsel to each Company to act solely at the direction of the disinterested director in accordance with the delegation of conflict matters to the disinterested director, and to take any and all actions to advance each Company's rights and obligations; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers, and to cause to be filed appropriate applications for authority to retain the services of Proskauer.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, authorized and directed to employ any other professionals to assist each Company in carrying out its duties under the Bankruptcy Code; and in connection therewith, each of the Authorized Signatories, with power of delegation, is hereby authorized and directed to execute appropriate retention agreements, pay appropriate retainers and fees, and to cause to be filed an appropriate application for authority to retain the services of any other professionals as necessary.

RESOLVED, that each of the Authorized Signatories be, and they hereby are, with power of delegation, authorized, empowered, and directed to execute and file all petitions, schedules, motions, lists, applications, pleadings, and other papers and, in connection therewith, to employ and retain all assistance by legal counsel, accountants, financial advisors, and other professionals and to take and perform any and all further acts and deeds that each of the Authorized Signatories deem necessary, proper, or desirable in connection with each Company's Chapter 11 Case, with a view to the successful prosecution of such cases.

Debtor-in-Possession Financing, Cash Collateral, and Adequate Protection

RESOLVED, that each Company will obtain benefits from (a) the use of collateral, including cash collateral, as that term is defined in section 363(a) of the Bankruptcy Code (the "Cash Collateral"), which is security for certain prepetition secured lenders (collectively, the "Secured Lenders") party to (i) that certain Term Loan Credit Agreement,

dated as of June 9, 2017 (as amended from time to time), by and among Hollander Sleep Products, LLC, as borrower, and its subsidiaries as borrowers or guarantors, certain lenders party thereto, and Barings Finance, LLC, in its capacity as lender and administrative agent and (ii) that certain Third Amended and Restated Credit Agreement, dated as of June 9, 2017 (as amended from time to time), by and among Dream II Holdings, LLC, as borrower, and its subsidiaries as borrowers or guarantors, certain lenders party thereto, and Wells Fargo Bank, National Association, in its capacity as agent and (b) the incurrence of debtor-in-possession financing obligations (the "DIP Financing").

RESOLVED, that to use and obtain the benefits of (a) the DIP Financing and (b) the Cash Collateral, and in accordance with section 363 of the Bankruptcy Code, each Company will provide certain liens, claims, and adequate protection to the Secured Lenders (the "DIP Obligations"), as documented in a proposed interim order (the "Interim DIP Order") and submitted for approval to the Bankruptcy Court.

RESOLVED, that the form, terms, and provisions of the Interim DIP Order to which each Company is or will be subject, and the actions and transactions contemplated thereby be, and hereby are, authorized, adopted, and approved, and each of the Authorized Signatories of each Company be, and hereby is, authorized and empowered, in the name of and on behalf of each Company, to take such actions and negotiate or cause to be prepared and negotiated and to execute, deliver, perform, and cause the performance of, the Interim DIP Order, and such other agreements, certificates, instruments, receipts, petitions, motions, or other papers or documents to which each Company is or will be a party, including, but not limited to, any security and pledge agreement or guaranty agreement (collectively with the Interim DIP Order, the "DIP Documents"), incur and pay or cause to be paid all fees and expenses and engage such persons, in each case, in the form or substantially in the form thereof submitted to the Member, with such changes, additions, and modifications thereto as the officers of each Company executing the same shall approve, such approval to be conclusively evidenced by such officers' execution and delivery thereof.

RESOLVED, that each Company, as debtor and debtor in possession under the Bankruptcy Code be, and hereby is, authorized to incur the DIP Obligations and certain obligations related to the DIP Financing and to undertake any and all related transactions on substantially the same terms as contemplated under the DIP Document (collectively, the "DIP Transactions"), including granting liens on its assets to secure such obligations.

RESOLVED, that the Authorized Signatories of each Company be, and they hereby are, authorized and directed, and each of them acting alone hereby is, authorized, directed, and empowered in the name of, and on behalf of, each Company, as debtor and debtor in possession, to take such actions as in their discretion are determined to be necessary, desirable, or appropriate and execute the DIP Transactions, including delivery of: (a) the DIP Documents; (b) such other instruments, certificates, notices, assignments, and documents as may be reasonably requested by the agents; and (c) such forms of deposit, account control agreements, officer's certificates, and compliance certificates as may be required by the DIP Documents.

RESOLVED, that each of the Authorized Signatories of each Company be, and hereby is, authorized, directed, and empowered in the name of, and on behalf of, each Company to

file or to authorize the agents to file any Uniform Commercial Code (the “UCC”) financing statements, any other equivalent filings, any intellectual property filings and recordation, and any necessary assignments for security or other documents in the name of each Company if the agents deem it necessary or appropriate to perfect any lien or security interest granted under the Interim DIP Order, including any such UCC financing statement containing a generic description of collateral, such as “all assets,” “all property now or hereafter acquired,” and other similar descriptions of like import, and to execute and deliver, and to record or authorize the recording of, such mortgages and deeds of trust in respect of real property of each Company and such other filings in respect of intellectual and other property of each Company, in each case as the agents may reasonably request to perfect the security interests of the agents under the Interim DIP Order or any of the other DIP Documents.

RESOLVED, that each of the Authorized Signatories of each Company be, and hereby are, authorized, directed, and empowered in the name of, and on behalf of, each Company to take all such further actions, including, without limitation, to pay or approve the payment of all fees and expenses payable in connection with the DIP Transactions and all fees and expenses incurred by or on behalf of each Company in connection with the foregoing resolutions, in accordance with the terms of the DIP Documents, which shall in their sole judgment be necessary, desirable, proper, or advisable to perform any of each Company’s obligations under or in connection with the Interim DIP Order or any of the other DIP Documents and the transactions contemplated therein and to carry out fully the intent of the foregoing resolutions.

General

RESOLVED, that, in addition to the specific authorizations heretofore conferred upon each Authorized Signatory, each Authorized Signatory (and his designees and delegates) be, and hereby is, authorized and empowered, in the name of and on behalf of each Company, to take or cause to be taken any and all such other and further actions, and to execute, acknowledge, deliver, and file any and all such agreements, certificates, instruments, and other documents with such additions, deletions, amendments, modifications or other changes as such Authorized Signatory may approve, and to pay all expenses, including but not limited to filing fees, in each case as in such Authorized Signatory’s (or his designee’s or delegate’s) judgment, shall be necessary, advisable, or desirable in order to fully carry out the intent and accomplish the purposes of the resolutions adopted herein, such determination to be conclusively evidenced by such Authorized Signatory’s execution and delivery of any of the agreements, certificates, instruments, or other documents, or the taking of any such action.

RESOLVED, that the Member has received sufficient notice of the actions and transactions relating to the matters contemplated by the foregoing resolutions, as may be required by the organizational documents of each Company, or hereby waives any right to have received such notice.

RESOLVED, that all acts, actions, and transactions relating to the matters contemplated or implied by the foregoing resolutions done in the name of and on behalf of each Company by any director, officer, employee or agent of the Company, or any person or persons

designated and authorized to act on behalf of the Company, which acts would have been approved by the foregoing resolutions except that such acts were taken before the adoption of these resolutions, are hereby in all respects approved and ratified as the true acts and deeds of each Company with the same force and effect as if each such act, transaction, agreement, or certificate had been specifically authorized and adopted in advance by resolution of the Member.

RESOLVED, that each Authorized Signatory (and his designees and delegates) be, and hereby is, authorized and empowered to take all actions, or to not take any action, in the name of each Company, with respect to the transactions contemplated by these resolutions hereunder, as such Authorized Signatory shall deem necessary or desirable in such Authorized Signatory's reasonable business judgment, as may be necessary or convenient to effectuate the purposes of the transactions contemplated herein.

This Written Consent may be executed in originals or electronically in as many counterparts as may be required; all counterparts shall collectively constitute one and the same Written Consent.


* * * * *

IN WITNESS WHEREOF, the undersigned have executed this Written Consent as of the date first written above and adopt the foregoing resolutions.

DREAM II HOLDINGS, LLC,
Sole Member of Hollander Home Fashions
Holdings, LLC


Name: Marc Pfefferle
Title: Chief Executive Officer

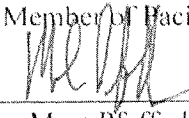
**HOLLANDER HOME FASHIONS
HOLDINGS, LLC,**
Sole Member of Hollander Sleep Products,
LLC

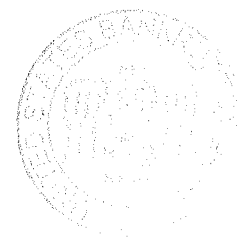

Name: Marc Pfefferle
Title: Chief Executive Officer

**HOLLANDER SLEEP
PRODUCTS, LLC,**
Sole Member of Hollander Sleep Products
Kentucky, LLC


Name: Marc Pfefferle
Title: Chief Executive Officer

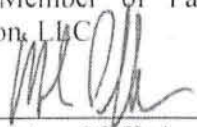
**HOLLANDER SLEEP
PRODUCTS, LLC**
Sole Member of Pacific Coast Feather, LLC


Name: Marc Pfefferle
Title: Chief Executive Officer



PACIFIC COAST FEATHER, LLC

Sole Member of Pacific Coast Feather
Cushion, LLC


Name: Marc Pfefferle

Title: Chief Executive Officer

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]



I HEREBY ATTEST AND CERTIFY ON 5-22-19
THAT THIS DOCUMENT IS A FULL, TRUE AND CORRECT
COPY OF THE ORIGINAL FILED ON OUR COURT'S
ELECTRONIC CASE FILING SYSTEM.

CLERK, US BANKRUPTCY COURT, SDNY

BY: Michael Renta DEPUTY CLERK

THIS IS EXHIBIT "H" REFERRED TO IN THE
AFFIDAVIT OF EVAN BARZ SWORN
ON MAY 23, 2019.



A Commissioner for Taking Affidavits

Patrick Welsh
60322P

Joshua A. Sussberg, P.C.
Christopher T. Greco, P.C.
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

Joseph M. Graham (*pro hac vice* pending)
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
300 North LaSalle
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Proposed Counsel to the Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

)	
In re:	)	Chapter 11
)	
HOLLANDER SLEEP PRODUCTS, LLC, <i>et al.</i> , ¹	)	Case No. 19-11608 (____)
)	
Debtors.	)	(Joint Administration Requested)
)	

**DEBTORS' MOTION FOR ENTRY OF AN ORDER (A) AUTHORIZING
HOLLANDER SLEEP PRODUCTS, LLC TO ACT AS FOREIGN REPRESENTATIVE
AND (B) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession (collectively, the "Debtors") respectfully state as follows in support of this motion:

Relief Requested

1. By this motion, the Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A**, (a) authorizing Hollander Sleep Products, LLC ("Hollander") to act as the Foreign Representative (as defined herein) on behalf of the Debtors' estates in the Canadian Proceeding (as defined herein), and (b) granting related relief.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors' service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

Jurisdiction and Venue

2. The United States Bankruptcy Court for the Southern District of New York (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012. The Debtors confirm their consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The bases for the relief requested herein are sections 105 and 1505 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), and Rule 9013-1 of the Bankruptcy Local Rules for the Southern District of New York (the “Local Rules”).

Appointment of Foreign Representative

5. Debtor Hollander Sleep Products Canada Limited is a corporation registered in British Columbia, Canada. Hollander, as the proposed Foreign Representative (as defined herein), will shortly seek ancillary relief in Canada on behalf of the Debtors’ estates in a court of proper jurisdiction in Ontario, Canada (the “Canadian Court”) pursuant to the Companies’ Creditors Arrangement Act (Canada) R.S.C. 1985, c. C-36 (as amended, the “CCAA”). The purpose of the ancillary proceeding (the “Canadian Proceeding”) is to request that the Canadian Court recognize the Debtors’ chapter 11 cases as “foreign main proceedings” under the applicable provisions of the CCAA to, among other things, protect the Debtors’ assets and operations in Canada.

6. To commence the Canadian Proceeding, the Debtors require authority for a Debtor entity to act as the “foreign representative”² on behalf of the Debtors’ estates (the “Foreign Representative”). Therefore, the Debtors request authority to appoint Hollander as such Foreign Representative.

7. More specifically, section 46 of the CCAA provides in part:

- a. **Application for recognition of a foreign proceeding.** — A foreign representative may apply to the court for recognition of the foreign proceeding in respect of which he or she is a foreign representative.
- b. **Documents that must accompany application.** — . . . the application must be accompanied by . . . (b) a certified copy of the instrument, however designated, authorizing the foreign representative to act in that capacity or a certificate from the foreign court affirming the foreign representative’s authority to act in that capacity

CCAA, R.S.C., Ch. C-36, § 46 (1985) (Can.).

8. Accordingly, for Hollander to seek recognition as the Foreign Representative in the Canadian Proceeding, and thereby apply to have the Debtors’ chapter 11 cases recognized by the Canadian Court, this Court must enter an order authorizing Hollander to act as the Foreign Representative in the Canadian Proceeding. If the order is granted, Hollander will be able to file the order with the Canadian Court as the instrument authorizing Hollander to act as the Foreign Representative pursuant to section 46 of the CCAA.

Basis for Relief

9. Section 1505 of the Bankruptcy Code provides that “[a] trustee or another entity (including an examiner) may be authorized by the court to act in a foreign country on behalf of an

² A “foreign representative” is defined in section 45(1) of the CCAA to mean “a person or body, including one appointed on an interim basis, who is authorized, in a foreign proceeding respect of a debtor company, to

(a) monitor the debtor company’s business and financial affairs for the purpose of reorganization; or
(b) act as a representative in respect of the foreign proceeding.”

estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.” 11 U.S.C. § 1505. Further, section 1107(a) of the Bankruptcy Code provides, in relevant part, that “a debtor in possession shall have all the rights . . . and powers, and shall perform all the functions and duties . . . of a trustee serving in a case under this chapter.” 11 U.S.C. § 1107(a).

10. The Debtors respectfully submit that section 1107 of the Bankruptcy Code confers upon Hollander, as a debtor in possession, sufficient rights, powers, and duties to act as a Foreign Representative of the Debtors’ estates in the Canadian Proceeding. To avoid any possible confusion or doubt regarding this authority and to comply with the requirements of section 46 of the CCAA, the Debtors seek entry of an order, pursuant to section 1505 of the Bankruptcy Code, explicitly authorizing Hollander to act as the Foreign Representative of the Debtors’ estates in the Canadian Proceeding.

11. Authorizing Hollander to act as the Foreign Representative on behalf of the Debtors’ estates in the Canadian Proceeding will allow for coordination between these chapter 11 cases and the Canadian Proceeding, and provide an effective mechanism to protect and maximize the value of the Debtors’ assets and estates. Indeed, courts in this and other jurisdictions have granted relief similar to that requested herein in other large chapter 11 cases where a debtor has foreign assets or operations requiring a recognition proceeding. *See, e.g., In re Aeropostale, Inc.*, No. 16-11275 (SHL) (Bankr. S.D.N.Y. May 6, 2016); *In re Chemtura Corporation*, No. 09-11233 (REG) (Bankr. S.D.N.Y. Aug. 9, 2010); *In re Payless Holdings LLC*, No. 17-42267 (KAS) (Bankr. E.D. Mo. Apr. 5, 2017); *In re CJ Holding Co.*, No. 16-33590 (DRJ) (Bankr. S.D. Tex. July 21, 2016); *In re Ultra Petroleum Corp.*, No. 16-32202 (MI) (Bankr. S.D. Tex. May 3, 2016).

Accordingly, the Debtors submit that the relief requested herein is necessary and appropriate, is in the best interests of their estates and creditors, and should be granted in all respects.

The Requirements of Bankruptcy Rule 6003 Are Satisfied

12. Bankruptcy Rule 6003 empowers a court to grant relief within the first 21 days after the Petition Date “to the extent that relief is necessary to avoid immediate and irreparable harm.” For the reasons discussed above, the Debtors believe an immediate and orderly transition into chapter 11 is critical to the viability of their operations and that any delay in granting the relief requested could hinder the Debtors’ operations and cause irreparable harm. Furthermore, the failure to receive the requested relief during the first 21 days of these chapter 11 cases would severely disrupt the Debtors’ operations at this important juncture. The motion requests relief from procedural rules and requirements that pertain to matters of immediate significance or which involve deadlines sooner than 21 days after the Petition Date. Accordingly, the Debtors submit that they have satisfied the “immediate and irreparable” standard of Bankruptcy Rule 6003 to support granting the relief requested herein.

Notice

13. The Debtors will provide notice of this motion to: (a) the Office of the United States Trustee for the Southern District of New York; (b) the holders of the 50 largest unsecured claims against the Debtors (on a consolidated basis); (c) the administrative agent for the Debtors’ term loan facility and counsel thereto; (d) the administrative agent for the Debtors’ asset-based loan credit facility and counsel thereto; (e) the administrative agent for the Debtors’ proposed debtor in possession term loan financing facility and counsel thereto; (f) the administrative agent for the Debtors’ proposed debtor in possession asset-based loan credit facility and counsel thereto; (g) the United States Attorney’s Office for the Southern District of New York; (h) the Internal Revenue Service; (i) the attorneys general for the states in which the Debtors operate; and (i) any party that

has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

14. No prior request for the relief sought in this Motion has been made to this or any other court.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

WHEREFORE, the Debtors respectfully request entry of an order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein and granting such other relief as is just and proper.

New York, New York
Dated: May 19, 2019

/s/ Joshua A. Sussberg
Joshua A. Sussberg, P.C.
Christopher T. Greco, P.C.
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

- and -

Joseph M. Graham (*pro hac vice* pending)
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
300 North LaSalle Street
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Proposed Counsel to the Debtors and Debtors in Possession

Exhibit A

Proposed Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

)	
In re:	)	Chapter 11
)	
HOLLANDER SLEEP PRODUCTS, LLC., <i>et al.</i> , ¹	)	Case No. 19-11608 (____)
)	
Debtors.	)	(Joint Administration Requested)
)	
	)	Re: Docket No. ____

**ORDER (A) AUTHORIZING HOLLANDER SLEEP PRODUCTS, LLC TO
ACT AS FOREIGN REPRESENTATIVE AND (B) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”), (a) authorizing Hollander Sleep Products, LLC (“Hollander”) to act as foreign representative on behalf of the Debtors’ estates pursuant to section 1505 of the Bankruptcy Code and (b) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012; and this Court having the power to enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors’ notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors’ service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

² Capitalized terms used but not otherwise defined herein shall have the meanings set forth to them in the Motion.

Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the “Hearing”); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. Hollander is hereby authorized to act as the Foreign Representative on behalf of the Debtors’ estates in connection with the Canadian Proceeding. As Foreign Representative, Hollander shall be authorized and shall have the power to act in any way permitted by applicable foreign law, including (a) seeking recognition of the Debtors’ chapter 11 cases in the Canadian Proceeding, (b) requesting that the Canadian Court lend assistance to this Court in protecting the Debtors’ property, and (c) seeking any other appropriate relief from the Canadian Court that Hollander deems just and proper in the furtherance of the protection of the Debtors’ estates.
3. This Court requests the aid and assistance of the Canadian Court to recognize the Debtors’ chapter 11 cases as a “foreign main proceeding” and Hollander as a “foreign representative” pursuant to the CCAA, and to recognize and give full force and effect in all provinces and territories of Canada to this Order.
4. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

5. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

New York, New York
Dated: _____, 2019

UNITED STATES BANKRUPTCY JUDGE

THIS IS EXHIBIT "I" REFERRED TO IN THE
AFFIDAVIT OF EVAN BARZ SWORN
ON MAY 23, 2019.



A Commissioner for Taking Affidavits

Patricia Welsh
LSO 60322P

Joshua A. Sussberg, P.C.
Christopher T. Greco, P.C.
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

Joseph M. Graham (*pro hac vice* pending)
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
 300 North LaSalle
 Chicago, Illinois 60654
 Telephone: (312) 862-2000
 Facsimile: (312) 862-2200

Proposed Counsel to the Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

HOLLANDER SLEEP PRODUCTS, LLC,

Debtor.

Tax I.D. No. 27-0542143

) Chapter 11
)
) Case No. 19-11608 (____)

In re:

DREAM II HOLDINGS, LLC,

Debtor.

Tax I.D. No. 47-1927915

) Chapter 11
)
) Case No. 19-11607 (____)

In re:

HOLLANDER HOME FASHIONS
HOLDINGS, LLC,

Debtor.

Tax I.D. No. 27-0542063

) Chapter 11
)
) Case No. 19-11609 (____)

<hr/>)
In re:		) Chapter 11
)
HOLLANDER SLEEP PRODUCTS		) Case No. 19-11610 (___)
KENTUCKY, LLC,)
)
Debtor.)
)
Tax I.D. No. 90-1014119)
<hr/>)
In re:		) Chapter 11
)
PACIFIC COAST FEATHER, LLC,		) Case No. 19-11611 (___)
)
Debtor.)
)
Tax I.D. No. 91-0891445)
<hr/>)
In re:		) Chapter 11
)
PACIFIC COAST FEATHER CUSHION, LLC,		) Case No. 19-11612 (___)
)
Debtor.)
)
Tax I.D. No. 93-1063119)
<hr/>)
In re:		) Chapter 11
)
HOLLANDER SLEEP PRODUCTS CANADA		) Case No. 19-11613 (___)
LIMITED,)
)
Debtor.)
)
Tax I.D. No. 13902-3477)
<hr/>)

**DEBTORS' MOTION FOR ENTRY
OF AN ORDER (A) DIRECTING JOINT ADMINISTRATION
OF CHAPTER 11 CASES AND (B) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) respectfully state as follows in support of this motion:

Relief Requested

1. By this motion, the Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A**, (a) directing procedural consolidation and joint administration of these chapter 11 cases and (b) granting related relief. Specifically, the Debtors request that the United States Bankruptcy Court for the Southern District of New York (the “Court”) maintain one file and one docket for all of the jointly administered cases under the case of Hollander Sleep Products, LLC, and that the cases be administered under a consolidated caption, as follows:

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	
	)	Chapter 11
)	
HOLLANDER SLEEP PRODUCTS, LLC, <i>et al.</i> ¹,	)	Case No. 19-11608 (___)
)	
Debtors.	)	(Joint Administration Requested)
)	

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors’ service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

2. The Debtors further request that the Court order that the foregoing caption satisfies the requirements set forth in section 342(c)(1) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”).

3. The Debtors also request that a docket entry, substantially similar to the following, be entered on the docket of each of the Debtors’ cases other than the case of Hollander Sleep Products, LLC:

An order has been entered in accordance with rule 1015(b) of the Federal Rules of Bankruptcy Procedure directing the joint administration of the chapter 11 cases of: Dream II Holdings, LLC; Hollander Home Fashions Holdings, LLC; Hollander Sleep Products, LLC; Pacific Coast Feather, LLC;

Hollander Sleep Products Kentucky, LLC; Pacific Coast Feather Cushion, LLC; and Hollander Sleep Products Canada Limited. All further pleadings and other papers shall be filed in and all further docket entries shall be made in Case No. 19-11608 (___).

4. The Debtors also seek authority to fulfill their monthly operating report requirements required by the *Operating Guidelines and Reporting Requirements for Debtors in Possession and Trustees*, issued by the Office of the United States Trustee for the Southern District of New York (the “U.S. Trustee”), by consolidating the information required for each Debtor in one report that tracks and breaks out all of the specific information (e.g., receipts, disbursements, etc.) on a debtor-by-debtor basis in each monthly operating report.

Jurisdiction and Venue

5. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012. The Debtors confirm their consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

6. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

7. The bases for the relief requested herein are section 105(a) of the Bankruptcy Code, Bankruptcy Rule 1015(b), and Rule 9013-1(a) of the Local Bankruptcy Rules for the Southern District of New York (the “Local Rules”).

Background¹

8. Hollander Sleep Products is the largest pillow and mattress pad manufacturer in North America. The Debtors also manufacture comforters and other basic bedding products. The Debtors have their own brands, including Great Sleep®, I AM®, LC®, PCF®, and Restful Nights®, and also manufacture and sell licensed brands, including Simmons®, Ralph Lauren®, CHAPS®, Calvin Klein®, Therapedic®, Nautica®, 37.5®, and Dr. Maas®. The Debtors are headquartered in Boca Raton, Florida, operate a main showroom in New York City, and have thirteen manufacturing facilities throughout the United States and Canada. The Debtors generated approximately \$527 million in net revenue in fiscal year 2018 and currently employ more than 2,300 people across the United States and Canada. As of the date hereof, the Debtors have approximately \$233 million in funded debt.

9. On the Petition Date, each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

Basis for Relief

10. Bankruptcy Rule 1015(b) provides, in pertinent part, that “[i]f . . . two or more petitions are pending in the same court by or against . . . a debtor and an affiliate, the court may order a joint administration of the estates.” Fed. R. Bankr. P. 1015. The Debtors are “affiliates” as that term is defined in section 101(2) of the Bankruptcy Code. Accordingly, the Bankruptcy Code and Bankruptcy Rules authorize the Court to grant the relief requested herein.

¹ The facts and circumstances supporting this motion are set forth in the *Declaration of Marc Pfefferle, Chief Executive Officer of Hollander Sleep Products, LLC, in Support of Chapter 11 Petitions and First Day Motions* (the “First Day Declaration”), filed contemporaneously herewith and incorporated by reference herein.

11. Section 105(a) of the Bankruptcy Code provides the Court with the power to grant the relief requested herein by permitting the Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a).

12. Joint administration is generally non-controversial, and courts in this jurisdiction routinely order joint administration in cases with multiple, related debtors. *See, e.g., In re Windstream Holdings, Inc.*, No. 19-22312 (RDD) (Bankr. S.D.N.Y. Feb. 28, 2019) (ordering joint administration of the debtors’ cases); *In re FULLBEAUTY Brands Holdings Corp.*, No. 19-22185 (RDD) (Bankr. S.D.N.Y. Feb. 7, 2019) (same); *In re Aegean Marine Petroleum Network Inc.*, No. 18-13374 (MEW) (Bankr. S.D.N.Y. Nov. 17, 2018) (same); *In re Nine West Holdings, Inc.*, No. 18-10947 (SCC) (Bankr. S.D.N.Y. Apr. 9, 2018) (same); *In re Cenveo, Inc.*, No. 18-22178 (RDD) (Bankr. S.D.N.Y. Feb. 5, 2018) (same).²

13. Given the integrated nature of the Debtors’ operations, joint administration of these chapter 11 cases will provide significant administrative convenience without harming the substantive rights of any party in interest. Many of the motions, hearings, and orders in these chapter 11 cases will affect each and every Debtor entity. The entry of an order directing joint administration of these chapter 11 cases will reduce fees and costs by avoiding duplicative filings and objections in each Debtor’s chapter 11 case. Joint administration will also allow the U.S. Trustee and all parties in interest to monitor these chapter 11 cases with greater ease and efficiency by allowing such parties to focus on one case docket.

14. Moreover, joint administration will not adversely affect the Debtors’ respective constituencies because this motion seeks only administrative, not substantive, consolidation of

² Because of the voluminous nature of the orders cited herein, such orders have not been attached to this motion. Copies of these orders are available upon request to the Debtors’ proposed counsel.

the Debtors' estates. Parties in interest will not be harmed by the relief requested; instead, parties in interest will benefit from the cost reductions associated with the joint administration of these chapter 11 cases. Accordingly, the Debtors submit that the joint administration of these chapter 11 cases is in the best interests of their estates, their creditors, and all other parties in interest.

Motion Practice

15. This motion includes citations to the applicable rules and statutory authorities upon which the relief requested herein is predicated and a discussion of their application to this motion. Accordingly, the Debtors submit that this motion satisfies Local Rule 9013-1(a).

Notice

16. The Debtors will provide notice of this motion to: (a) the Office of the United States Trustee for the Southern District of New York; (b) the holders of the 50 largest unsecured claims against the Debtors (on a consolidated basis); (c) the administrative agent for the Debtors' term loan facility and counsel thereto; (d) the administrative agent for the Debtors' asset-based loan credit facility and counsel thereto; (e) the administrative agent for the Debtors' proposed debtor in possession term loan financing facility and counsel thereto; (f) the administrative agent for the Debtors' proposed debtor in possession asset-based loan credit facility and counsel thereto; (g) the United States Attorney's Office for the Southern District of New York; (h) the Internal Revenue Service; (i) the attorneys general for the states in which the Debtors operate; and (j) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

17. No prior request for the relief sought in this motion has been made to this or any other court.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

WHEREFORE, the Debtors respectfully request entry of an order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein and granting such other relief as is just and proper.

New York, New York

Dated: May 19, 2019

/s/ Joshua A. Sussberg

Joshua A. Sussberg, P.C.

Christopher T. Greco, P.C.

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

601 Lexington Avenue

New York, New York 10022

Telephone: (212) 446-4800

Facsimile: (212) 446-4900

- and -

Joseph M. Graham (*pro hac vice* pending)

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

300 North LaSalle Street

Chicago, Illinois 60654

Telephone: (312) 862-2000

Facsimile: (312) 862-2200

Proposed Counsel to the Debtors and Debtors in Possession

Exhibit A

Proposed Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

HOLLANDER SLEEP PRODUCTS, LLC,

Debtor.

Tax I.D. No. 27-0542143

In re:

DREAM II HOLDINGS, LLC,

Debtor.

Tax I.D. No. 47-1927915

In re:

HOLLANDER HOME FASHIONS
HOLDINGS, LLC,

Debtor.

Tax I.D. No. 27-0542063

In re:

HOLLANDER SLEEP PRODUCTS
KENTUCKY, LLC,

Debtor.

Tax I.D. No. 90-1014119

)
) Chapter 11
)

) Case No. 19-11608 (____)
)
)

)
) Chapter 11
)

) Case No. 19-11607 (____)
)
)

)
) Chapter 11
)

) Case No. 19-11609 (____)
)
)

)
) Chapter 11
)

) Case No. 19-11610 (____)
)
)

In re:	)	Chapter 11
PACIFIC COAST FEATHER, LLC,	)	Case No. 19-11611 (___)
Debtor.)	
Tax I.D. No. 91-0891445)	
In re:	)	Chapter 11
PACIFIC COAST FEATHER CUSHION, LLC,	)	Case No. 19-11612 (___)
Debtor.)	
Tax I.D. No. 93-1063119)	
In re:	)	Chapter 11
HOLLANDER SLEEP PRODUCTS CANADA LIMITED,	)	Case No. 19-11613 (___)
Debtor.)	
Tax I.D. No. 13902-3477)	

**ORDER (A) DIRECTING JOINT ADMINISTRATION
OF CHAPTER 11 CASES AND (B) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)¹ of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”) (a) directing the joint administration of the Debtors’ chapter 11 cases for procedural purposes only and (b) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern*

¹ Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

District of New York, dated January 31, 2012; and this Court having the power to enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. The above-captioned chapter 11 cases are consolidated for procedural purposes only and shall be jointly administered by this Court under Case No. 19-11608 (____).
3. The caption of the jointly administered cases should read as follows:

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

)	
In re:	)	Chapter 11
)	
HOLLANDER SLEEP PRODUCTS, LLC, <i>et al.</i> ¹,	)	Case No. 19-11608 (____)
)	
Debtors.	)	(Joint Administration Requested)
)	

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors' service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

4. The foregoing caption satisfies the requirements set forth in section 342(c)(1) of the Bankruptcy Code.

5. A docket entry, substantially similar to the following, shall be entered on the docket of each of the Debtors other than Hollander Sleep Products, LLC to reflect the joint administration of these chapter 11 cases:

An order has been entered in accordance with rule 1015(b) of the Federal Rules of Bankruptcy Procedure directing the joint administration of the chapter 11 cases of: Dream II Holdings, LLC; Hollander Home Fashions Holdings, LLC; Hollander Sleep Products, LLC; Pacific Coast Feather, LLC; Hollander Sleep Products Kentucky, LLC; Pacific Coast Feather Cushion, LLC; and Hollander Sleep Products Canada Limited. All further pleadings and other papers shall be filed in and all further docket entries shall be made in Case No. 19-11608 (___).

6. One consolidated docket, one file, and one consolidated service list shall be maintained by the Debtors and kept by the Clerk of the Court with the assistance of the notice and claims agent retained by the Debtors in these chapter 11 cases.

7. The Debtors may file their monthly operating reports required by the *Operating Guidelines and Reporting Requirements for Debtors in Possession and Trustees*, issued by the U.S. Trustee, by consolidating the information required for each Debtor in one report that tracks and breaks out all of the specific information (*e.g.*, receipts, disbursements, etc.) on a debtor-by-debtor basis in each monthly operating report.

8. Nothing contained in the Motion or this Order shall be deemed or construed as directing or otherwise effecting a substantive consolidation of these chapter 11 cases and this Order shall be without prejudice to the rights of the Debtors to seek entry of an order substantively consolidating their respective cases.

9. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rules and the Local Rules are satisfied by such notice.

10. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

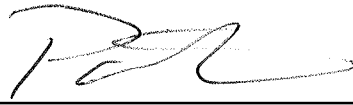
11. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

New York, New York

Dated: _____, 2019

UNITED STATES BANKRUPTCY JUDGE

THIS IS EXHIBIT "J" REFERRED TO IN THE
AFFIDAVIT OF EVAN BARZ SWORN
ON MAY 23, 2019.



A Commissioner for Taking Affidavits

Peter Walsh
603028

Joshua A. Sussberg, P.C.
Christopher T. Greco, P.C.
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

Joseph M. Graham (*pro hac vice* pending)
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
300 North LaSalle
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Proposed Counsel to the Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	
	)	Chapter 11
HOLLANDER SLEEP PRODUCTS, LLC, <i>et al.</i> , ¹	)	Case No. 19-11608 (___)
)	
Debtors.	)	(Joint Administration Requested)
)	

**DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS
(I) AUTHORIZING THE DEBTORS TO (A) PAY PREPETITION WAGES, SALARIES,
OTHER COMPENSATION, AND REIMBURSABLE EXPENSES AND (B) CONTINUE
EMPLOYEE BENEFITS PROGRAMS, AND (II) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession (collectively, the "Debtors") respectfully state as follows in support of this motion:

Relief Requested

1. By this motion, the Debtors seek entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, (a) authorizing the Debtors to (i) pay prepetition wages, salaries, other compensation, and reimbursable expenses, and (ii) continue employee benefits programs in the ordinary course of business, including payment of certain

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors' service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

prepetition obligations related thereto, each subject to the caps and limits set forth herein, and (b) granting related relief. In addition, the Debtors request that the Court (as defined herein) schedule a final hearing within approximately 25 days from the date hereof (the “Petition Date”) to consider approval of this motion on a final basis.

Jurisdiction and Venue

2. The United States Bankruptcy Court for the Southern District of New York (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012. The Debtors confirm their consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The bases for the relief requested herein are sections 105(a), 362(d), 363(b), 507(a), and 541(b)(1) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), Bankruptcy Rules 6003 and 6004, and Rule 9013-1(a) of the Local Bankruptcy Rules for the Southern District of New York (the “Local Rules”).

Background²

5. Hollander Sleep Products is the largest pillow and mattress pad manufacturer in North America. The Debtors also manufacture comforters and other basic bedding products.

² The facts and circumstances supporting this motion are set forth in the *Declaration of Marc Pfeifferle, Chief Executive Officer of Hollander Sleep Products, LLC, in Support of Chapter 11 Petitions and First Day Motions* (the “First Day Declaration”), filed contemporaneously herewith and incorporated by reference herein.

The Debtors have their own brands, including Great Sleep®, I AM®, LC®, PCF®, and Restful Nights®, and also manufacture and sell licensed brands, including Simmons®, Ralph Lauren®, CHAPS®, Calvin Klein®, Therapedic®, Nautica®, 37.5®, and Dr. Maas®. The Debtors are headquartered in Boca Raton, Florida, operate a main showroom in New York City, and have thirteen manufacturing facilities throughout the United States and Canada. The Debtors generated approximately \$527 million in net revenue in fiscal year 2018 and currently employ more than 2,300 people across the United States and Canada. As of the date hereof, the Debtors have approximately \$233 million in funded debt.

6. On the Petition Date, each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their business and managing their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors have concurrently filed a motion requesting procedural consolidation and joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b).

The Debtors' Workforce

7. As of the Petition Date, the Debtors employ approximately 2,370 employees working on a salary or hourly basis in the United States and Canada, including approximately 2,369 full-time employees (the "Full-Time Employees") and approximately one part-time employee (the "Part-Time Employee") (collectively, the "Employees").³

8. The majority of the Debtors' Employees are not represented by a labor union. Debtor Hollander Sleep Products, LLC is party to collective bargaining agreements (each, a "CBA," and together, the "CBAs") with the Southwest Regional Joint Board Workers United, Southern Regional Joint Board of Workers United, SEIU on Behalf of Local 2420,

³ Generally, the Part-Time Employee works no more than 30 hours per week.

Mid-Atlantic Joint Board of Workers United, and Workers United, Western States Regional Joint Board. Approximately 511 Employees are employed under a CBA (the “Represented Employees,” and Employees who are not Represented Employees, the “Non-Represented Employees”). None of the Employees in Canada are represented by a labor union. By this motion, the Debtors seek the authority to continue to provide compensation and benefits to the Represented Employees pursuant to the CBA in the ordinary course of business and consistent with past practice.⁴

9. In addition to the Employees, the Debtors also periodically retain personnel as independent contractors (the “Independent Contractors”) or temporary workers (the “Temporary Staff”). There are approximately 12 Independent Contractors, some of whom perform crucial roles for the Debtors’ various business (i.e., sourcing), while others perform discrete consulting services (i.e., IT and marketing). There are approximately 31 Temporary Staff employed in-house. Temporary Staff fulfill certain duties on both a short- and long-term basis including, among other things, warehouse duties and general office services. The number of Temporary Staff and Independent Contractors fluctuates based on the Debtors’ specific needs at any given time.

10. The Independent Contractors and Temporary Staff are a critical supplement to the efforts of the Employees and provide the Debtors with the flexibility to adapt their work force to fluctuating labor needs. Certain of these individuals are highly trained and have an essential working knowledge of the Debtors’ business that the Debtors cannot easily replace. Without the services of these individuals, the Debtors’ reorganization efforts will be threatened.

11. The Employees, Independent Contractors, and Temporary Staff rely on their compensation and benefits to pay their daily living expenses and support their families. If the

⁴ Although the Debtors request authority to honor obligations relating to the CBAs, the Debtors do not seek, pursuant to this motion, to assume or affirm any contract, agreements, programs, or to agree to the applicability of any law related to the CBAs, and the Debtors reserve all rights with respect thereto.

Debtors are unable to meet and sustain their payroll and benefits obligations as set forth herein, these workers may suffer significant financial harm. Consequently, the Debtors respectfully submit that the relief requested herein is necessary and appropriate under the facts and circumstances of these chapter 11 cases.

Employee Compensation and Benefits Programs

12. To minimize the personal hardship the Employees could suffer if prepetition employee-related obligations are not paid when due or as expected and to maintain stability in the Debtors' workforce during the administration of these chapter 11 cases, the Debtors seek the authority to: (a) pay and honor certain prepetition claims relating to, among other things, wages, salaries, and other compensation, payroll services, federal and state withholding taxes and other amounts withheld (including garnishments, Employees' share of insurance premiums, and taxes), reimbursable expenses, health insurance, workers' compensation benefits, life insurance, short- and long-term disability coverage, and certain other benefits that the Debtors have historically provided in the ordinary course, all as described more fully herein (collectively, the "Employee Compensation and Benefits Programs"); and (b) pay all costs incident to the Employee Compensation and Benefits Programs.

13. The Debtors seek authority to pay the aggregate amounts related to prepetition amounts owed on account of the Employee Compensation and Benefits Programs set forth in the table below:

Employee Compensation and Benefit Programs	Interim Amount	Final Amount
<u>Compensation, Deductions, and Payroll Taxes</u>		
Unpaid Compensation	\$2.0 million	\$2.0 million
Independent Contactors Unpaid Compensation	\$31,000	\$31,000
Non-Insider Severance	\$110,000	\$132,000
Expenses	\$172,000	\$172,000

Employee Compensation and Benefit Programs	Interim Amount	Final Amount
Deductions	\$17,500	\$17,500
Payroll Taxes	\$519,000	\$519,000
Payroll Processing Fees	\$3,400	\$3,400
Independent Director Compensation	\$0	\$0
<u>Employee Benefit Programs</u>		
Plan Administration Fees	\$15,000	\$15,000
Health Benefit Plans	\$567,700	\$567,700
Supplemental Plans	\$38,350	\$38,350
Stop-Loss Coverage	\$135,000	\$135,000
Health Savings Accounts	\$0	\$0
Flexible Spending Accounts	\$7,200	\$7,200
Life and AD&D Benefits	\$5,000	\$5,000
Disability Benefits	\$29,000	\$29,000
Workers' Compensation Premium	\$26,500	\$26,500
Legacy Workers' Compensation Claims	\$155,000	\$860,000
Business Travel Insurance	\$0	\$0
401(k) Deductions	\$122,000	\$122,000
401(k) Match	\$67,000	\$67,000
Time-Off Benefits	\$1.5 million	\$1.5 million
Additional Programs	\$63,000	\$63,000
<u>Former Employee Benefits</u>		
COBRA	\$0	\$0
Total	\$5,583,650	\$6,310,650

14. For the vast majority of Employees, the Debtors believe that there will be no prepetition amounts owed on the Petition Date in excess of the statutory cap of \$13,650 set forth in sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code. Certain Employees, however, may have claims in excess of the statutory cap. For the avoidance of doubt, the Debtors do not seek authority to pay any amounts in excess of \$13,650 pursuant to this motion.

15. Subject to the Court's approval, the Debtors intend to continue their applicable prepetition Employee Compensation and Benefits Programs in the ordinary course. Out of an abundance of caution, the Debtors request confirmation of their right to modify, change, and discontinue any of their Employee Compensation and Benefits Programs and to implement new programs, policies, and benefits in the ordinary course during these chapter 11 cases in the

Debtors' sole discretion and without the need for further Court approval, subject to applicable law.⁵

I. Employee Compensation.

A. Unpaid Compensation.

16. In the ordinary course of business, the Debtors incur payroll obligations for their Employees' and Temporary Staff's salaries, wages, overtime, and other obligations (collectively, the "Employee Compensation"). The Debtors have two pay cycles and pay Employees weekly or bi-weekly, depending on the business segment.

17. The Debtors estimate that their average bi-weekly Employee Compensation will be approximately \$3.7 million during the course of these chapter 11 cases. The Debtors pay the majority of the Employee Compensation via checks, and the Debtors pay the remainder of their Employees and Temporary Staff by direct deposit through the electronic transfer of funds to the Employees' or Temporary Staff's bank accounts or by other electronic means.

18. As of the Petition Date, the Debtors estimate that they owe approximately \$2.0 million on account of accrued wages, salaries, overtime, and other compensation (excluding reimbursable expenses, time-off benefits, and other benefits described herein) (the "Unpaid Compensation"), substantially all of which will come due within the first 25 days after the Petition Date.⁶

⁵ The Debtors reserve the right to request authority to grant future amounts pursuant to incentive and/or retention bonus programs. Any such request will be made pursuant to proper notice and hearing with this Court.

⁶ Additional Unpaid Compensation may be due and owing as of the Petition Date because of, among other things, potential discrepancies between the amounts paid and the amounts that Employees believe should have been paid, which, upon resolution, may reveal that the Debtors do in fact owe additional amounts to Employees. Accordingly, the Debtors seek the authority to pay their Employees and Temporary Staff any Unpaid Compensation in the ordinary course of business and consistent with past practice, and to continue paying the Employee Compensation on a postpetition basis in the ordinary course of the Debtors' business.

B. Independent Contractor Unpaid Compensation.

19. As noted above, the Debtors rely on Independent Contractors in the ordinary course of their business. The Independent Contractors perform a wide range of services critical to the Debtors' operations, including, among other things, with respect to sourcing materials in India or marketing and merchandising products in the Debtors' New York showroom. The Employees rely on the support of the Independent Contractors to complete certain tasks in furtherance of the Debtors' business. The Debtors believe the authority to continue paying their Independent Contractors is critical to maintaining and administering their estates.

20. On average, the Debtors pay approximately \$25,000 to the Independent Contractors on a monthly basis. As of the Petition Date, the Debtors estimate that the aggregate amount of accrued but unpaid Independent Contractor obligations is approximately \$31,000, substantially all of which will come due within the first 25 days after the Petition Date.

C. Non-Insider Severance.

21. In the ordinary course of business, the Debtors maintain a severance program for non-insider Employees (the "Non-Insider Severance Program"). By this motion, the Debtors do not request authorization to make any severance payments to any "insider" as the term is defined in section 101(31) of the Bankruptcy Code, pursuant to the Non-Insider Severance Program. Consequently, the Debtors submit that section 503(c)(2) of the Bankruptcy Code with respect to severance payments to insiders does not apply to the relief requested herein.

22. Under the Non-Insider Severance Program, severance payments are calculated based on the terminated Employee's job level and their time of service with the Debtors prior to termination. Employees may be eligible for severance benefits if terminated involuntarily due to,

among other things, reductions in staff or layoffs; position elimination; closure of a business unit; or organization restructuring.⁷

23. As of the Petition Date, 14 former employees may be eligible to receive Non-Insider Severance Benefits. The Debtors are seeking the authority to pay Non-Insider Severance Benefits up to the statutory cap of \$13,650 set forth in sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code. The Debtors estimate that, as of the Petition Date, the aggregate amount of accrued but unpaid obligations under the Non-Insider Severance Program is approximately \$132,000, of which approximately \$110,000 will come due within the first 25 days after the Petition Date.

D. Expenses.

24. The Debtors reimburse certain Employees for certain expenses incurred in the scope of their duties and pay fees related to tracking reimbursements (collectively, and as further defined herein, the “Expenses”). The Expenses are typically associated with costs related to travel but can include other work-related expenses. As of the Petition Date, the Debtors estimate that they owe approximately \$172,000 in Expenses, substantially all of which will come due within the first 25 days after the Petition Date.

25. When an Employee uses their personal credit card or cash for necessary Expenses (the “Employee Reimbursable Expenses”), the Employees can either manually submit expense reports to the Debtors’ corporate department or submit expense reports to Concur Technologies, Inc. (“Concur”), the Debtors’ Employee Expense reporting firm. Charges submitted manually are paid by the Debtors by check. Charges submitted to Concur by 5:00 p.m., prevailing Eastern Time,

⁷ All former employees receiving Non-Insider Severance Benefits were terminated in the 180 days prior to the Petition Date. The Debtors reserve the right to modify or terminate the Non-Insider Severance Program, consistent with past practice, upon reasonable notice.

on Tuesday are reimbursed to Employees on the Friday of that same week via direct deposit. Employee Reimbursable Expenses to be paid by Concur are charged by Concur to the Debtors and subsequently paid by Concur to the Employee. As of the Petition Date, the Debtors estimate that there is approximately \$170,000 outstanding on account of Employee Reimbursable Expenses, substantially all of which will come due within the first 25 days after the Petition Date.

26. In addition to reimbursing Employees for certain Expenses, Concur also provides Expense tracking. The Debtors pay Concur approximately \$2,000 each month for these services (the “Concur Fees”). As of the Petition Date, the Debtors estimate that they owe approximately \$2,000 on account of the Concur Fees, substantially all of which will come due within the first 25 days after the Petition Date.

E. Deductions and Payroll Taxes.

27. During each applicable pay period, the Debtors deduct certain amounts from Employees’ paychecks, including garnishments, child support and similar deductions, legally ordered deductions, union dues, and miscellaneous deductions (collectively, the “Deductions”), and forward such amounts to various third-party recipients. For example, the Debtors deduct union dues from Employee paychecks and forward those amounts to Workers United, Western States Regional Joint Board. The Debtors deduct approximately \$20,000 in the aggregate per month on account of union dues.

28. On a monthly basis, the Debtors deduct approximately \$65,000 in the aggregate from Employees’ paychecks on account of the Deductions. As of the Petition Date, the Debtors estimate that they owe approximately \$17,500 in unpaid Deductions, substantially all of which will come due within the first 25 days after the Petition Date.

29. In addition to the Deductions, certain federal and state laws require that the Debtors withhold certain amounts from Employees’ gross pay related to federal, state, and local income

taxes (both in the U.S. and Canada, as applicable), as well as Social Security and Medicare taxes and other taxes in Canada (collectively, the “Employee Payroll Taxes”) for remittance to the appropriate federal, state, or local taxing authorities. The Debtors must then match the Employee Payroll Taxes from their own funds and pay, based on a percentage of gross payroll, additional amounts for federal and state unemployment insurance, Social Security and Medicare taxes, and other other contributions in Canada (the “Employer Payroll Taxes,” and together with the Employee Payroll Taxes, the “Payroll Taxes”). The Payroll Taxes are generally processed and forwarded to the appropriate federal, state, and local taxing authorities at the same time then the Debtors disburse Employees’ payroll. As of the Petition Date, the Debtors estimate that they owe approximately \$519,000 in unpaid Payroll Taxes, substantially all of which will come due within the first 25 days after the Petition Date.

F. Payroll Processing Fees.

30. The Debtors contract with Certipay America LLC (“Certipay”) and ADP Canada Co. (“ADP Canada”) as third-party payroll service providers that process and administer the Debtors’ payroll and provide W-2 preparation services. The Debtors pay Certipay and ADP Canada approximately \$106,000 and \$6,100 CAD, respectively, per month on account of these services. As of the Petition Date, the Debtors estimate they owe Certipay and ADP Canada approximately \$3,400 on account of prepetition payroll services (the “Payroll Processing Fees”), substantially all of which will come due within the first 25 days after the Petition Date.

G. Independent Director Compensation.

31. Debtors Dream II Holdings, LLC and Hollander Sleep Products Canada Limited maintain boards of directors that include one non-employee independent director (the “Independent Director”). The Debtors pay fees of approximately \$100,000 per year to the Independent Director in the aggregate, payable on a monthly basis (the “Independent Director

Fees”). The Independent Director is also entitled to expense reimbursement for out-of-pocket expenses (together with the Independent Director Fees, the “Independent Director Compensation”). As of the Petition Date, the Debtors estimate that they do not owe any unpaid accrued Independent Director Compensation but intend to continue paying the Independent Director Compensation in the ordinary course of business on a postpetition basis and consistent with past practice.

II. Employee Benefits Programs.

32. The Debtors offer Employees and their dependents a comprehensive benefits package for medical, dental, and vision care coverage, and certain other benefits (collectively, and as described in more detail below, the “Employee Benefits Programs”), including:

- medical plans;
- dental and vision plans;
- health savings accounts and flexible spending accounts;
- life and accidental death and dismemberment insurance;
- disability benefits;
- business travel accident insurance;
- time-off benefits;
- 401(k) plans;
- additional employee programs; and
- other employee benefit plans and programs as described below.

A. Plan Administration Services.

33. The Debtors’ U.S. Medical Plans, Vision Plans, U.S. Dental Plans, U.S. Standard Life and AD&D Insurance, U.S. Disability Benefits plans, and Employee Assistance Program (each as defined below) are administered by Mercer Investment Management, Inc. (“Mercer”).

Additionally, the Debtors' Canada Medical Plans, Canada Dental Plans, Canada Standard Life and AD&D Insurance, and Canada Disability Benefits (each as defined below) are administered by The Lesly Group Ltd. ("The Lesly Group"). The Debtors pay Mercer approximately \$7,800 in aggregate monthly administrative fees. The Debtors do not pay The Lesly Group for its administration services but, rather, The Lesly Group is paid by benefit provider Manulife Financial Corporation ("Manulife") on account of its administration of the benefits plans in Canada. By this motion, the Debtors seek the authorization to pay Mercer for its prepetition administration services of the above mentioned plans. As of the Petition Date, the Debtors estimate that they owe Mercer approximately \$15,000 for their administration services, substantially all of which will come due within the first 25 days after the Petition Date.

B. Health Benefit Plans.

34. The Debtors offer eligible Employees the opportunity to participate in a number of health benefit plans, including medical, dental, and vision plans (collectively, the "Health Benefit Plans"). The Debtors seek to pay approximately \$567,700 on account of the prepetition expenses related to the Health Benefit Plans, substantially all of which will come due within the first 25 days after the Petition Date.

1. Medical Plans.

35. The Debtors provide (a) self-insured medical coverage to most of its Represented and Full-Time Employees in the United States through Blue Cross Blue Shield and fully insured coverage to the rest of their eligible Employees through Kaiser Permanente and Geisinger Health, depending on the business segment, (b) self-insured prescription drug coverage to all eligible Employees in the United States through OptumRX (collectively, the "U.S. Medical Plans"), and (c) medical coverage to Employees in Canada through Manulife (the "Canada Medical Plans," and together with the U.S. Medical Plans, the "Medical Plans"). The U.S. Medical Plans are

administered by Mercer, and the Canada Medical Plans are administered by The Lesly Group. Under the Blue Cross Blue Shield plan, eligible Full-Time Employees have a choice of five policies, and Represented Employees have a choice between two and three policies, depending on the facility where such Employees work.⁸ Under the Geisinger Health plans, Represented Employees have a choice of two policies. Under the Manulife and Kaiser Permanente plans, eligible Employees have a choice of one policy. Employee's monthly cost will vary based on the plan the Employee has enrolled in, whether the plan is for individual or family coverage, and whether the Employee and covered family members use tobacco.

36. Employees contribute approximately \$250,000 each month to the costs of the Medical Plans, which the Debtors deduct directly from the respective Employee's paychecks. The Debtors contribute approximately \$415,000 monthly to the cost of the Medical Plans. As of the Petition Date, the Debtors estimate that they hold approximately \$70,000 in Employee-contributed costs for the Medical Plans, substantially all of which will come due within the first 25 days after the Petition Date. As of the Petition Date, the Debtors estimate that they owe approximately \$480,000 in Employer-contributed costs for the Medical Plans, substantially all of which will come due within the first 25 days after the Petition Date.

2. Vision Plans.

37. The Debtors also offer to most of their Represented Employees and Full-Time Employees the option to enroll into fully-insured vision plans through VSP Vision Care (the "VSP Vision Plan") and, to some of their Represented Employees, in fully insured vision plans through Guardian Life Insurance Company of America ("Guardian") (the "Guardian Vision Plan," and

⁸ Employees' medical coverage through the Blue Cross Blue Shield plan also includes the prescription drug coverage through OptumRX.

together with the VSP Vision Plan, the “Vision Plans”), depending on the business segment. The Debtors pay all premiums on account of the Guardian Vision Plan, and contribute approximately \$1,000 each month to the costs of the Guardian Vision Plan. Employees contribute approximately \$12,000 each month to the costs of the VSP Vision Plan, which the Debtors deduct directly from the respective Employee’s paychecks. As of the Petition Date, the Debtors estimate that they owe approximately \$1,400 to Guardian on account of the Guardian Vision Plan, substantially all of which will come due within the first 25 days after the Petition Date. As of the Petition Date, the Debtors estimate that they hold approximately \$3,800 in Employee-contributed costs for the VSP Vision Plan, substantially all of which will come due within the first 25 days after the Petition Date.

3. Dental Plans.

38. Finally, the Debtors offer eligible Employees in the United States the option of participating in fully insured dental plans through Delta Dental or Guardian (the “U.S. Dental Plans”), depending on the business segment, and their Employees in Canada the option to participate in dental plans through Manulife (the “Canada Dental Plans,” and together with the U.S. Dental Plans, the “Dental Plans”). The Debtors deduct employee contributions on account of the Dental Plans directly from the respective Employee’s paychecks. As of the Petition Date, the Debtors estimate that they hold approximately \$12,500 in Employee-contributed costs for the Dental Plans, substantially all of which will come due within the first 25 days after the Petition Date.

C. Supplemental Plans.

39. In addition to the Health Benefit Plans, Employees have the ability to enroll in the following supplemental plans (collectively, the “Supplemental Plans”), which are fully paid by the Employees:

- Accident insurance, hospital indemnity insurance, and critical illness insurance provided by Aflac Inc. and voluntary hospital, voluntary group life, and voluntary term life provided by Guardian (collectively, the “Supplemental Health Plans”), depending on the business segment. Employees contribute approximately \$12,500 each month to the costs of the Supplemental Health Plans, which the Debtors deduct directly from the respective Employee’s paychecks. As of the Petition Date, the Debtors estimate that they hold approximately \$36,500 in Employee-contributed costs for the Supplemental Health Plans, substantially all of which will come due within the first 25 days after the Petition Date.
- Identity, financial, and privacy protection (the “Privacy Protection Plan”) provided by InfoArmor, Inc. Employees contribute approximately \$1,000 each month to the costs of the Privacy Protection Plan, which the Debtors deduct directly from the respective Employee’s paychecks. As of the Petition Date, the Debtors estimate that they hold approximately \$600 in Employee-contributed costs for the Privacy Protection Plan, substantially all of which will come due within the first 25 days after the Petition Date.
- Pet protection (the “Pet Protection Plan”) through Nationwide Mutual Insurance Company. Employees contribute approximately \$200 each month to the costs of the Pet Protection Plan, which the Debtors deduct directly from the respective Employee’s paychecks. As of the Petition Date, the Debtors estimate that they hold approximately \$150 in Employee-contributed costs for the Pet Protection Plan, substantially all of which will come due within the first 25 days after the Petition Date.
- Legal insurance (the “Legal Protection Plan”) through ARAG Legal. Employees contribute approximately \$1,000 each month to the costs of the Legal Protection Plan, which the Debtors deduct directly from the respective Employee’s paychecks. As of the Petition Date, the Debtors estimate that they hold approximately \$1,100 in Employee-contributed costs for the Legal Protection Plan, substantially all of which will come due within the first 25 days after the Petition Date.

40. As of the Petition Date, the Debtors estimate that they owe approximately \$38,350 on account of the Supplemental Plans, substantially all of which will come due within the first 25 days after the Petition Date.

D. Stop-Loss Coverage.

41. The Debtors self-insure their Blue Cross Blue Shield medical plans up to specified amounts depending on the business segment. The Debtors are self-insured for the first \$250,000

of costs per claimant per incident, with stop-loss coverage from H.M. Life Insurance Company (“H.M. Life”) providing coverage for any additional amounts.

42. Historically, the aggregate monthly amount that the Debtors pay H.M. Life for stop-loss premiums is approximately \$83,000. As of the Petition Date, the Debtors estimate that they owe approximately \$135,000 on account of premium costs for stop-loss coverage, substantially all of which will come due within the first 25 days after the Petition Date.

E. Health Savings Accounts.

43. Employees in the United States who select a high-deductible health plan as their Medical Plan may contribute a portion of their compensation into a health savings account (the “HSA”) that HSA Bank administers. Employees may make pre-tax contributions (collectively, the “HSA Deductions”) to their HSA through payroll deductions to cover reimbursements of amounts paid for qualified medical expenses under the Health Benefit Plans up to the maximum amount permitted by the Internal Revenue Service. Currently, approximately 55 Employees have a Debtor-sponsored HSA. Although the Debtors believe that they do not hold HSA Deductions as of the Petition Date, they request the authority to pay any HSA Deductions to the extent that it is later determined that they hold any such amounts.

44. The Debtors make an annual contribution to each Employee’s HSA of \$300 for single plan HSAs and \$600 for family plan HSAs (the “HSA Contributions”). As of the Petition Date, the Debtors estimate that they owe HSA Bank a de minimis amount, if any, on account of HSA Contributions and on account of HSA Bank’s administration services, but request, for the avoidance of doubt, the authority to pay any such amounts.

F. Flexible Spending Accounts.

45. The Debtors provide Employees with two flexible spending (reimbursement) account options to make pre-tax contributions through payroll deductions to pay for certain health

and welfare needs (collectively, the “FSAs”). The two FSAs are (a) an FSA for eligible health care (medical, dental, and vision) expenses such as prescriptions, hearing aids, orthopedic goods, and doctor and dentist appointments (the “Care FSA”) and (b) an FSA for dependent care expenses (the “Dependent Care FSA”). The Debtors do not make contributions to the FSAs. At the end of each calendar year, Employees may carry an FSA balance of \$500 over to the next year. Dependents may not carry their FSA balances over to the next year.

46. Historically, on a monthly basis, the Debtors deduct approximately \$4,500 from their Employee’s paychecks on account of Employee contributions to their respective Care FSAs and approximately \$4,000 on account of Employee contributions to their respective Dependent Care FSAs. As of the Petition Date, the Debtors estimate that they hold approximately \$5,500 in FSA Employee contributions, substantially all of which will come due within the first 25 days after the Petition Date.

47. The FSAs are administered by Discovery Benefits, Inc. The Debtors pay Discovery Benefits, Inc. a monthly administrative fee of approximately \$1,000 on account of the FSAs. Discovery Benefits also administers the payment of premiums to former Employees on account of COBRA (as defined herein). As of the Petition Date, the Debtors owe approximately \$1,700 in the aggregate in outstanding administrative costs on account of the FSAs and COBRA, substantially all of which will come due within the first 25 days after the Petition Date.

G. Life and AD&D Insurance.

48. The Debtors automatically enroll all Full-Time Employees in life and accidental death and dismemberment insurance provided by MetLife, Inc. (“MetLife”) in the United States (the “U.S. Standard Life and AD&D Insurance”) and by Manulife in Canada (the “Canada Standard Life and AD&D Insurance,” and together with the U.S. Standard Life and AD&D Insurance, the “Standard Life and AD&D Insurance”). The Standard Life and AD&D Insurance

provides benefits of one time an Employee's base earnings up to a maximum amount of \$25,000 or \$250,000, depending on the business segment and the employee classification, for covered losses, including accidental death and dismemberment.

49. The Debtors pay all of the expenses on account of the Standard Life and AD&D Insurance, which historically has cost approximately \$13,000 per month. As of the Petition Date, the Debtors owe approximately \$5,000 on account of the prepetition expenses related to the Standard Life and AD&D Insurance, substantially all of which will come due within the first 25 days after the Petition Date.

H. Disability Benefits.

50. The Debtors automatically enroll eligible Employees in the United States in short- and long-term disability benefits (collectively, the "U.S. Disability Benefits") plans through MetLife at no cost for the eligible Employees. The U.S. Disability Benefits plans are administered by Mercer. In Canada, most Full-Time Employees may enroll in long-term disability benefits (the "Canada Disability Benefits," and together with the U.S. Disability Benefits, the "Disability Benefits") plans through Manulife, which plans are fully paid by the eligible Employees. The Canada Disability Benefits plans are administered by The Lesly Group.

51. Under the short-term U.S. Disability Benefits program, in the event of a qualified non-work related illness or injury, Employees are entitled to 60 percent of base weekly earnings for the first two weeks following the event, with a weekly maximum of \$1,000 for a continuous period of up to thirteen weeks (the "U.S. Short-Term Disability Benefits"). As of the Petition Date, the Debtors owe approximately \$16,500 on account of the U.S. Short-Term Disability Benefits, substantially all of which will come due within the first 25 days after the Petition Date.

52. If after thirteen weeks of receiving U.S. Short-Term Disability Benefits an Employee still qualifies for U.S. Disability Benefits, then the Employee is entitled to continue

receiving 50 percent or 60 percent of their base monthly salary until the Employee turns 65 years old, with a maximum monthly benefit of \$1,000 and \$10,000, respectively (collectively, the “U.S. Long-Term Disability Benefits”), depending on whether the Employee is salaried or compensated hourly. As of the Petition Date, the Debtors owe approximately \$12,500 on account of the U.S. Long-Term Disability Benefits, substantially all of which will come due within the first 25 days after the Petition Date.

53. Under the Canada Disability Benefits program, eligible Employees are entitled to receive 66.7 percent of their base monthly earnings, with a maximum monthly benefit of \$5,000 CAD. Once an Employee receives Canada Disability Benefits, the Employee may continue to receive Canada Disability Benefits on account of the Employee’s qualified disability until the Employee turns 65 years old. Employees contribute approximately \$5,400 CAD each month to the costs of the Canada Disability Benefits, which the Debtors deduct directly from the respective Employee’s paychecks. Although the Debtors believe there that they do not hold any employee contributions on account of the Canada Disability Benefits program, they request the authority to pay any such contributions to the extent that it is later determined that any amounts are outstanding.

I. Workers’ Compensation.⁹

54. In the ordinary course of business, the Debtors maintain workers’ compensation insurance for their Employees at the statutorily required level for each state in which the Debtors have Employees (the “Workers’ Compensation Program”). Because the Debtors are statutorily and/or contractually obligated to maintain the Workers’ Compensation Program, their inability to

⁹ The Debtors have filed contemporaneously herewith the *Debtors’ Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Continue Insurance Coverage Entered into Prepetition and Satisfy Prepetition Obligations Related Thereto, (B) Renew, Supplement, Modify, or Purchase Insurance Coverage, and (C) Continue to Pay Brokerage Fees, and (II) Granting Related Relief*, but only seek relief related to the Workers’ Compensation Program (as defined herein) in this motion.

do so may result in adverse legal consequences that could potentially disrupt the reorganization process.¹⁰

55. The Debtors maintain a workers' compensation policy administered by Safety First Insurance Co. ("Safety First"). The workers' compensation policy with Safety First is not subject to a deductible. This policy provides unlimited statutory coverage per incident for each claim and up to \$1,000,000 for any liability of the Debtors.

56. The Debtors pay a premium to Safety First for the workers' compensation policy on a monthly basis, based on the Debtors' estimated gross payroll for the applicable policy year. The premium is expected to be approximately \$3.3 million for the 2019 policy year. Although the Debtors believe there is no unpaid premium on account of the 2018 and 2019 policy year, they request the authority to pay any premium to the extent that it is later determined that there are prepetition amounts outstanding. By this motion the Debtors also seek authority to make premium payments for the 2019 policy year in the ordinary course of business on a postpetition basis.

57. In addition, the Debtors separately maintain workers' compensation policies for the state of Washington and in Canada, which require the Debtors to receive coverage through a state-operated insurance fund (the "State Funds"). The Debtors pay premiums to the State Fund in Washington on a quarterly basis, which was approximately \$10,000 in the aggregate in 2018, and to the State Fund in Canada on a monthly basis, which is approximately \$15,000 on average. The Debtors estimate that, as of the Petition Date, approximately \$26,500 in accrued but unpaid

¹⁰ The Debtors' Workers' Compensation Program may change postpetition in the ordinary course of business due to changes in applicable laws and regulations and the Debtors' ability to meet requirements thereunder. By this motion, the Debtors request authority to continue the Workers' Compensation Program postpetition, including making any changes to current policy and practices that may become necessary.

obligations are owed to the State Funds on account of the Workers' Compensation Program, substantially all of which will come due within the first 25 days after the Petition Date.

58. Finally, the Debtors pay in the ordinary course of business certain claims in connection with legacy workers' compensation policies (the "Legacy Workers' Compensation Claims") to Hartford Fire Insurance Company, which payment is secured by outstanding letters of credits in the aggregate amount of \$3.6 million. The Debtors pay approximately \$155,000 per month for Legacy Workers' Compensation Claims. As of the Petition Date, the Debtors owe approximately \$860,000 in outstanding Legacy Workers' Compensation Claims, approximately \$155,000 of which will come due within the first 25 days after the Petition Date.

J. Business Travel Accident Insurance.

59. The Debtors provide benefits to Employees who are injured or experience a medical emergency while traveling on a company-paid and approved business or relocation trip. Specifically, the Debtors contract with the Insurance Company of the State of Pennsylvania ("ICSP") to provide Employees with business travel accident insurance (the "Business Travel Insurance"). The Debtors provide Business Travel Insurance to Employees at no cost and the Debtors pay all costs in full. The Debtors pay approximately \$10,000 per year to ICSP for fees related to the Business Travel Insurance. Although the Debtors believe there that they do not owe ICSP any amount on account of the Business Travel Insurance, they request the authority to pay any premium to the extent that it is later determined that any amounts are outstanding.

K. 401(k) Plan.

60. The Debtors maintain a retirement savings plan for the benefit of their Full-Time Employees with no minimum service requirement (the "401(k) Plan"). Transamerica administers the 401(k) Plan. The 401(k) Plan allows for pre-tax salary deductions of eligible compensation up to the limits set forth by the Internal Revenue Code. Represented Employees who have been

employed by the Debtors for at least twelve months are able to elect to make pre-tax salary deductions under the National Plus Plan negotiated by the Debtors as part of the CBAs (the “NPP”). Additionally, Employees in Canada are able to elect to make pre-tax salary deductions under a Registered Retirement Savings Plan (the “RRSP”) administered by Royal Bank of Canada (“RBC”). The Debtors deduct approximately \$215,000, \$1,500, and \$10,000 CAD from Employees’ pay in the aggregate each month for Employee contributions to the 401(k) Plan, NPP, and RRSP, respectively (collectively, the “401(k) Deductions”). As of the Petition Date, the Debtors believe they hold approximately \$122,000 in 401(k) Deductions, substantially all of which will come due within the first 25 days after the Petition Date.

61. With respect to the 401(k) Plan, the Debtors match 100 percent up to the first one percent of an Employee’s annual Employee compensation and 50 percent of the next five percent of an Employee’s annual Employee compensation (the “401(k) Plan Match”). Under the CBAs, the Debtors (i) match 100 percent up to the first \$50 the Represented Employee contributes, 50 percent for the next \$100 the Represented Employee contributes, up to an aggregate maximum of \$100 annually, (ii) match 50 percent for the first \$240 annual contribution, up to a maximum of \$120 annually, or (iii) match 50 percent for the first \$200 annual contribution, up to a maximum of \$100 annually, depending on the applicable CBA (the “401(k) NPP Match”). Under the RRSP, the Debtors (i) match 50 percent for contribution representing up to 6 percent of the Employee’s weekly compensation, and (ii) match 3 percent for contribution representing more than 6 percent of the Employee’s weekly compensation (the “RRSP 401(k) Match,” and together with the 401(k) Plan Match and the 401(k) NPP Match, the “401(k) Match”). The Debtors contribute approximately \$96,000, \$700, and \$3,700 CAD per month on account of the 401(k) Plan Match, 401(k) NPP Match, and RRSP 401(k) Match, respectively. As of the Petition Date, the Debtors

believe they owe approximately \$67,000 for the 401(k) Match, substantially all of which will come due within the first 25 days after the Petition Date.

L. Time-Off Benefits.

62. The Debtors provide vacation time of between five to twenty-three days each calendar year to their Full-Time Employees and Part-Time Employee as a paid time-off benefit (“Paid Time-Off,” collectively with “Other Paid Leave” (as defined herein) and “NY Paid Family Leave” (as defined herein), the “Time-Off Benefits”). The amount of Paid Time-Off available to a particular Employee and the rates at which Paid Time-Off is earned are generally determined by the Employee’s length of service and employment classification. When an Employee elects to take Paid Time-Off, that Employee is paid his or her regular hourly or salaried rate. The majority of Employees cannot carry over Paid Time-Off from year to year. Depending on the business segment, some Employees are allowed to carry over such Paid Time-Off from one year to the next, but the Paid Time-Off that such Employees can receive for each calendar year in that case is capped to one and a half times the annual allotment.

63. The Debtors permit eligible Full-Time Employees and Part-Time Employees to take certain paid leaves of absence for personal reasons, many of which are required by law. The Debtors pay Full-Time Employees and Part-Time Employees for missed work time such as bereavement leave, jury duty, sick leave, and wedding leave (the “Other Paid Leave”). Full-Time Employees and Part-Time Employees are not entitled to any separate cash payments in addition to their normal compensation for the Other Paid Leave.

64. The Debtors also provide most of their eligible Employees with up to twelve weeks of unpaid parental leave following the birth or adoption of a child in accordance with the Family and Medical Leave Act, up to seventy weeks of parental and maternity or paternity leave under Quebec’s Act Respecting Labour Standards, or up to sixty-three weeks of parental and pregnancy

leave under Ontario's Employment Standards Act. New York state law requires that employers with one or more employees located in the state obtain Paid Family Leave insurance ("NY Paid Family Leave"). NY Paid Family Leave is funded by New York-based Employee payroll contributions and provides wage replacement and job protection to Employees who require a leave of absence due to qualifying circumstances. As of the Petition Date, the Debtors does not hold any Employee contributions for NY Paid Family Leave coverage.

65. As of the Petition Date, the Debtors estimate that there is approximately \$1.5 million accrued on account of Time-Off Benefits. Accordingly, the Debtors seek authority to allow eligible Employees to use their Time-Off Benefits in the ordinary course of business on a postpetition basis.

M. Additional Employee Programs.

66. In addition to the foregoing, the Debtors offer Employees the opportunity to participate in a range of ancillary benefits (the "Additional Programs"). Each Additional Program has different requirements to qualify and is in addition to Employee Compensation and other benefits described herein.

- Tuition Reimbursement. After one year of employment, Full-Time Employees are eligible to receive tuition reimbursement for job-related courses ("Tuition Reimbursement"). The Debtors reimburse 100 percent of the tuition fees, but the Employee must repay such amount to the Debtors if the Employee resigns within one year after receiving the Tuition Reimbursement. Although the Debtors believe there is no Tuition Reimbursement costs outstanding, they request the authority to pay any such amount to the extent that it is later determined that they owe any such amounts on account of Tuition Reimbursement costs.
- Employee Assistance Program. Employees are eligible for an employee assistance program that offers qualified counselors to help Employees cope with problems such as marital or family distress, alcoholism, drug abuse, and financial hardships (the "Employee Assistance Program"). The Employee Assistance Program is provided by Metlife and administered by Mercer. The costs associated with the administration of the Employee Assistance Program are absorbed by Mercer as part of Mercer's other administration services it provides to the Debtors. Accordingly, although the Debtors believe there is no Employee Assistance Program costs

outstanding, they request the authority to pay any such amount to the extent that it is later determined that they owe any such amounts on account of Employee Assistance Program costs.

- Employee Relocation Program. Employees are eligible, at the discretion of the Debtors, for an employee relocation program whereby the Debtors agrees to pay costs related to the relocation of an Employee. Under the Employee Relocation Program, the Debtors have in the past agreed to pay, in full or in part, for temporary housing or storage, moving fees, or mortgage closing fees. As of the Petition Date, the Debtors believe that they owe approximately \$63,000 on account of the Employee Relocation Program, substantially all of which will come due within the first 25 days after the Petition Date.

III. COBRA.

67. Pursuant to the Consolidated Omnibus Budget Reconciliation Act ("COBRA") former Employees and their dependents who lose their health benefits have the right to choose to continue group health benefits provided by the Debtors' Health Benefit Plans for limited periods of time under certain circumstances such as voluntary or involuntary job loss, reduction in the hours worked, transition between jobs, death, divorce, and other life events. Each month, certain former Employees pay either full or subsidized premiums for continuing their Health Benefits Plans through COBRA. As of the Petition Date, approximately one former employee receives subsidized COBRA in connection with severance, and approximately 12 former employees make full premium payments for coverage under COBRA. Although the Debtors believe they do not owe any amounts with respect to COBRA premium on behalf of former Employees, they request the authority to pay any such amounts to the extent that it is later determined that any amounts are outstanding.

Basis for Relief

I. Sufficient Cause Exists to Authorize the Debtors to Honor the Employee Compensation and Benefits Programs.

A. Certain of the Employee Compensation and Benefits Are Entitled to Priority Treatment.

68. Sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code entitle the majority of the obligations under the Employee Compensation and Benefits Programs to priority treatment. As priority claims, the Debtors are required to pay these claims in full to confirm a chapter 11 plan. *See* 11 U.S.C. § 1129(a)(9)(B) (requiring payment of certain allowed unsecured claims, given priority under sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code, for (a) wages, salaries or commissions, including vacation, severance, and sick leave pay earned by an individual and (b) contributions to an employee benefit plan). To the extent that an Employee receives no more than \$13,650 on account of claims entitled to priority, the relief sought with respect to compensation only affects the timing of payments to Employees and should not affect the recoveries for general unsecured creditors. Indeed, the Debtors submit that payment of the Employee Compensation and Benefits Programs at this time enhances value for the benefit of all interested parties.

B. Payment of Certain Employee Compensation and Benefits Is Required by Law.

69. The Debtors seek authority to pay the Deductions and Payroll Taxes to the appropriate third-party payees. These amounts principally represent Employee earnings that governments, Employees, and judicial authorities have designated for deduction from the Employees' paychecks. Indeed, certain Deductions and Payroll Taxes are not property of the Debtors' estates because the Debtors have withheld such amounts from the Employees' paychecks on another party's behalf. *See* 11 U.S.C. §§ 541(b)(1), (d). Further, federal and state laws require

the Debtors to withhold certain tax payments from the Employees' paychecks and to pay such amounts to the appropriate taxing authority. 26 U.S.C. §§ 6672, 7501(a); *see also City of Farrell v. Sharon Steel Corp.*, 41 F.3d 92, 95–97 (3d Cir. 1994) (finding that state law requiring a corporate debtor to withhold city income tax from its employees' wages created a trust relationship between debtor and the city for payment of withheld income taxes); *In re DuCharmes & Co.*, 852 F.2d 194, 196 (6th Cir. 1988) (noting that individual officers of a company may be held personally liable for failure to pay trust fund taxes). Because the Deductions and Payroll Taxes may not be property of the Debtors' estates, the Debtors request authorization to transmit the Deductions and Payroll Taxes to the proper parties in the ordinary course of business.

70. Similarly, state laws require the Debtors to maintain the Workers' Compensation Program. If the Debtors fail to maintain the Workers' Compensation Program, state laws may prohibit the Debtors from operating in those states. Payment of all obligations related to the Workers' Compensation Program is therefore crucial to the Debtors' continued operations and the success of these chapter 11 cases.

II. Payment of the Employee Compensation and Benefits Is Warranted Under Section 363(b)(1) of the Bankruptcy Code and the Doctrine of Necessity.

71. Courts generally acknowledge that it is appropriate to authorize the payment (or other special treatment) of prepetition obligations in appropriate circumstances. *See, e.g., In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (granting authority to pay prepetition wages); *see also Armstrong World Indus., Inc. v. James A. Phillips, Inc. (In re James A. Phillips, Inc.)*, 29 B.R. 391, 398 (S.D.N.Y. 1983) (granting authority to pay prepetition claims of suppliers who were potential lien claimants); *see also In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002). In so doing, these courts have found that sections 105(a) and 363(b) of the Bankruptcy Code support the payment of prepetition claims as provided herein.

72. Pursuant to section 363(b) of the Bankruptcy Code, courts may authorize payment of prepetition obligations where a sound business purpose exists for doing so. *See Ionosphere Clubs*, 98 B.R. at 175 (noting that section 363(b) provides “broad flexibility” to authorize a debtor to honor prepetition claims where supported by an appropriate business justification); *see also James A. Phillips, Inc.*, 29 B.R. at 397 (relying upon section 363 as a basis to allow a contractor to pay the prepetition claims of suppliers who were potential lien claimants). Indeed, courts have recognized that there are instances when a debtor’s fiduciary duty can “only be fulfilled by the pre-plan satisfaction of a prepetition claim.” *CoServ*, 273 B.R. at 497.

73. Section 105(a) codifies the Court’s inherent equitable powers to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” Under section 105(a), courts may authorize pre-plan payments of prepetition obligations when essential to the continued operation of a debtor’s business. *See In re C.A.F. Bindery, Inc.*, 199 B.R. 828, 835 (Bankr. S.D.N.Y. 1996); *see also In re Fin. News Network Inc.*, 134 B.R. 732, 735–36 (Bankr. S.D.N.Y. 1991) (holding that the “doctrine of necessity” stands for the principle that a bankruptcy court may allow pre-plan payments of prepetition obligations where such payments are critical to the debtor’s reorganization); *Ionosphere Clubs*, 98 B.R. at 176 (holding that a court may authorize payments of prepetition obligations under section 105(a) of the Bankruptcy Code pursuant to the “necessity of payment” rule (also referred to as the “doctrine of necessity”)).

74. The Debtors submit that the payment of the Employee Compensation and Benefits Programs represents a sound exercise of the Debtors’ business judgment, is necessary to avoid immediate and irreparable harm to the Debtors’ estates, and is therefore justified under sections 105(a) and 363(b) of the Bankruptcy Code. Paying prepetition wages, employee benefits, and similar obligations will benefit the Debtors’ estates and their creditors by allowing the

Debtors' business operations to continue without interruption. Indeed, the Debtors believe that without the relief requested herein, Employees may seek alternative employment opportunities, perhaps with the Debtors' competitors. Such a development would deplete the Debtors' workforce, thereby hindering the Debtors' ability to operate their business and potentially diminishing stakeholder confidence in the Debtors' ability to successfully reorganize. The loss of valuable Employees and the resulting need to recruit new personnel (and the costs attendant thereto) would be distracting at this crucial time when the Debtors need to focus on stabilizing their business operations. Accordingly, there can be no doubt that the Debtors must do their utmost to retain their workforce by, among other things, continuing to honor all wage, benefits, and related obligations, including the prepetition obligations pursuant to the Employee Compensation and Benefits Programs.

75. In addition, the majority of Employees rely exclusively on the Employee Compensation and Benefits Programs to satisfy their daily living expenses. Consequently, Employees will be exposed to significant financial difficulties if the Debtors are not permitted to honor their obligations related thereto. Moreover, failure to satisfy such obligations will jeopardize Employee morale and loyalty at a time when Employee support is critical to the Debtors' business. Furthermore, if this Court does not authorize the Debtors to honor their various obligations under the insurance programs described herein, Employees will not receive health coverage and, thus, may be obligated to pay certain health care claims that the Debtors have not satisfied. The loss of health care coverage will result in considerable anxiety for Employees (and likely attrition) at a time when the Debtors need such Employees to perform their jobs at peak efficiency.

76. The importance of a debtor's employees to its operations has been repeatedly recognized by courts in this district, and such courts have granted relief similar to the relief

requested herein. *See, e.g., In re Windstream Holdings, Inc.*, No. 19-22312 (RDD) (Bankr. S.D.N.Y. Apr. 22, 2019) (authorizing debtors to continue employee compensation and benefit programs and pay certain prepetition obligations related thereto on a postpetition basis); *In re Aegean Marine Petrol. Network Inc.*, No. 18-13374 (MEW) (Bankr. S.D.N.Y. Dec. 6, 2018) (same); *In re Nine West Holdings, Inc.*, No. 18-10947 (SCC) (Bankr. S.D.N.Y. May 7 2018) (same); *In re Cenveo, Inc.*, No. 18-22178 (RDD) (Bankr. S.D.N.Y. Feb. 6, 2018) (same); *In re 21st Century Oncology Holdings, Inc.*, No. 17-22770 (RDD) (Bankr. S.D.N.Y. June 20, 2017) (same).¹¹

77. Accordingly, the Debtors respectfully request that the Court authorize the Debtors to pay any prepetition amounts accrued and unpaid on account of the Employee Compensation and Benefits Programs and to continue the Employee Compensation and Benefits Programs on a postpetition basis in the ordinary course of business and consistent with past practices.

III. The Debtors Seek a Waiver of the Automatic Stay as It Applies to Workers' Compensation Claims.

78. Section 362(a)(1) of the Bankruptcy Code operates to stay:

[T]he commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title

Section 362 of the Bankruptcy Code, however, permits a debtor or other parties in interest to request a modification or termination of the automatic stay for “cause.” 11 U.S.C. § 362(d)(1).

¹¹ Because of the voluminous nature of the orders cited herein, such orders have not been attached to this motion. Copies of these orders are available upon request to the Debtors’ proposed counsel.

79. The Debtors seek authorization, under section 362(d) of the Bankruptcy Code, to permit Employees to proceed with their workers' compensation claims in the appropriate judicial or administrative forum. The Debtors believe that cause exists to modify the automatic stay because staying the workers' compensation claims could have a detrimental effect on the Employee's financial well-being and Employee morale and lead to the departure of certain Employees who are critical at this juncture. Such departures could cause a severe disruption in the Debtors' business to the detriment of all parties in interest.

Processing of Checks and Electronic Fund Transfers Should Be Authorized

80. The Debtors have sufficient funds to pay any amounts described in this motion in the ordinary course of business by virtue of expected cash flows from ongoing business operations and anticipated access to cash collateral and postpetition financing. In addition, under the Debtors' existing cash management system, the Debtors can readily identify checks or wire transfer requests as relating to any authorized payment in respect of the relief requested herein. Accordingly, the Debtors believe there is minimal risk that checks or wire transfer requests that the Court has not authorized will be inadvertently made. Therefore, the Debtors respectfully request that the Court authorize all applicable financial institutions, when requested by the Debtors, to receive, process, honor, and pay any and all checks or wire transfer requests in respect of the relief requested in this motion; provided that sufficient funds are on deposit and standing in the Debtors' credit in the applicable bank accounts to cover such payments.

The Requirements of Bankruptcy Rule 6003 Are Satisfied

81. Bankruptcy Rule 6003 empowers a court to grant relief within the first 21 days after the Petition Date "to the extent that relief is necessary to avoid immediate and irreparable harm." For the reasons discussed above, the Debtors believe an immediate and orderly transition into chapter 11 is critical to the viability of their operations and that any delay in granting the relief

requested could hinder the Debtors' operations and cause irreparable harm. Furthermore, the failure to receive the requested relief during the first 21 days of these chapter 11 cases would severely disrupt the Debtors' operations at this important juncture. For the reasons discussed herein, the relief requested is necessary for the Debtors to operate their business in the ordinary course and preserve the ongoing value of the Debtors' operations and maximize the value of their estates for the benefit of all stakeholders. Accordingly, the Debtors submit that they have satisfied the "immediate and irreparable" standard of Bankruptcy Rule 6003 to support granting the relief requested herein.

Waiver of Bankruptcy Rule 6004(a) and 6004(h)

82. To implement the foregoing successfully, the Debtors request that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a) and that the Debtors have established cause to exclude such relief from the 14-day stay period under Bankruptcy Rule 6004(h).

Reservation of Rights

83. Nothing contained herein or any actions taken pursuant to such relief requested is intended to or should be construed as (a) an admission as to the validity of any prepetition claim against a Debtor entity, (b) a waiver of the Debtors' or any other party in interest's right to dispute any prepetition claim on any grounds, (c) a promise or requirement to pay any prepetition claim, (d) an implication or admission that any particular claim is of a type specified or defined in this motion or any order granting the relief requested by this motion, (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code, (f) a waiver of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law, or (g) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the relief requested in this motion are valid, and

the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

Motion Practice

84. This motion includes citations to the applicable rules and statutory authorities upon which the relief requested herein is predicated and a discussion of their application to this motion. Accordingly, the Debtors submit that this motion satisfies Local Rule 9013-1(a).

Notice

85. The Debtors will provide notice of this motion to: (a) the Office of the United States Trustee for the Southern District of New York; (b) the holders of the 50 largest unsecured claims against the Debtors (on a consolidated basis); (c) the administrative agent for the Debtors' term loan facility and counsel thereto; (d) the administrative agent for the Debtors' asset-based loan credit facility and counsel thereto; (e) the administrative agent for the Debtors' proposed debtor in possession term loan financing facility and counsel thereto; (f) the administrative agent for the Debtors' proposed debtor in possession asset-based loan credit facility and counsel thereto; (g) the United States Attorney's Office for the Southern District of New York; (h) the Internal Revenue Service; (i) the attorneys general for the states in which the Debtors operate; and (j) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

86. No prior request for the relief sought in this motion has been made to this or any other court.

WHEREFORE, the Debtors respectfully request entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, respectively, granting the relief requested herein and granting such other relief as is just and proper.

New York, New York

Dated: May 19, 2019

/s/ Joshua A. Sussberg

Joshua A. Sussberg, P.C.

Christopher T. Greco, P.C.

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

601 Lexington Avenue

New York, New York 10022

Telephone: (212) 446-4800

Facsimile: (212) 446-4900

- and -

Joseph M. Graham (*pro hac vice* pending)

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

300 North LaSalle Street

Chicago, Illinois 60654

Telephone: (312) 862-2000

Facsimile: (312) 862-2200

Proposed Counsel to the Debtors and Debtors in Possession

Exhibit A

Proposed Interim Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

HOLLANDER SLEEP PRODUCTS, LLC, *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 19-11608 (____)
)
) (Joint Administration Requested)
)
) **Re: Docket No. ____**

**INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO (A) PAY PREPETITION
EMPLOYEE WAGES, SALARIES, OTHER COMPENSATION, AND REIMBURSABLE
EMPLOYEE EXPENSES AND (B) CONTINUE EMPLOYEE BENEFITS PROGRAMS
AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an interim order (this “Interim Order”), (a) authorizing the Debtors to (i) pay certain prepetition employee wages, salaries, other compensation, and reimbursable employee expenses, and (ii) continue employee benefits programs in the ordinary course, including payment of certain prepetition obligations related thereto, (b) scheduling a final hearing to consider approval of the Motion on a final basis, and (c) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors’ service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis as set forth herein.
2. The final hearing (the "Final Hearing") on the Motion shall be held on _____, 2019, at __: __ .m., prevailing Eastern Time. Any objections or responses to entry of a final order on the Motion must be filed with the Court on or before 4:00 p.m., prevailing Eastern Time, on _____, 2019.
3. The Debtors are authorized, but not directed, to continue and/or modify, change, or discontinue the Employee Compensation and Benefits Programs all in accordance with historical practice and to honor and pay, in the ordinary course and in accordance with the Debtors' prepetition policies and prepetition practices, any obligations on account of the Employee Compensation and Benefits Programs, irrespective of whether such obligations arose prepetition or postpetition.
4. Nothing herein shall be deemed to authorize the payment of any prepetition amounts above the statutory cap imposed by section 507(a)(4) of the Bankruptcy Code with respect to prepetition amounts owed on account of the Employee Compensation and Benefits Programs, except upon further order of this Court.

5. Nothing in this Interim Order authorizes the Debtors to accelerate any payments not otherwise due prior to the date of the Final Hearing.

6. Nothing herein shall be deemed to authorize the payment of any amounts which violates or implicates section 503(c) of the Bankruptcy Code, *provided* that nothing herein shall prejudice the Debtors' ability to seek approval of relief pursuant to section 503(c) of the Bankruptcy Code at a later time.

7. Pursuant to section 362(d) of the Bankruptcy Code, (a) Employees are authorized to proceed with their workers' compensation claims in the appropriate judicial or administrative forum under the Workers' Compensation Program, and the Debtors are authorized to pay all prepetition amounts relating thereto in the ordinary course of business and (b) the notice requirements pursuant to Bankruptcy Rule 4001(d) with respect to clause (a) are waived. This modification of the automatic stay pertains solely to claims under the Workers' Compensation Program and any such claims must be pursued in accordance with the applicable Workers' Compensation Program. Payment on account of any recoveries obtained in connection with a claim brought pursuant to this paragraph is limited to the terms and conditions of the applicable Workers' Compensation Program, including with regard to any policy limits or caps.

8. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors' or any other party in interest's right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Interim Order or the Motion or a finding that any particular claim is an administrative expense or other priority claim; (e) a request or authorization to assume

any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the rights of any party in interest under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

9. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, whether such checks or other requests were submitted prior to, or after, the Petition Date, *provided* that sufficient funds are on deposit and standing in the Debtors' credit in the applicable bank accounts to cover such payments, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order without any duty of further inquiry and without liability for following the Debtors' instructions.

10. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with the relief granted herein.

11. Notwithstanding the relief granted in this Interim Order, any payment made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with any orders entered by the Court approving the Debtors' entry into any postpetition

debtor-in-possession financing facility and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and any budget in connection therewith.

12. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

13. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

14. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

15. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

16. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

New York, New York

Dated: _____, 2019

UNITED STATES BANKRUPTCY JUDGE

Exhibit B

Proposed Final Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

HOLLANDER SLEEP PRODUCTS, LLC, *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 19-11608 (____)
)
) (Joint Administration Requested)
)
) **Re: Docket No. ____**

**FINAL ORDER (I) AUTHORIZING THE DEBTORS TO (A) PAY PREPETITION
EMPLOYEE WAGES, SALARIES, OTHER COMPENSATION, AND REIMBURSABLE
EMPLOYEE EXPENSES AND (B) CONTINUE EMPLOYEE BENEFITS PROGRAMS
AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of a final order (this “Final Order”), (a) authorizing the Debtors to (i) pay certain prepetition employee wages, salaries, other compensation, and reimbursable employee expenses, and (ii) continue employee benefits programs in the ordinary course, including payment of certain prepetition obligations related thereto, and (b) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012; and this Court having the power to enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors’ service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

and 1409; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted on a final basis as set forth herein.
2. The Debtors are authorized, but not directed, to continue and/or modify, change, or discontinue the Employee Compensation and Benefits Programs all in accordance with historical practice and to honor and pay, in the ordinary course and in accordance with the Debtors' prepetition policies and prepetition practices, any obligations on account of the Employee Compensation and Benefits Programs, irrespective of whether such obligations arose prepetition or postpetition.
3. Nothing herein shall be deemed to authorize the payment of any prepetition amounts above the statutory cap imposed by section 507(a)(4) of the Bankruptcy Code with respect to prepetition amounts owed on account of the Employee Compensation and Benefits Programs, except upon further order of this Court.
4. Nothing herein shall be deemed to authorize the payment of any amounts which violates or implicates section 503(c) of the Bankruptcy Code, *provided* that nothing herein shall prejudice the Debtors' ability to seek approval of relief pursuant to section 503(c) of the Bankruptcy Code at a later time.

5. Pursuant to section 362(d) of the Bankruptcy Code, (a) Employees are authorized to proceed with their workers' compensation claims in the appropriate judicial or administrative forum under the Workers' Compensation Program, and the Debtors are authorized to pay all prepetition amounts relating thereto in the ordinary course of business and (b) the notice requirements pursuant to Bankruptcy Rule 4001(d) with respect to clause (a) are waived. This modification of the automatic stay pertains solely to claims under the Workers' Compensation Program and any such claims must be pursued in accordance with the applicable Workers' Compensation Program. Payment on account of any recoveries obtained in connection with a claim brought pursuant to this paragraph is limited to the terms and conditions of the applicable Workers' Compensation Program, including with regard to any policy limits or caps.

6. Notwithstanding the relief granted in this Final Order and any actions taken pursuant to such relief, nothing in this Final Order shall be deemed: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors' or any other party in interest's right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Final Order or the Motion or a finding that any particular claim is an administrative expense or other priority claim; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the rights of any party in interest under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

7. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, whether such checks or other requests were submitted prior to, or after, the Petition Date, *provided* that sufficient funds are on deposit and standing in the Debtors' credit in the applicable bank accounts to cover such payments, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Final Order without any duty of further inquiry and without liability for following the Debtors' instructions.

8. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with the relief granted herein.

9. Notwithstanding the relief granted in this Final Order, any payment made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with any orders entered by the Court approving the Debtors' entry into any postpetition debtor-in-possession financing facility and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and any budget in connection therewith.

10. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

11. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

12. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Final Order in accordance with the Motion.

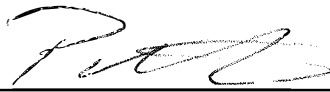
13. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.

New York, New York

Dated: _____, 2019

UNITED STATES BANKRUPTCY JUDGE

THIS IS EXHIBIT "K" REFERRED TO IN THE
AFFIDAVIT OF EVAN BARZ SWORN
ON MAY 23, 2019.



A Commissioner for Taking Affidavits

Patrick Walsh
60322P

Joshua A. Sussberg, P.C.
Christopher T. Greco, P.C.
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

Joseph M. Graham (*pro hac vice* pending)
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
300 North LaSalle
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Proposed Counsel to the Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	
	)	Chapter 11
)	
HOLLANDER SLEEP PRODUCTS, LLC, <i>et al.</i> , ¹	)	Case No. 19-11608 (___)
)	
Debtors.	)	(Joint Administration Requested)
)	

**DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS
(I) AUTHORIZING THE DEBTORS TO (A) CONTINUE TO OPERATE
THEIR CASH MANAGEMENT SYSTEM, (B) HONOR CERTAIN
PREPETITION OBLIGATIONS RELATED THERETO, (C) MAINTAIN
EXISTING BUSINESS FORMS, AND (D) CONTINUE TO PERFORM
INTERCOMPANY TRANSACTIONS, AND (II) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession (collectively, the "Debtors") respectfully state as follows in support of this motion:

Relief Requested

1. By this motion, the Debtors seek entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, (a) authorizing the Debtors to (i) continue to operate their cash management system as illustrated on **Exhibit 1** to both **Exhibit A** and

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors' service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

Exhibit B attached hereto (the “Cash Management System”) and maintain their existing bank accounts, (ii) honor certain prepetition obligations related thereto, (iii) maintain existing business forms, and (iv) continue to perform intercompany transactions with each other and with a non-debtor affiliate consistent with historical practice, and (b) granting related relief. In addition, the Debtors request that the Court (as defined herein) schedule a final hearing within approximately 25 days from the date hereof (the “Petition Date”) to consider approval of this motion on a final basis.

Jurisdiction and Venue

2. The United States Bankruptcy Court for the Southern District of New York (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012. The Debtors confirm their consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The bases for the relief requested herein are sections 105, 345, and 363 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), Bankruptcy Rules 6003 and 6004, and Rule 9013-1(a) of the Local Bankruptcy Rules for the Southern District of New York (the “Local Rules”).

Background²

5. Hollander Sleep Products is the largest pillow and mattress pad manufacturer in North America. The Debtors also manufacture comforters and other basic bedding products. The Debtors have their own brands, including Great Sleep®, I AM®, LC®, PCF®, and Restful Nights®, and also manufacture and sell licensed brands, including Simmons®, Ralph Lauren®, CHAPS®, Calvin Klein®, Therapedic®, Nautica®, 37.5®, and Dr. Maas®. The Debtors are headquartered in Boca Raton, Florida, operate a main showroom in New York City, and have thirteen manufacturing facilities throughout the United States and Canada. The Debtors generated approximately \$527 million in net revenue in fiscal year 2018 and currently employ more than 2,300 people across the United States and Canada. As of the date hereof, the Debtors have approximately \$233 million in funded debt.

6. On the Petition Date, each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors have concurrently filed a motion requesting procedural consolidation and joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b).

The Cash Management System

7. The Debtors and their non-debtor affiliates operate an integrated, centralized Cash Management System to collect, transfer, and disburse funds generated by their operations. The Cash Management System facilitates cash monitoring, forecasting, and reporting and enables the Debtors to maintain control over the administration of approximately 18 bank accounts in the name

² The facts and circumstances supporting this motion are set forth in the *Declaration of Marc Pfefferle, Chief Executive Officer of Hollander Sleep Products, LLC, in Support of Debtors' Chapter 11 Petitions and First Day Motions* (the "First Day Declaration"), filed contemporaneously herewith and incorporated by reference herein.

of the Debtors and two bank accounts in the name of a non-debtor affiliate (together with any other bank accounts the Debtors may open in the ordinary course of their businesses or pursuant to any order of the Court, the “Bank Accounts”)³ owned by the Debtors and maintained with Wells Fargo Bank National Association (“Wells Fargo”) and Royal Bank of Canada (“RBC,” and together with Wells Fargo, the “Cash Management Banks”). As illustrated on the Cash Management System diagram attached as **Exhibit 1** to both **Exhibit A** and **Exhibit B** hereto, the Cash Management System is based around a Master Depository Account and a Master Operating Account held by Debtor Hollander Sleep Products, LLC and is organized to facilitate the seamless collection and disbursement of cash under the Debtors’ asset-based lending revolving credit facility (the “ABL Facility”), which ABL Facility is described in greater detail in the First Day Declaration. Pursuant to the credit agreement and other loan documents governing the ABL Facility between the Debtors and Wells Fargo, as administrative agent, (the “ABL Agent”) substantially all of the cash held in the Bank Accounts is subject to a properly perfected security interest in favor of the ABL Agent. The Debtors are currently under cash dominion under the ABL Facility. As a result, excess revenues are swept to and disbursements are made from the ABL Facility, which funds the Debtors’ daily operating obligations. Upon execution of that certain debtor-in-possession asset based revolving credit agreement (the “DIP ABL Credit Agreement”), the ABL Agent will continue exercising dominion over its cash collateral postpetition. As a result, each day, all of the Debtors’ cash receipts will be swept daily into an account maintained by Wells Fargo and applied in accordance with the DIP ABL Credit Agreement. The Debtors’ controller, who is located in

³ There are two Bank Accounts in the name of Hollander Sleep Products Trading (Shanghai) Co., Ltd., a non-debtor entity: Bank Account x0327 and Bank Account x0875. These accounts are Disbursement Accounts for the Chinese operations and are funded by the Debtors on a monthly basis.

Boca Raton, Florida, maintains daily oversight over the Cash Management System and implements cash management controls for entering, processing, and releasing funds.

8. The Cash Management System is similar to those commonly employed by businesses comparable in size and scale to the Debtors. Indeed, large multinational businesses use integrated systems to help control funds, ensure cash availability for each entity, and reduce administrative expenses by facilitating the movement of funds among multiple entities. The Cash Management System is vital to the Debtors' ability to conduct their operations around the globe. Any disruption of the Cash Management System would be materially detrimental to the Debtors' operations, as their businesses require prompt access to cash and accurate cash tracking.

I. The Bank Accounts and Flow of Funds.

9. The Cash Management System is tailored specifically to meet the Debtors' operating needs—enabling the Debtors to control and monitor corporate funds, ensure cash availability and liquidity, comply with the requirements of their financing agreements, reduce administrative expenses by facilitating the movement of funds, and enhance the development of accurate account balances. These controls are critical given the volume of cash transactions managed through the Cash Management System each day.

A. Overview of the Cash Management System.

10. The Cash Management System, generally, is based around (a) a Master Depository Account held by Debtor Hollander Sleep Products, LLC, which collects incoming funds from the Debtors' deposit accounts, and (b) a Master Operating Account held by Debtor Hollander Sleep Products, LLC, through which the Debtors manage their worldwide operating disbursements.

11. The Cash Management System is seamlessly integrated with the Debtors' prepetition ABL Facility. The Debtors collect funds from various collections accounts, which are collected in the Master Depository Account as described below. At approximately 11:00 a.m.,

prevailing Eastern Time, each day, any funds that are held in certain depository accounts, including the depository accounts ending in 2581, 2851, and 8066, respectively, and the Master Depository Account are automatically swept by the ABL Agent and applied to pay down the ABL Facility. As related to disbursements, each day, the Debtors estimate their required daily cash expenditures and submit a request to the ABL Agent to draw such amount from the ABL Facility. Any request—including multiple requests, as needed—to draw on the ABL Facility made prior to 1:00 p.m., prevailing Eastern Time, are deposited into the Master Operating Account (or such other disbursement account as directed by the Debtors) on the same day. The Debtors use these funds to make disbursements from their various disbursement accounts. The Debtors maintain any excess cash not disbursed on a given day in the Master Operating Account. Pursuant to this process, the Debtors estimate that they have approximately \$300,000 in the Master Operating Account at any given time.⁴ As of the Petition Date, the Debtors have approximately \$550,000 in aggregate in the Bank Accounts.

B. The Bank Accounts and Their Function.

12. As of the Petition Date, the Cash Management System includes a total of 20 Bank Accounts maintained by the Debtors and their non-debtor affiliate. The Debtors hold their Bank Accounts at various entities across the organizational structure. A complete list of the Debtors' Bank Accounts is attached as **Exhibit 2** to both **Exhibit A** and **Exhibit B**. The following is a table summarizing the number of Bank Accounts held by each Debtor:

Entity Name	# of Bank Accounts ⁵
Dream II Holdings, LLC	6

⁴ The Debtors' non-debtor international affiliate generally maintains cash on-hand to fund operations, which cash is remitted from the Debtors' domestic Bank Accounts as discussed more fully herein.

⁵ All accounts held by Pacific Coast Feather, LLC or Pacific Coast Feather Cushion, LLC are also held by Dream II Holdings, LLC. These accounts include those ending 2581, 2851, 0451, 8006, 2005, and 7339.

Entity Name	# of Bank Accounts ⁵
Hollander Sleep Products Canada Limited	8
Hollander Sleep Products, LLC	8
Pacific Coast Feather, LLC	3
Pacific Coast Feather Cushion, LLC	3

13. The Debtors' Cash Management Banks are Wells Fargo and RBC, as summarized in the following table:

Cash Management Banks	# of Bank Accounts
Wells Fargo	13
RBC	5

14. Each of the Bank Accounts serve dedicated functions as described in the following table:

Accounts	Description of Accounts
<i>Master Operating Account</i>	
<u>Master Operating Account</u> <i>Account ending 4226</i>	The Debtors' Master Operating Account is the Debtors' primary account for funding operations. On a daily basis, the Debtors estimate their required daily cash expenditures and submit a request to the ABL Agent to draw such amount from the ABL Facility. Any request or requests made prior to 1:00 p.m., prevailing Eastern Time, are funded into the Master Operating Account on the same day. That cash is used to fund disbursements to the General Disbursement Accounts, the Payroll Disbursement Accounts, the Healthcare Disbursement Account, and rent payments. As discussed above, the Debtors maintain a daily balance of, on average, \$300,000 in their Master Operating Account.
<i>Depository Accounts</i>	
<u>Master Depository Account</u> <i>Account ending 4234</i>	The Master Depository Account is the Debtors' primary collections concentration account. Funds in the various other collection accounts are swept daily into the Master Depository Account. At approximately 11:00 a.m., prevailing Eastern Time, each day, any funds that are held in the Master Depository Account are automatically swept by the ABL Agent and applied to pay down borrowings under the ABL Facility.

Accounts	Description of Accounts
<u>Depository Accounts</u> <i>Accounts ending 2580, 2581, 2851, 7339, 7433, 7463, and 8066</i>	<p>The Debtors' Depository Accounts receive revenue from the Debtors' daily retail, wholesale, e-commerce, and the Pacific Coast Feather Cushion operations and include five lockbox accounts.</p> <p>Funds from the domestic Depository Accounts are automatically transferred into the Master Depository Account daily, often at approximately 11:00 a.m., prevailing Eastern Time, with the exception of the Canadian Depository Account, ending in 7433, which the Company manually transfers to the Master Depository Account on a daily basis.</p>
<u>Disbursement Accounts</u>	
<u>Disbursement Accounts</u> <i>Accounts ending 1471, 8373, 3216, 7425, and 7471</i>	<p>Each of the Debtors' Disbursement Accounts are funded from the Master Operating Account and are used to make payments, intercompany transfers, and general operating expenditures, including for general expenses, professional fees, and certain rent payments. These Disbursement Accounts are funded on an as-needed basis as described above.</p> <p>Payments related to the Debtors' utilities, employee benefits (including 401(k) benefits), payroll for the corporate offices and certain plants, and federal and state taxes are debited from the account ending 1471 on a daily basis.</p> <p>The accounts ending 7425 and 7471 are Canadian Disbursement Accounts that are used for payroll and similar payments.</p>
<u>Payroll Disbursement Accounts</u> <i>Accounts ending 2005, 6169, 7455</i>	<p>The Debtors' Payroll Disbursement Accounts are funded from the Master Operating Account on an as-needed basis and are used to make manual payroll payments, as applicable, for certain of the Debtors' plants. The Payroll Disbursement Account ending in 2005 relates to the Pacific Coast Feather Cushion operations and typically contains a balance of \$6,500. The Payroll Disbursement Account ending in 6169 typically contains a balance of between \$20,000 and \$30,000. The Payroll Disbursement Account ending in 7455 is a zero balance account.</p>
<u>Healthcare Disbursement Account</u> <i>Account ending 0451</i>	<p>The Debtors' Healthcare Disbursement Account is funded from the Master Operating Account on an as-needed basis and used to make payments related to healthcare claims that arose when Pacific Coast Feather LLC had a self-insured health insurance plan. This account is a zero balance account.</p>

II. Compliance with the U.S. Trustee Guidelines and Section 345 of the Bankruptcy Code.

15. The United States Trustee for the Southern District of New York's (the "U.S. Trustee") *Operating Guidelines and Reporting Requirements for Debtors in Possession and*

Trustees (the “U.S. Trustee Guidelines”) generally require chapter 11 debtors to, among other things, deposit all estate funds in an account with an authorized depository that agrees to comply with the U.S. Trustee’s requirements. Section 345(b) of the Bankruptcy Code requires a debtor’s bank to post a bond unless a debtor’s funds are “insured or guaranteed by the United States or by a department, agency, or instrumentality of the United States or backed by the full faith and credit of the United States.” 11 U.S.C. § 345(b).

16. As of the Petition Date, the Debtors’ Bank Accounts generally comply with section 345(b) of the Bankruptcy Code. Wells Fargo is insured by the Federal Deposit Insurance Corporation (the “FDIC”), and all Bank Accounts maintained with Wells Fargo hold less than the insured amount at the end of each day. Wells Fargo, the Debtors’ primary Cash Management Bank, is also designated as an authorized depository by the U.S. Trustee. Although RBC is not an authorized depository under the U.S. Trustee Guidelines, it is a highly rated, global financial institution that is widely recognized as well-capitalized and financially stable. Because RBC is based outside of the United States, it is less likely to be identified by the U.S. Trustee as an authorized depository. Additionally, RBC is a member of the Canada Deposit Insurance Corporation (the “CDIC”), which protects eligible deposits up to CAD 100,000. All Bank Accounts maintained with RBC are zero balance accounts that are swept in the morning daily in accordance with the process described above. Accordingly, the RBC Bank Accounts do not pose a significant risk to the funds deposited therein. The Debtors believe that RBC is well positioned to perform the depository and cash management functions during the chapter 11 cases and respectfully submit that cause exists to allow the Debtors to continue utilizing the existing Bank Accounts consistent with historical practices. Given the international scope of the Debtors’ operations and cash management requirements, it is not feasible to consolidate all cash activities

to the named group of financial institutions approved in the U.S. Trustee Guidelines. In any event, the Debtors will continue to work in good faith with the U.S. Trustee to resolve any concerns regarding the continued use of these Bank Accounts on a postpetition basis.

III. Cash Management Bank Expenses.

A. The Debtors' Purchase Cards.

17. As part of the Cash Management System, the Debtors provide certain employees with credit cards (the "Purchase Cards") issued by Wells Fargo (the "Purchase Card Program") pursuant to the WellsOne Commercial Card Agreement, dated on or around April 14, 2014 (as amended, restated, supplemented, or otherwise modified from time to time, the "Card Agreement"), between the Debtors and Wells Fargo. As of the Petition Date, there are approximately 29 Purchase Cards in use by the Debtors' employees. The Purchase Cards are corporate cards for which the relevant employees do not have personal liability. The employees use the Purchase Cards for approved and legitimate business expenses. The expenses incurred on the Purchase Cards are essential to, among other things, the operation of the Debtors' operations related to their businesses. Costs incurred through use of the Purchase Cards are satisfied from the Debtors' Disbursement Accounts on a monthly basis.

18. On average, in the twelve months leading up to the Petition Date, the Debtors accrued and paid approximately \$120,000 per month on account of the Purchase Card Program. As of the Petition Date, the Debtors estimate they owe approximately \$120,000 on account of the Purchase Cards. The Debtors seek authority to continue the Purchase Card Program in the ordinary course on a postpetition basis consistent with past practice and to pay any prepetition amounts related to the Purchase Cards to avoid interrupted service. Payment and continued use of the Purchase Card Program will minimize disruption to the Debtors' relationship with Wells Fargo and ensure continuity, benefitting the Debtors' estates.

B. Bank Fees.

19. In the ordinary course of business, the Debtors incur periodic service charges and other fees in connection with the maintenance of the Cash Management System (the “Bank Fees”), which average approximately \$34,000 per month. The Bank Fees for each month are paid in arrears and are automatically deducted from the Debtors’ Bank Accounts as they are assessed. The Debtors estimate that they owe approximately \$20,000 as of the Petition Date, all of which will become due and payable within the first 25 days after the Petition Date. To ensure continued access to their Bank Accounts and to minimize disruptions to the Cash Management System, the Debtors’ seek authority to pay any such due and owing Bank Fees, including prepetition Bank Fees, in the ordinary course on a postpetition basis, consistent with historic practice.

IV. The Debtors’ Existing Business Forms.

20. The Debtors use a variety of preprinted business forms, including checks, letterhead, correspondence forms, invoices, and other business forms in the ordinary course of business (collectively, the “Business Forms”). The Debtors also maintain books and records to document their financial results and a wide array of necessary operating information, including their profits and expenses. To avoid the distraction and unnecessary expense to their estates, the Debtors request authorization to continue using all of the Business Forms in existence before the Petition Date, without reference to the Debtors’ status as chapter 11 debtors in possession, rather than requiring the Debtors to incur the expense and delay of ordering new Business Forms as required by the U.S. Trustee Guidelines. The Debtors submit that once they have exhausted their existing stock of Business Forms, they will ensure that any new Business Forms are clearly labelled “Debtor in Possession,” and with respect to any Business Forms that exist or are generated electronically, the Debtors shall ensure that such electronic Business Forms are clearly labelled “Debtor in Possession.”

V. The Debtors' Intercompany Transactions.

21. In the ordinary course of business, the Debtors maintain and engage in business relationships with each other and with their non-debtor affiliate (the "Intercompany Transactions") resulting in intercompany receivables and payables (the "Intercompany Claims"). These Intercompany Transactions occur as part of the daily operation of the Cash Management System, and at any given time there may be Intercompany Claims owing between Debtors or between a Debtor and a non-debtor affiliate in connection with the receipt and disbursement of funds, and there may be recognitions of offsets between Debtors or between a Debtor and a non-debtor affiliate.⁶ For example, since Debtor Hollander Sleep Products, LLC holds most of the Bank Accounts in the Cash Management System, when receipts come into one such Bank Account for another Debtor, an intercompany transaction is recorded between the two entities, namely, a payable from Hollander Sleep Products, LLC to the other Debtor. Similarly, when Debtor Hollander Sleep Products, LLC pays an expense on behalf of another entity, a receivable from the other entity to Hollander Sleep Products, LLC is recorded.

22. The structure of the Cash Management System routes most ordinary course payments through Debtor Hollander Sleep Products, LLC, which remits payments on behalf of certain of the Debtors and non-debtor affiliates on account of invoices due and payable by such affiliate. These disbursements are made from various disbursement accounts, as described above.

23. The Debtors also provide funding to their international non-debtor affiliate, Hollander Sleep Products Trading (Shanghai) Co., Ltd. This international non-debtor affiliate

⁶ Because the Debtors engage in Intercompany Transactions on a regular basis and such transactions are common among enterprises similar to the Debtors, the Debtors believe the Intercompany Transactions are ordinary course transactions within the meaning of section 363(c)(1) of the Bankruptcy Code and, thus, do not require the Court's approval. Nonetheless, out of an abundance of caution, the Debtors are seeking express authority to engage in such transactions on a postpetition basis. The continued performance of the ordinary course Intercompany Transactions are integral to ensuring the Debtors' ability to operate their businesses.

primarily provides sourcing, product development, and quality control support to the Debtors. While the international operations maintain their own bank accounts, this entity is funded by the Debtors on a monthly basis. Historically, the Debtors provide approximately \$200,000 to \$220,000 per month to this international entity to cover certain operational costs, including employee payroll and benefits, and expenses incurred by the international office, such as copier use and bank fees. These support functions are crucial to the Debtors' overall business operations. The international non-debtor affiliate ensures timely procurement of goods, and they also test products to ensure they meet certain standards and criteria.

24. With respect to all transactions among the Debtors and non-debtor affiliate, the Debtors track all fund transfers electronically in their accounting system and can ascertain, trace, and account for Intercompany Transactions. The Debtors' Intercompany Transactions with their foreign affiliate is completely integrated within the Cash Management System. If the Intercompany Transactions were to be discontinued, the Cash Management System and related administrative controls would be disrupted to the detriment of the Debtors' estates. Such disruption would affect the Debtors' ability to fund operations necessary to providing services to their customers, which would likely result in decreased revenue streams.

25. To ensure each individual Debtor will not permanently fund the operations of any affiliate, the Debtors respectfully request that, pursuant to sections 503(b) and 364(b) of the Bankruptcy Code, all postpetition payments between or among a Debtor and another Debtor or non-debtor affiliate as a result of ordinary course Intercompany Transactions be accorded administrative expense status, subject and junior to the claims, including adequate protection claims, granted in connection with the Debtors' proposed debtor in possession financing facilities (the "DIP Financing"), in accordance with any interim and final orders with respect thereto

(the “DIP Orders”). Notwithstanding the foregoing, the Canadian Intercompany Superiority Administrative Claims (as defined in the DIP Orders) shall be treated in accordance with the DIP Orders.

26. This relief will ensure that each entity receiving payments from a Debtor will continue to bear ultimate repayment responsibility for its ordinary course Intercompany Transactions, reducing the risk that these transactions would jeopardize the recoveries available to the Debtors’ creditors. Moreover, the Debtors request the authority to fund the postpetition payment of obligations to their non-debtor affiliate in a manner consistent with historical practice to enable the Debtors to smoothly transition into chapter 11 and ensure certain of the Debtors’ revenue streams are not impacted.

Basis for Relief

I. The Court Should Approve the Debtors’ Continued Use of the Cash Management System Because It Is Essential to the Debtors’ Operations and Restructuring Efforts.

27. The U.S. Trustee Guidelines require debtors in possession to, among other things:

- (a) close all existing bank accounts and open new debtor-in-possession bank accounts;
- (b) establish one debtor-in-possession account for all estate monies required for payment of taxes, including payroll taxes;
- (c) physically set aside all monies required by law to be withheld from employees or collected from others for taxes;
- (d) open a new set of books and records as of the commencement date of the case;
- (e) use new business forms indicating the debtor-in-possession status of the chapter 11 debtor; and
- (f) make all disbursements of estate funds by check with a notation representing the reason for the disbursement. *See* Region 2 Guidelines for Debtors-in-Possession. These requirements are intended to provide a clear line of demarcation between prepetition and postpetition transactions and operations and to prevent inadvertent payment of prepetition claims.

28. The continuation of the Cash Management System is nevertheless permitted pursuant to section 363(c)(1) of the Bankruptcy Code, which authorizes the debtor in possession to “use property of the estate in the ordinary course of business without notice or a hearing.” 11 U.S.C. § 363(c)(1). Bankruptcy courts routinely treat requests for authority to continue utilizing existing cash management systems as a relatively “simple matter.” *In re Baldwin-United Corp.*, 79 B.R. 321, 327 (Bankr. S.D. Ohio 1987). In addition, in granting such relief, courts recognize that an integrated cash management system “allows efficient utilization of cash resources and recognizes the impracticalities of maintaining separate cash accounts for the many different purposes that require cash.” *In re Columbia Gas Sys., Inc.*, 136 B.R. 930, 934 (Bankr. D. Del. 1992), *aff’d in relevant part*, 997 F.2d 1039, 1061 (3d Cir. 1993); *see also In re Frigitemp Corp.*, 34 B.R. 1000, 1010 (S.D.N.Y 1983), *aff’d*, 753 F.2d 230 (2d Cir. 1985). The requirement to maintain all accounts separately “would be a huge administrative burden and economically inefficient.” *Columbia Gas*, 997 F.2d at 1061; *see also In re Southmark Corp.*, 49 F.3d 1111, 1114 (5th Cir. 1995) (stating that a cash management system allows a debtor “to administer more efficiently and effectively its financial operations and assets”).

29. Here, requiring the Debtors to adopt a new, segmented cash management system during these chapter 11 cases would be expensive, burdensome, and unnecessarily disruptive to the Debtors’ operations. Importantly, the Cash Management System provides the Debtors with the ability to quickly create status reports on the location and amount of funds, which, in turn, allows management to track and control such funds, ensure cash availability, and reduce administrative costs through a centralized method of coordinating the collection and movement of funds. As a result, any disruption of the Cash Management System would have a severe and adverse effect on the Debtors’ restructuring efforts. Indeed, absent the relief requested herein,

requiring the Debtors to adopt a new, segmented cash management system would cause the Debtors' operations to grind to a halt, needlessly destroying the value of the Debtors' business enterprise. By contrast, maintaining the current Cash Management System will facilitate the Debtors' transition into chapter 11 by, among other things, minimizing delays in paying postpetition debts and eliminating administrative inefficiencies.⁷ Finally, maintaining the current Cash Management System will allow the Debtors' treasury and accounting employees to focus on their daily responsibilities.

30. The Debtors respectfully submit that parties in interest will not be harmed by the Debtors' maintenance of the Cash Management System, including maintenance of the Bank Accounts and the Intercompany Transactions, because the Debtors have implemented appropriate mechanisms to ensure that unauthorized payments will not be made on account of prepetition obligations. Specifically, with the assistance of their advisors, the Debtors have implemented internal control procedures that prohibit payments on account of prepetition debts without the prior approval of the Debtors' controller. The Debtors will continue to work closely with the Banks to ensure that appropriate procedures are in place to prevent checks that were issued prepetition from being honored without the Court's approval. In light of such protective measures, the Debtors submit that maintaining the Cash Management System is in the best interests of their estates and creditors.

31. Accordingly, the Debtors respectfully request that the Court authorize the continued use of the existing Cash Management System to facilitate the Debtors' transition into chapter 11. Specifically, the Debtors respectfully request that the Court authorize the Cash

⁷ Notwithstanding the Debtors' use of a consolidated cash management system, the Debtors intend to calculate quarterly fees under 28 U.S.C. § 1930(a)(6) based on the disbursements of each Debtor, regardless of which entity pays those disbursements.

Management Banks to continue to maintain, service, and administer the Bank Accounts as accounts of the Debtors as debtors in possession, without interruption and in the ordinary course of business. The Debtors further respectfully request that the Court authorize each of the Cash Management Banks to receive, process, honor, and pay any and all checks, wire transfer, credit card, and other instructions, and drafts payable through, or drawn or directed on, such Bank Accounts after the Petition Date by holders, makers, or other parties entitled to issue instructions with respect thereto, irrespective of whether such checks, drafts, wires, or credit card payments are dated prior to or subsequent to the Petition Date, *provided* that sufficient funds are on deposit and standing in the Debtors' credit in the applicable bank accounts to cover such payments. The Debtors also respectfully request that, to the extent a Cash Management Bank honors a prepetition check or other item drawn on any Bank Account at the direction of the Debtors, in a good faith belief that the Court has authorized such prepetition check or item to be honored, or as the result of a mistake made despite implementation of reasonable item handling procedures, such bank will not be deemed to be liable to the Debtors, their estates, or any other party on account of such prepetition check or other item honored postpetition. Such relief is reasonable and appropriate because the Cash Management Banks are not in a position to independently verify or audit whether the Debtors may pay a particular item in accordance with a Court order or otherwise.

32. Finally, the Debtors respectfully request that the Court authorize the Debtors to continue to pay any obligations incurred in connection with the Bank Accounts and further authorize the Cash Management Banks to chargeback returned items to the Bank Accounts, whether such items are dated prior to, on, or subsequent to the Petition Date, in the ordinary course of business. The Debtors further request that the Court order that any liens on any of the Bank Accounts granted to creditors will not have priority over any obligations incurred in connection

with the Bank Accounts that become due and owing to the respective Cash Management Bank at which the Bank Account is located, if any.

33. In other large and complex chapter 11 cases, such as these, courts in this district routinely waive certain U.S. Trustee Guideline requirements and allow the continued use of cash management systems and prepetition bank accounts employed in the ordinary course of a debtor's prepetition business. *See, e.g., In re Windstream Holdings, Inc.*, 19-22312 (RDD) (Bankr. S.D.N.Y. Apr. 22, 2019) (allowing debtors to continue using their cash management system); *In re FULLBEAUTY Brands Holdings Corp.*, 19-22185 (RDD) (Bankr. S.D.N.Y. Feb. 7, 2019) (same); *In re Aegean Marine Petrol. Network Inc.*, No. 18-13374 (MEW) (Bankr. S.D.N.Y. Dec. 17, 2018) (same); *In re Nine West Holdings, Inc.*, No. 18-10947 (SCC) (Bankr. S.D.N.Y. June 26, 2018) (same); *In re Cenveo, Inc.*, No. 18-22178 (RDD) (Bankr. S.D.N.Y. Mar. 8, 2018) (same).⁸

II. Payment of Fees and Prepetition Obligations Related to the Bank Accounts Will Facilitate a Smooth Transition into Chapter 11 and Benefit the Estates.

34. Courts in this district generally acknowledge that it is appropriate to authorize the payment of prepetition obligations where necessary to protect and preserve the estate, including an operating business's going-concern value. *See, e.g., In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (granting authority to pay prepetition wages); *Armstrong World Indus., Inc. v. James A. Phillips, Inc. (In re James A. Phillips, Inc.)*, 29 B.R. 391, 398 (S.D.N.Y. 1983) (granting authority to pay prepetition claims of suppliers); *see also In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002). In so doing, these courts have found that

⁸ Because of the voluminous nature of the orders cited herein, such orders have not been attached to this motion. Copies of these orders are available upon request to the Debtors' proposed counsel.

sections 105(a) and 363(b) of the Bankruptcy Code support the payment of prepetition claims as provided herein.

35. Pursuant to section 363(b) of the Bankruptcy Code, courts may authorize payment of prepetition obligations where a sound business purpose exists for doing so. *See Ionosphere Clubs, Inc.*, 98 B.R. at 175 (noting that section 363(b) provides “broad flexibility” to authorize a debtor to honor prepetition claims where supported by an appropriate business justification); *see also James A. Phillips, Inc.*, 29 B.R. at 397 (relying upon section 363 as a basis to allow a contractor to pay the prepetition claims of suppliers who were potential lien claimants). Indeed, courts have recognized that there are instances when a debtor’s fiduciary duty can “only be fulfilled by the pre-plan satisfaction of a prepetition claim.” *CoServ*, 273 B.R. at 497.

36. Courts also may authorize payment of prepetition claims in appropriate circumstances based on section 105(a) of the Bankruptcy Code. Section 105(a) codifies the Court’s inherent equitable powers to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” Under section 105(a), courts may authorize pre-plan payments of prepetition obligations when essential to the continued operation of a debtor’s businesses. *See In re C.A.F. Bindery, Inc.*, 199 B.R. 828, 835 (Bankr. S.D.N.Y. 1996); *see also In re Fin. News Network Inc.*, 134 B.R. 732, 735–36 (Bankr. S.D.N.Y. 1991) (“The ‘doctrine of necessity’ stands for the principle that a bankruptcy court may allow pre-plan payments of prepetition obligations where such payments are critical to the debtor’s reorganization.”); *Ionosphere Clubs, Inc.*, 98 B.R. at 176 (holding that a court may authorize payments of prepetition obligations under section 105(a) of the Bankruptcy Code pursuant to the “necessity of payment” rule (also referred to as the “doctrine of necessity”)).

37. The Debtors' continued use of the Cash Management System will facilitate their transition into chapter 11 by, among other things, avoiding administrative inefficiencies and expenses and minimizing delays in the payment of postpetition debts. Certain payments to their Cash Management Banks, such as the payment of prepetition Bank Fees and balances related to the Purchase Cards, will ensure the continued support of the Debtors' Cash Management Banks on a go-forward basis at this critical juncture of the Debtors' chapter 11 cases. Moreover, the Purchase Cards play a role in the efficient and effective operations of the Debtors' businesses, allowing the Debtors' employees to focus their efforts on the tasks that make a difference to the Debtors' ultimate performance and minimizing administrative tasks. The Debtors believe that any interference or delay in any of these program is unnecessary and unduly burdensome.

38. Courts in this district have regularly allowed the continued use of cash management systems, prepetition bank accounts, and prepetition credit cards employed in the ordinary course of a debtor's prepetition business. *See, e.g., In re Windstream Holdings, Inc.*, 19-22312 (RDD) (Bankr. S.D.N.Y. Apr. 22, 2019) (allowing debtors to continue using their cash management system); *In re FULLBEAUTY Brands Holdings Corp.*, 19-22185 (RDD) (Bankr. S.D.N.Y. Feb. 7, 2019) (same); *In re Aegean Marine Petrol. Network Inc.*, No. 18-13374 (MEW) (Bankr. S.D.N.Y. Dec. 17, 2018) (same); *In re Nine West Holdings, Inc.*, No. 18-10947 (SCC) (Bankr. S.D.N.Y. June 26, 2018) (same); *In re Cenveo, Inc.*, No. 18-22178 (RDD) (Bankr. S.D.N.Y. Mar. 8, 2018) (same).

III. The Debtors Should Be Granted Authority to Use Existing Business Forms.

39. The Debtors submit that the continued use of the Business Forms will not prejudice parties in interest and such relief will avoid unnecessary expenses and administrative delays at this critical time. Furthermore, the Debtors' requested relief will not prejudice parties in interest because parties doing business with the Debtors undoubtedly will know of the Debtors' status as

a debtor in possession. Thus, changing the Business Forms is unnecessary and unduly burdensome. Once the Debtors have exhausted their existing stock of Business Forms, however, they shall ensure that any new Business Forms are clearly labeled “Debtor in Possession,” and with respect to any Business Forms that exist or are generated electronically, the Debtors shall ensure that such electronic Business Forms are clearly labeled “Debtor in Possession.”

40. Courts in this district regularly permit debtors to use their prepetition check forms without the “debtor in possession” label in similar large and complex chapter 11 cases. *See, e.g., In re Windstream Holdings, Inc.*, 19-22312 (RDD) (Bankr. S.D.N.Y. Apr. 22, 2019) (allowing debtors to continue using their cash management system); *In re FULLBEAUTY Brands Holdings Corp.*, 19-22185 (RDD) (Bankr. S.D.N.Y. Feb. 7, 2019) (same); *In re Aegean Marine Petrol. Network Inc.*, No. 18-13374 (MEW) (Bankr. S.D.N.Y. Dec. 17, 2018) (same); *In re Nine West Holdings, Inc.*, No. 18-10947 (SCC) (Bankr. S.D.N.Y. June 26, 2018) (same); *In re Cenveo, Inc.*, No. 18-22178 (RDD) (Bankr. S.D.N.Y. Mar. 8, 2018) (same).

IV. The Court Should Authorize the Debtors to Continue Performing Intercompany Transactions and Grant Administrative Priority Status to Postpetition Intercompany Claims.

41. At any given time, there may be balances due and owing between and among the Debtors and their non-debtor affiliate. These balances represent extensions of intercompany credit made in the ordinary course of business that are an essential component of the Cash Management System. Thus, the Debtors respectfully request the authority, in their sole discretion, to continue making all such Intercompany Transactions in the ordinary course of business without the need for further Court order. Courts routinely provide authority in other complex multi-debtor chapter 11 cases to continue ordinary course intercompany transactions. *See, e.g., In re Windstream Holdings, Inc.*, 19-22312 (RDD) (Bankr. S.D.N.Y. Apr. 22, 2019) (allowing debtors to continue using their cash management system); *In re FULLBEAUTY Brands*

Holdings Corp., 19-22185 (RDD) (Bankr. S.D.N.Y. Feb. 7, 2019) (same); *In re Aegean Marine Petrol. Network Inc.*, No. 18-13374 (MEW) (Bankr. S.D.N.Y. Dec. 17, 2018) (same); *In re Nine West Holdings, Inc.*, No. 18-10947 (SCC) (Bankr. S.D.N.Y. June 26, 2018) (same); *In re Cenveo, Inc.*, No. 18-22178 (RDD) (Bankr. S.D.N.Y. Mar. 8, 2018) (same). Thus, the Debtors submit that this Court should authorize them to continue to perform under the Intercompany Transactions.

42. The Debtors' funds are commingled in the Cash Management System with those of other Debtors and their non-debtor affiliates. If the Intercompany Transactions that permit use of the Cash Management System were to be discontinued, that system and related administrative controls would be disrupted to the detriment of the Debtors and their stakeholders. On the other hand, preserving the "business as usual" atmosphere and avoiding the unnecessary distractions that inevitably would be associated with any substantial disruption in the Cash Management System will facilitate the Debtors' reorganization efforts.

43. To ensure each individual Debtor will not fund—at the expense of its creditors—the operations of another entity, out of an abundance of caution, the Debtors respectfully request that all Intercompany Claims against a Debtor by another Debtor or non-debtor affiliate arising after the Petition Date, as a result of ordinary course Intercompany Transactions through the Cash Management System, be accorded administrative expense status pursuant to sections 503(b) and 364(b) of the Bankruptcy Code, subject and junior to the claims, including adequate protection claims, granted in connection with the DIP Financing, in accordance with the DIP Orders. If Intercompany Claims are accorded administrative expense status, each entity utilizing funds flowing through the Cash Management System should continue to bear ultimate repayment responsibility for such ordinary course transactions.

44. Administrative expense treatment for Intercompany Transactions, as requested herein, has been granted in other chapter 11 cases comparable to these chapter 11 cases. *See, e.g., In re Windstream Holdings, Inc.*, 19-22312 (RDD) (Bankr. S.D.N.Y. Apr. 22, 2019) (allowing debtors to continue using their cash management system); *In re FULLBEAUTY Brands Holdings Corp.*, 19-22185 (RDD) (Bankr. S.D.N.Y. Feb. 7, 2019) (same); *In re Aegean Marine Petrol. Network Inc.*, No. 18-13374 (MEW) (Bankr. S.D.N.Y. Dec. 17, 2018) (same); *In re Nine West Holdings, Inc.*, No. 18-10947 (SCC) (Bankr. S.D.N.Y. June 26, 2018) (same); *In re Cenveo, Inc.*, No. 18-22178 (RDD) (Bankr. S.D.N.Y. Mar. 8, 2018) (same).

45. In addition, the Court should authorize the Debtors to preserve and exercise intercompany setoff rights, including in connection with the postpetition Intercompany Transactions. Section 553(a) of the Bankruptcy Code provides that “[e]xcept as otherwise provided in this section and in sections 362 and 363 of this title, this title does not affect any right of a creditor to offset a mutual debt owing by such creditor to the debtor that arose before the commencement of the case under this title against a claim of such creditor against the debtor that arose before the commencement of the case.” 11 U.S.C. § 553(a).

46. A creditor need only establish two elements before a setoff may be asserted—mutuality and timing. *See Official Comm. of Unsecured Creditors v. Mfrs. & Traders Tr. Co. (In re Bennett Funding Grp., Inc.)*, 212 B.R. 206, 212 (B.A.P. 2d Cir. 1997), *aff’d*, 146 F.3d 136 (2d Cir. 1998); *see also Verco Indus. v. Spartan Plastics (In re Verco Indus.)*, 704 F.2d 1134, 1139 (9th Cir. 1983); *In re Lundell Farms*, 86 B.R. 582, 584 (Bankr. W.D. Wis. 1988). Although courts have not uniformly defined the elements of mutuality, most courts require that the debts are owed between the same parties and in the same right or capacity. *See* 5 Collier on Bankr. ¶ 553.03[3][a] & n.86 (16th ed. rev. 2012) (citing, *inter alia*, *Davidovich v. Welton (In re Davidovich)*, 901 F.2d

1533, 1537 (10th Cir. 1990); *Lubman v. Sovran Bank, N.A. (In re A & B Homes, Ltd.)*, 98 B.R. 243, 248 (Bankr. E.D. Va. 1989)). Timing requires that both claims arise prepetition. *See, e.g., Packaging Indus. Grp., Inc. v. Dennison Mfg. Co. (In re Sentinel Prods. Corp.)*, 192 B.R. 41, 45 (Bankr. S.D.N.Y. 1996); *Scherling v. Hellman Elec. Corp. (In re Westchester Structures Inc.)*, 181 B.R. 730, 739 (Bankr. S.D.N.Y. 1995). In addition, courts allow parties to offset claims postpetition in the same manner as a prepetition setoff, so long as the mutuality requirements are met. *See, e.g., United States v. Gordon Sel-Way, Inc. (In re Gordon Sel-Way, Inc.)*, 239 B.R. 741, 751–55 (E.D. Mich. 1999), *aff'd*, 270 F.3d 280 (6th Cir. 2001); *Mohawk Indus., Inc. v. United States (In re Mohawk Indus., Inc.)*, 82 B.R. 174, 179 (Bankr. D. Mass. 1987).

47. The Cash Management System allows the Debtors to track all obligations owing between related entities and thereby ensures that all setoffs of Intercompany Transactions will meet both the mutuality and timing requirements of section 553 of the Bankruptcy Code. Therefore, the Debtors respectfully request that they be expressly authorized to set off postpetition obligations arising on account of Intercompany Transactions between a Debtor and another Debtor or between a Debtor and a non-debtor affiliate.

The Requirements of Bankruptcy Rule 6003 Are Satisfied

48. Bankruptcy Rule 6003 empowers a court to grant relief within the first 21 days after the Petition Date “to the extent that relief is necessary to avoid immediate and irreparable harm.” For the reasons discussed above, the Debtors believe an immediate and orderly transition into chapter 11 is critical to the viability of their operations and that any delay in granting the relief requested could hinder the Debtors’ operations and cause irreparable harm. Furthermore, the failure to receive the requested relief during the first 21 days of these chapter 11 cases would severely disrupt the Debtors’ operations at this important juncture. For the reasons discussed herein, the relief requested is necessary for the Debtors to operate their businesses in the ordinary

course and preserve the ongoing value of the Debtors' operations and maximize the value of their estates for the benefit of all stakeholders. Accordingly, the Debtors submit that they have satisfied the "immediate and irreparable" standard of Bankruptcy Rule 6003 to support granting the relief requested herein.

Waiver of Bankruptcy Rule 6004(a) and 6004(h)

49. To implement the foregoing successfully, the Debtors request that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a) and that the Debtors have established cause to exclude such relief from the 14-day stay period under Bankruptcy Rule 6004(h).

Reservation of Rights

50. Nothing contained herein or any actions taken pursuant to such relief requested is intended to or should be construed as (a) an admission as to the validity of any prepetition claim against a Debtor entity, (b) a waiver of the Debtors' or any other party in interest's right to dispute any prepetition claim on any grounds, (c) a promise or requirement to pay any prepetition claim, (d) an implication or admission that any particular claim is of a type specified or defined in this motion or any order granting the relief requested by this motion, (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code, (f) a waiver of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law, or (g) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the relief requested in this motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

Motion Practice

51. This motion includes citations to the applicable rules and statutory authorities upon which the relief requested herein is predicated and a discussion of their application to this motion. Accordingly, the Debtors submit that this motion satisfies Local Rule 9013-1(a).

Notice

52. The Debtors will provide notice of this motion to: (a) the Office of the United States Trustee for the Southern District of New York; (b) the holders of the 50 largest unsecured claims against the Debtors (on a consolidated basis); (c) the administrative agent for the Debtors' term loan facility and counsel thereto; (d) the administrative agent for the Debtors' asset-based loan credit facility and counsel thereto; (e) the administrative agent for the Debtors' proposed debtor in possession term loan financing facility and counsel thereto; (f) the administrative agent for the Debtors' proposed debtor in possession asset-based loan credit facility and counsel thereto; (g) the United States Attorney's Office for the Southern District of New York; (h) the Internal Revenue Service; (i) the attorneys general for the states in which the Debtors operate; (j) the Cash Management Banks; and (k) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

53. No prior request for the relief sought in this motion has been made to this or any other court.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

WHEREFORE, the Debtors respectfully request entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, respectively, granting the relief requested herein and granting such other relief as is just and proper.

New York, New York

Dated: May 19, 2019

/s/ Joshua A. Sussberg

Joshua A. Sussberg, P.C.

Christopher T. Greco, P.C.

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

601 Lexington Avenue

New York, New York 10022

Telephone: (212) 446-4800

Facsimile: (212) 446-4900

- and -

Joseph M. Graham (*pro hac vice* pending)

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

300 North LaSalle Street

Chicago, Illinois 60654

Telephone: (312) 862-2000

Facsimile: (312) 862-2200

Proposed Counsel to the Debtors and Debtors in Possession

Exhibit A

Proposed Interim Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	
	)	Chapter 11
)	
HOLLANDER SLEEP PRODUCTS, LLC., <i>et al.</i> , ¹	)	Case No. 19-11608 (___)
)	
Debtors.	)	(Joint Administration Requested)
)	
	)	Re: Docket No. __

**INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO
(A) CONTINUE TO OPERATE THEIR CASH MANAGEMENT SYSTEM,
(B) HONOR CERTAIN PREPETITION OBLIGATIONS RELATED THERETO,
(C) MAINTAIN EXISTING BUSINESS FORMS, AND (D) CONTINUE TO PERFORM
INTERCOMPANY TRANSACTIONS, AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an interim order (this “Interim Order”), (a) authorizing the Debtors to (i) continue to operate their Cash Management System as illustrated on **Exhibit 1** hereto and maintain their existing Bank Accounts, (ii) honor certain prepetition obligations related thereto, (iii) maintain existing business forms, and (iv) continue to perform Intercompany Transactions with each other and with a non-debtor affiliate consistent with historical practice, (b) scheduling a final hearing to consider approval of the Motion on a final basis, and (c) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors’ service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

District of New York, dated January 31, 2012; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis as set forth herein.
2. The final hearing (the "Final Hearing") on the Motion shall be held on _____, 2019, at __:__.m., prevailing Eastern Time. Any objections or responses to entry of a final order on the Motion must be filed with the Court on or before 4:00 p.m., prevailing Eastern Time, on _____, 2019.
3. The Debtors are authorized, but not directed, to: (a) continue using the Cash Management System and honor any prepetition obligations related to the use thereof, including any Bank Fees; (b) designate, maintain, close, and continue to use on an interim basis their existing Bank Accounts, including, but not limited to, the Bank Accounts identified on **Exhibit 2** hereto, in the names and with the account numbers existing immediately before the Petition Date; (c) deposit funds in, and withdraw funds from, the Bank Accounts by all usual means, including checks, wire transfers, ACH transfers, and other debits; (d) treat their prepetition Bank Accounts for all purposes as debtor in possession accounts; and (e) open new debtor in possession Bank Accounts.

4. The Debtors are authorized, but not directed, to continue using the Purchase Cards and to pay any prepetition or postpetition amounts in connection therewith in the ordinary course of business and consistent with prepetition practices. The Debtors are further authorized to continue to use the Purchase Card Program under the Card Agreement, subject to the terms and conditions thereof and further subject to the terms of any applicable debtor-in-possession financing orders and related loan documents pursuant to which the obligations arising under the Card Agreement are included as obligations thereunder. Wells Fargo may rely on the representations of the Debtors with respect to its use of the Purchase Card Program pursuant to the Card Agreement, and Wells Fargo shall not have any liability to any party for relying on such representations by a Debtor as provided for herein.

5. The Debtors are authorized, but not directed, to continue using, in their present form, the Business Forms, as well as checks and other documents related to the Bank Accounts existing immediately before the Petition Date, *provided, however*, that once the Debtors have exhausted their existing stock of Business Forms and checks, they shall ensure that any new Business Forms and checks are clearly labeled “Debtor in Possession” and *provided, further*, that with respect to any Business Forms and checks that are generated electronically, the Debtors shall ensure that such electronic Business Forms and checks are clearly labeled “Debtor in Possession.”

6. The Cash Management Banks at which the Bank Accounts are maintained are authorized to (a) continue to service and administer the Bank Accounts as accounts of the Debtors as debtors in possession, without interruption and in the ordinary course, and to receive, process, honor, and pay any and all checks, drafts, wire transfers, and ACH transfers issued, whether before or after the Petition Date, and drawn on the Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be, and (b) debit the Debtors’ accounts in the ordinary course

of business without the need for further order of this Court for (i) all checks drawn on the Debtors' accounts which are cashed at such Cash Management Bank's counters or exchanged for cashier's checks by the payees thereof prior to the Petition Date, (ii) all checks or other items deposited in one of the Debtors' accounts with such Cash Management Bank prior to the Petition Date which have been dishonored or returned unpaid for any reason, together with any fees and costs in connection therewith, to the same extent the Debtor was responsible for such items prior to the Petition Date, and (iii) all applicable fees and expenses, including the Bank Fees, associated with the nature of the deposit and cash management services rendered to the Debtors, whether arising prepetition or postpetition, from the applicable Bank Accounts consistent with historical practice, and further, to charge back to the appropriate accounts of the Debtors any amounts resulting from returned checks or other returned items, including returned items that result from ACH transactions, wire transfers, or other electronic transfers of any kind, regardless of whether such returned items were deposited or transferred prepetition or postpetition and regardless of whether the returned items relate to prepetition or postpetition items or transfers.

7. The Debtors will instruct the Banks as to which checks, drafts, wire transfers (excluding any wire transfers that the Cash Management Banks are obligated to settle), or other items presented, issued, or drawn, shall not be honored. Except for those checks, drafts, wires, or other ACH transfers that are authorized or required to be honored under an order of the Court, no Debtor shall instruct or request any Cash Management Bank to pay or honor any check, draft, or other payment item issued on a Bank Account prior to the Petition Date but presented to such Cash Management Bank for payment after the Petition Date.

8. The Cash Management Banks may rely on the representations of the Debtors with respect to whether any check, draft, wire, transfer, or other payment order drawn or issued by the

Debtors prior to the Petition Date should be honored pursuant to this Interim Order or any other order of the Court, and such Cash Management Banks shall not have any liability to any party for relying on such representations by the Debtors as provided for herein, and should a Cash Management Bank honor a prepetition check or other item drawn on any account that is the subject of this Interim Order (a) at the direction of the Debtors to honor such prepetition check or item, (b) in a good faith belief that the Court has authorized such prepetition check or item to be honored, or (c) as the result of an innocent mistake made despite implementation of customary item handling procedures, the Cash Management Bank shall not be deemed to be nor shall be liable to the Debtors, their estates, or any other party on account of such prepetition check or other item being honored postpetition or otherwise be in violation of this Interim Order.

9. Those certain existing deposit agreements between the Debtors and the Cash Management Banks shall continue to govern the postpetition cash management relationship between the Debtors and the Cash Management Banks, and all of the provisions of such agreements, including, without limitation, the termination, right of offset, analysis fees, overdrafts, and fee and expense provisions, shall remain in full force and effect. Either the Debtors or the Cash Management Banks may, without further order of the Court, implement changes to the cash management systems and procedures in the ordinary course of business pursuant to the terms of those existing deposit agreements and the DIP Orders, as applicable, including, without limitation, the opening and closing of bank accounts.

10. As soon as practicable after entry of this Interim Order, the Debtors shall serve a copy of this Interim Order on the Cash Management Banks.

11. The requirement to establish separate accounts for tax payments is hereby waived.

12. The Debtors are authorized to (a) continue performing Intercompany Transactions in the ordinary course of business and (b) set off mutual postpetition obligations relating to intercompany receivables and payables through the Cash Management System. In connection therewith, the Debtors shall continue to maintain current records with respect to all transfers of cash so that all transactions, including the Intercompany Transactions, may be readily ascertained, traced, and recorded properly on applicable intercompany accounts. All Intercompany Claims arising after the Petition Date shall be accorded administrative expense status in accordance with section 503(b) and 364(b) of the Bankruptcy Code. Notwithstanding the foregoing, the Canadian Intercompany Superiority Administrative Claims (as defined in the DIP Orders) shall be treated in accordance with the DIP Orders.

13. The Debtors are authorized to open new bank accounts or close any existing Bank Accounts as they may deem necessary and appropriate in their reasonable business judgment, *provided* that any new bank account shall be at a bank that is an authorized depository or at a bank that is willing to execute a Uniform Depository Agreement with the U.S. Trustee.

14. Except as otherwise provided herein, in the event that a Bank Account does not comply or ceases to comply with the requirements of section 345(b) of the Bankruptcy Code, the Debtors shall have forty-five days thereafter, without prejudice to seeking an additional extension, to come into compliance with section 345(b) of the Bankruptcy Code or sufficient time, in the Debtors' sole discretion, to close such Bank Account or to seek appropriate relief from the Court.

15. Nothing in this Interim Order shall be deemed: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors' or any other party in interest's right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type

specified or defined in this Interim Order or the Motion or a finding that any particular claim is an administrative expense or other priority claim; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the rights of any party in interest under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

16. Nothing contained in this Interim Order or any action taken by the Debtors in implementing this Interim Order shall be deemed a waiver of the rights of any party-in-interest to dispute the amount of, basis for, validity, or treatment of any Intercompany Claim or the allocation of expenses or other costs between any Debtor entities.

17. Notwithstanding the relief granted in this Interim Order, any payment made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with any orders entered by the Court approving the Debtors' entry into any postpetition debtor-in-possession financing facility and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and any budget in connection therewith.

18. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

19. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

20. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

21. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

22. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

New York, New York

Dated: _____, 2019

UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Cash Management System Diagram

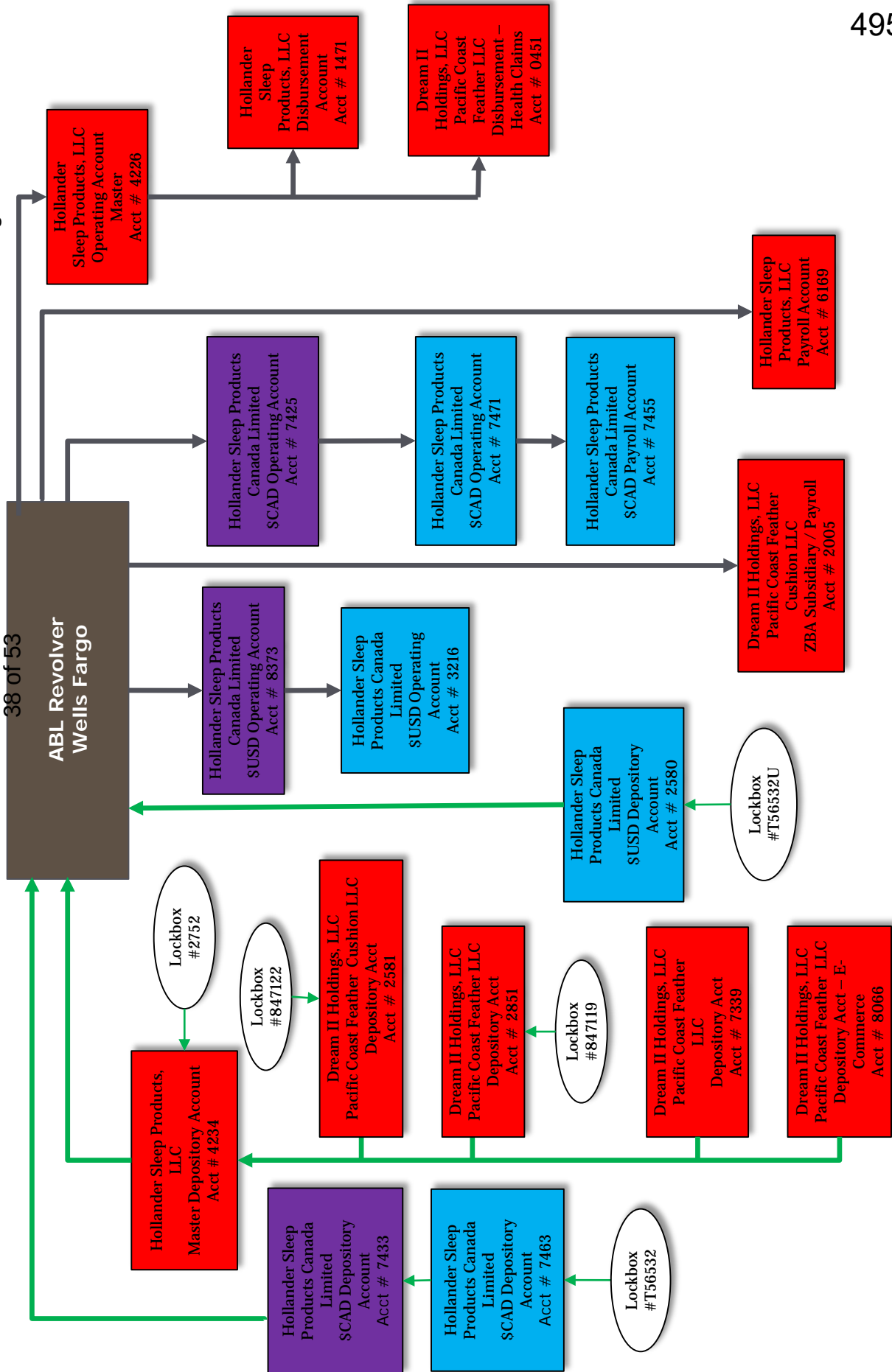


Exhibit 2**Debtor and Non-Debtor Affiliate Bank Accounts**

	Entity	Bank Name	Account Number	Account Type
1	Hollander Sleep Products, LLC	Wells Fargo	x4226	Operating
2	Hollander Sleep Products, LLC	Wells Fargo	x4234	Depository
3	Hollander Sleep Products, LLC	Wells Fargo	x1471	Checking
4	Hollander Sleep Products, LLC	Wells Fargo	x6169	Checking
5	Dream II Holdings, LLC Pacific Coast Feather Cushion, LLC	Wells Fargo	x2581	Depository
6	Dream II Holdings, LLC Pacific Coast Feather, LLC	Wells Fargo	x2851	Depository
7	Dream II Holdings, LLC Pacific Coast Feather, LLC	Wells Fargo	x0451	Checking
8	Dream II Holdings, LLC Pacific Coast Feather, LLC	Wells Fargo	x8006	Depository
9	Dream II Holdings, LLC Pacific Coast Feather Cushion, LLC	Wells Fargo	x2005	Checking
10	Dream II Holdings, LLC Pacific Coast Feather Cushion, LLC	Wells Fargo	x7339	Depository
11	Hollander Sleep Products Canada Limited	Wells Fargo	x7425	Checking
12	Hollander Sleep Products Canada Limited	Royal Bank of Canada	x7471	Checking
13	Hollander Sleep Products Canada Limited	Royal Bank of Canada	x7455	Checking
14	Hollander Sleep Products Canada Limited	Wells Fargo	x7433	Depository
15	Hollander Sleep Products Canada Limited	Royal Bank of Canada	x7463	Depository
16	Hollander Sleep Products Canada Limited	Wells Fargo	x8373	Operating
17	Hollander Sleep Products Canada Limited	Royal Bank of Canada	x3216	Operating
18	Hollander Sleep Products Canada Limited	Royal Bank of Canada	x2580	Depository

	Entity	Bank Name	Account Number	Account Type
19	Hollander Sleep Products Trading (Shanghai) Co., LTD.	Shanghai Pudong Development	x0327	Operating
20	Hollander Sleep Products Trading (Shanghai) Co., LTD.	Shanghai Pudong Development	x0875	Operating

Exhibit B

Proposed Final Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	
	)	Chapter 11
)	
HOLLANDER SLEEP PRODUCTS, LLC., <i>et al.</i> , ¹	)	Case No. 19-11608 (___)
)	
Debtors.	)	(Joint Administration Requested)
)	
	)	Re: Docket No. ___

**FINAL ORDER (I) AUTHORIZING THE DEBTORS TO
(A) CONTINUE TO OPERATE THEIR CASH MANAGEMENT SYSTEM,
(B) HONOR CERTAIN PREPETITION OBLIGATIONS RELATED THERETO,
(C) MAINTAIN EXISTING BUSINESS FORMS, AND (D) CONTINUE TO PERFORM
INTERCOMPANY TRANSACTIONS, AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an final order (this “Final Order”), (a) authorizing the Debtors to (i) continue to operate their Cash Management System as illustrated on **Exhibit 1** hereto and maintain their existing Bank Accounts, (ii) honor certain prepetition obligations related thereto, (iii) maintain existing business forms, and (iv) continue to perform Intercompany Transactions with each other and with a non-debtor affiliate consistent with historical practice, and (b) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012; and this Court may enter a final order

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors’ service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted on a final basis only as set forth herein.
2. The Debtors are authorized, but not directed, to: (a) continue using the Cash Management System and honor any prepetition obligations related to the use thereof, including any Bank Fees; (b) designate, maintain, close, and continue to use on a final basis their existing Bank Accounts, including, but not limited to, the Bank Accounts identified on **Exhibit 2** hereto, in the names and with the account numbers existing immediately before the Petition Date; (c) deposit funds in, and withdraw funds from, the Bank Accounts by all usual means, including checks, wire transfers, ACH transfers, and other debits; (d) treat their prepetition Bank Accounts for all purposes as debtor in possession accounts; and (e) open new debtor-in-possession Bank Accounts.
3. The Debtors are authorized, but not directed, to continue using the Purchase Cards and to pay any prepetition or postpetition amounts due in connection therewith. The Debtors are further authorized to continue to use the Purchase Card Program under the Card Agreement, subject to the terms and conditions thereof and further subject to the terms of any applicable debtor-

in-possession financing orders and related loan documents pursuant to which the obligations arising under the Card Agreement are included as obligations thereunder. Wells Fargo may rely on the representations of the Debtors with respect to its use of the Purchase Card Program pursuant to the Card Agreement, and Wells Fargo shall not have any liability to any party for relying on such representations by a Debtor as provided for herein.

4. The Debtors are authorized, but not directed, to continue using, in their present form, the Business Forms, as well as checks and other documents related to the Bank Accounts existing immediately before the Petition Date, *provided, however*, that once the Debtors have exhausted their existing stock of Business Forms and checks, they shall ensure that any new Business Forms and checks are clearly labeled “Debtor in Possession” and *provided, further*, that with respect to any Business Forms and checks that are generated electronically, the Debtors shall ensure that such electronic Business Forms and checks are clearly labeled “Debtor in Possession.”

5. The Cash Management Banks at which the Bank Accounts are maintained are authorized to (a) continue to service and administer the Bank Accounts as accounts of the Debtors as debtors in possession, without interruption and in the ordinary course, and to receive, process, honor, and pay any and all checks, drafts, wire transfers, and ACH transfers issued, whether before or after the Petition Date, and drawn on the Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be, and (b) debit the Debtors’ accounts in the ordinary course of business without the need for further order of this Court for (i) all checks drawn on the Debtors’ accounts which are cashed at such Cash Management Bank’s counters or exchanged for cashier’s checks by the payees thereof prior to the Petition Date, (ii) all checks or other items deposited in one of the Debtors’ accounts with such Cash Management Bank prior to the Petition Date which have been dishonored or returned unpaid for any reason, together with any fees and costs in

connection therewith, to the same extent the Debtor was responsible for such items prior to the Petition Date, and (iii) all applicable fees and expenses, including the Bank Fees, associated with the nature of the deposit and cash management services rendered to the Debtors, whether arising prepetition or postpetition, from the applicable Bank Accounts consistent with historical practice, and further, to charge back to the appropriate accounts of the Debtors any amounts resulting from returned checks or other returned items, including returned items that result from ACH transactions, wire transfers, or other electronic transfers of any kind, regardless of whether such returned items were deposited or transferred prepetition or postpetition and regardless of whether the returned items relate to prepetition or postpetition items or transfers.

6. The Debtors will instruct the Cash Management Banks as to which checks, drafts, wire transfers (excluding any wire transfers that the Banks are obligated to settle), or other items presented, issued, or drawn, shall not be honored. Except for those checks, drafts, wires, or other ACH transfers that are authorized or required to be honored under an order of the Court, no Debtor shall instruct or request any Cash Management Bank to pay or honor any check, draft, or other payment item issued on a Bank Account prior to the Petition Date but presented to such Cash Management Bank for payment after the Petition Date.

7. The Cash Management Banks may rely on the representations of the Debtors with respect to whether any check, draft, wire, transfer, or other payment order drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to this Final Order or any other order of the Court, and such Cash Management Banks shall not have any liability to any party for relying on such representations by the Debtors as provided for herein, and should a Cash Management Bank honor a prepetition check or other item drawn on any account that is the subject of this Final Order (a) at the direction of the Debtors to honor such prepetition check or item, (b) in a good faith

belief that the Court has authorized such prepetition check or item to be honored, or (c) as the result of an innocent mistake made despite implementation of customary item handling procedures, the Cash Management Bank shall not be deemed to be nor shall be liable to the Debtors, their estates, or any other party on account of such prepetition check or other item being honored postpetition or otherwise be in violation of this Final Order.

8. Those certain existing deposit agreements between the Debtors and the Cash Management Banks shall continue to govern the postpetition cash management relationship between the Debtors and the Cash Management Banks, and all of the provisions of such agreements, including, without limitation, the termination, right of offset, analysis fees, overdrafts, and fee and expense provisions, shall remain in full force and effect. Either the Debtors or the Cash Management Banks may, without further order of the Court, implement changes to the cash management systems and procedures in the ordinary course of business pursuant to the terms of those existing deposit agreements and the DIP Orders, as applicable, including, without limitation, the opening and closing of bank accounts.

9. As soon as practicable after entry of this Final Order, the Debtors shall serve a copy of this Final Order on the Banks.

10. The requirement to establish separate accounts for tax payments is hereby waived.

11. The Debtors are authorized to (a) continue performing Intercompany Transactions in the ordinary course of business and (b) set off mutual postpetition obligations relating to intercompany receivables and payables through the Cash Management System. In connection therewith, the Debtors shall continue to maintain current records with respect to all transfers of cash so that all transactions, including the Intercompany Transactions, may be readily ascertained, traced, and recorded properly on applicable intercompany accounts. All Intercompany Claims

arising after the Petition Date shall be accorded administrative expense status in accordance with section 503(b) and 364(b) of the Bankruptcy Code. Notwithstanding the foregoing, the Canadian Intercompany Superiority Administrative Claims (as defined in the DIP Orders) shall be treated in accordance with the DIP Orders.

12. The Debtors are authorized to open new bank accounts or close any existing Bank Accounts as they may deem necessary and appropriate in their reasonable business judgment, *provided* that any new bank account shall be at a bank that is an authorized depository or at a bank that is willing to execute a Uniform Depository Agreement with the U.S. Trustee.

13. Except as otherwise provided herein, in the event that a Bank Account does not comply or ceases to comply with the requirements of section 345(b) of the Bankruptcy Code, the Debtors shall have forty-five days thereafter, without prejudice to seeking an additional extension, to come into compliance with section 345(b) of the Bankruptcy Code or sufficient time, in the Debtors' sole discretion, to close such Bank Account or to seek appropriate relief from the Court.

14. Notwithstanding the relief granted in this Final Order and any actions taken pursuant to such relief, nothing in this Final Order shall be deemed: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors' or any other party in interest's right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Final Order or the Motion or a finding that any particular claim is an administrative expense or other priority claim; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the rights of any party in interest under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors that any liens (contractual, common law,

statutory, or otherwise) satisfied pursuant to the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

15. Nothing contained in this Final Order or any action taken by the Debtors in implementing this Final Order shall be deemed a waiver of the rights of any party-in-interest to dispute the amount of, basis for, validity, or treatment of any Intercompany Claim or the allocation of expenses or other costs between any Debtor entities.

16. Notwithstanding the relief granted in this Final Order, any payment made or to be made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with any order entered by the Court approving the entry into any postpetition debtor-in-possession financing facility and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and any budget in connection therewith.

17. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

18. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

19. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Final Order in accordance with the Motion.

20. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.

New York, New York

Dated: _____, 2019

UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Cash Management System Diagram

51 of 53

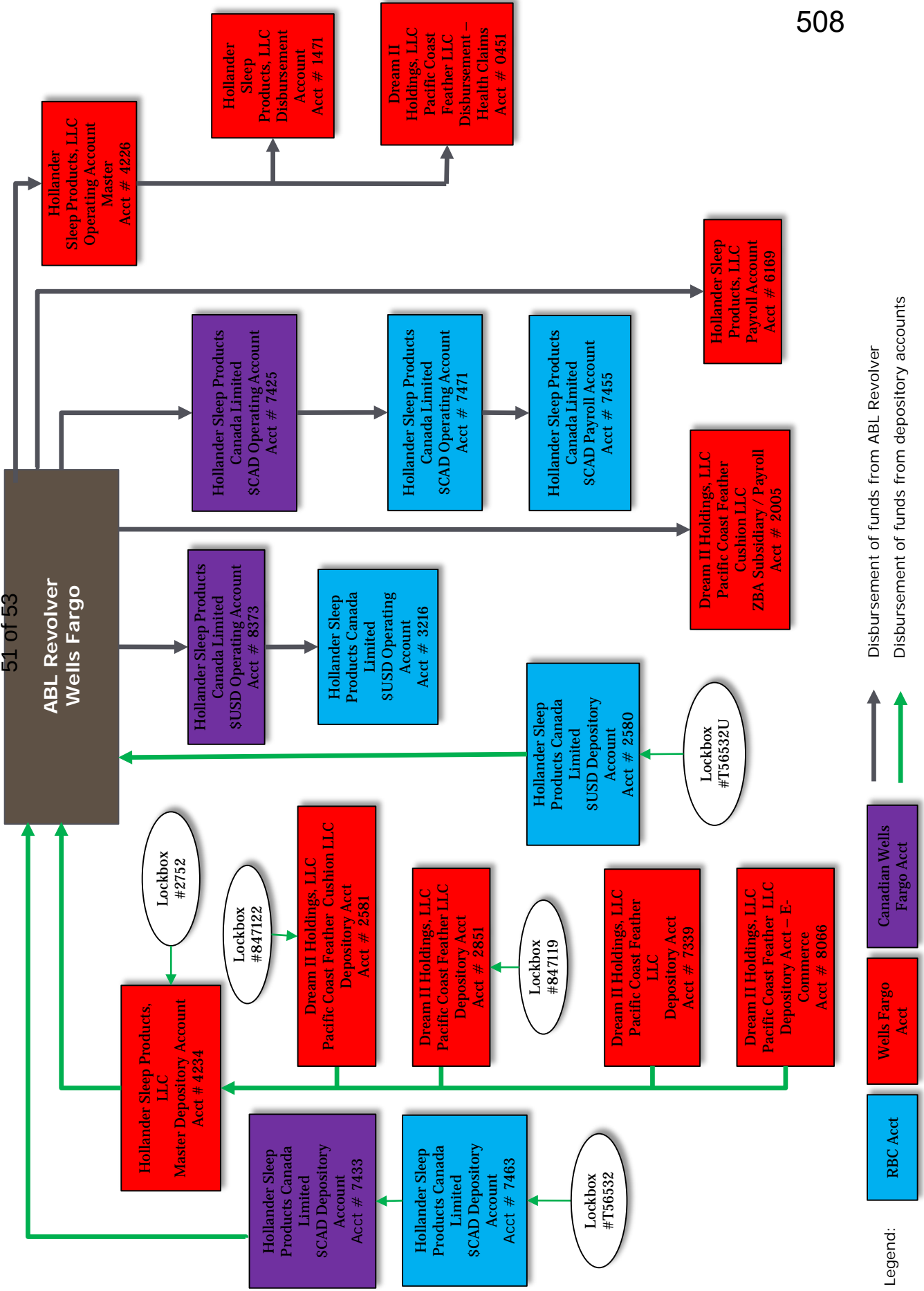


Exhibit 2**Debtor and Non-Debtor Affiliate Bank Accounts**

	Entity	Bank Name	Account Number	Account Type
1	Hollander Sleep Products, LLC	Wells Fargo	x4226	Operating
2	Hollander Sleep Products, LLC	Wells Fargo	x4234	Depository
3	Hollander Sleep Products, LLC	Wells Fargo	x1471	Checking
4	Hollander Sleep Products, LLC	Wells Fargo	x6169	Checking
5	Dream II Holdings, LLC Pacific Coast Feather Cushion, LLC	Wells Fargo	x2581	Depository
6	Dream II Holdings, LLC Pacific Coast Feather, LLC	Wells Fargo	x2851	Depository
7	Dream II Holdings, LLC Pacific Coast Feather, LLC	Wells Fargo	x0451	Checking
8	Dream II Holdings, LLC Pacific Coast Feather, LLC	Wells Fargo	x8006	Depository
9	Dream II Holdings, LLC Pacific Coast Feather Cushion, LLC	Wells Fargo	x2005	Checking
10	Dream II Holdings, LLC Pacific Coast Feather Cushion, LLC	Wells Fargo	x7339	Depository
11	Hollander Sleep Products Canada Limited	Wells Fargo	x7425	Checking
12	Hollander Sleep Products Canada Limited	Royal Bank of Canada	x7471	Checking
13	Hollander Sleep Products Canada Limited	Royal Bank of Canada	x7455	Checking
14	Hollander Sleep Products Canada Limited	Wells Fargo	x7433	Depository
15	Hollander Sleep Products Canada Limited	Royal Bank of Canada	x7463	Depository
16	Hollander Sleep Products Canada Limited	Wells Fargo	x8373	Operating
17	Hollander Sleep Products Canada Limited	Royal Bank of Canada	x3216	Operating
18	Hollander Sleep Products Canada Limited	Royal Bank of Canada	x2580	Depository

	Entity	Bank Name	Account Number	Account Type
19	Hollander Sleep Products Trading (Shanghai) Co., LTD.	Shanghai Pudong Development	x0327	Operating
20	Hollander Sleep Products Trading (Shanghai) Co., LTD.	Shanghai Pudong Development	x0875	Operating

THIS IS EXHIBIT "L" REFERRED TO IN THE
AFFIDAVIT OF EVAN BARZ SWORN
ON MAY 23 2019.



A Commissioner for Taking Affidavits

Patricia Welch
663 228

Joshua A. Sussberg, P.C.
Christopher T. Greco, P.C.
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

Joseph M. Graham (*pro hac vice* pending)
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
300 North LaSalle
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Proposed Counsel to the Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:	)	Chapter 11
HOLLANDER SLEEP PRODUCTS, LLC, <i>et al.</i> , ¹	)	Case No. 19-11608 (___)
Debtors.	)	(Joint Administration Requested)

**DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS
(A) AUTHORIZING THE DEBTORS TO OBTAIN POSTPETITION FINANCING,
(B) AUTHORIZING THE DEBTORS TO USE CASH COLLATERAL, (C) GRANTING
LIENS AND PROVIDING SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS,
(D) GRANTING ADEQUATE PROTECTION TO THE PREPETITION LENDERS,
(E) MODIFYING THE AUTOMATIC STAY, (F) SCHEDULING A FINAL HEARING,
AND (G) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession (collectively, the "Debtors") respectfully state as follows in support of this motion:

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors' service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

Relief Requested

1. By this motion, the Debtors seek entry of an interim order, substantially in the form attached hereto as **Exhibit A** (the “Interim Order”),² and a final order (the “Final Order,” and together with the Interim Order, collectively, the “DIP Orders”):³

- a. authorizing the Debtors to obtain \$90 million senior secured postpetition financing on a superpriority basis (the “DIP ABL Credit Facility” and the loans under the DIP ABL Credit Facility, the “DIP ABL Loans”) pursuant to the terms and conditions of that certain Debtor-in-Possession Credit Agreement (as the same may be amended, restated, supplemented, or otherwise modified from time to time, the “DIP ABL Credit Agreement”), by and among the DIP ABL Borrowers, Parent, as guarantor, and such other guarantors thereto from time to time (the “DIP ABL Guarantors,” together with the DIP ABL Borrowers, the “DIP ABL Loan Parties”), Wells Fargo Bank, National Association, as agent (in such capacity, the “DIP ABL Agent”), for and on behalf of itself and the other lenders party thereto (the “DIP ABL Lenders”), the Issuing Lenders (as therein defined) and the Bank Product Providers (as therein defined) (collectively, the “DIP ABL Parties”), substantially in the form attached hereto as **Exhibit B**;
- b. authorizing the Debtors party thereto to execute and deliver the DIP ABL Credit Agreement and any other agreements and documents related thereto (collectively with the DIP ABL Credit Agreement, the “DIP ABL Documents”) and to perform such other acts as may be necessary or desirable in connection with the DIP ABL Documents;
- c. granting the DIP ABL Credit Facility and all obligations owing thereunder and under the DIP ABL Documents to the DIP ABL Agent and DIP ABL Parties (collectively, and including all “Obligations” as described in the DIP ABL Credit Agreement (including the Last Out Obligations), the “DIP ABL Obligations”) allowed superpriority administrative expense claim status in each of the Cases, or in any case under chapter 7 of the Bankruptcy Code upon the conversion of any of the Cases, or in any other proceedings superseding or related to any of the foregoing (collectively, the “Successor Cases”);
- d. authorizing the Debtors (other than Debtor Hollander Sleep Products Canada Limited) to obtain senior secured postpetition financing on a superpriority basis in the aggregate principal amount of up to

² Capitalized terms used, but not otherwise defined herein, shall have the meanings ascribed to them in the First Day Declaration (as defined herein) or Interim Order, as applicable.

³ The Debtors will file the form of Final Order prior to the Final Hearing (as defined herein).

\$28,000,000.00 (the “DIP Term Loan Credit Facility,” and the loans thereunder, the “DIP Term Loans,” and the DIP Term Loan Credit Facility together with the DIP ABL Credit Facility, the “DIP Facilities”) pursuant to the terms and conditions of that certain superpriority secured Debtor-in-Possession Term Loan Credit Agreement (as the same may be amended, restated, supplemented, or otherwise modified from time to time, the “DIP Term Loan Credit Agreement,” and together with the DIP ABL Credit Agreement, the “DIP Agreements”), by and among the DIP Term Loan Borrower, the guarantors party thereto from time to time (the “DIP Term Loan Guarantors,” and together with the DIP ABL Guarantors, the “DIP Guarantors”) (the DIP Term Loan Guarantors, together with the DIP Term Loan Borrower, the “DIP Term Loan Parties”) (the DIP Term Loan Parties, together with the DIP ABL Loan Parties, the “DIP Parties”), the financial institutions party thereto from time to time as lenders (collectively, the “DIP Term Loan Lenders,” and together with the DIP Term Loan Agent (defined below), the “DIP Term Loan Secured Parties”) (the DIP Term Loan Secured Parties, together with the DIP ABL Parties, the “DIP Lenders”), and Barings Finance LLC, as administrative agent (in such capacity, the “DIP Term Loan Agent,” and, together with the DIP ABL Agent, collectively, the “DIP Agents”) for and on behalf of itself and the DIP Term Loan Lenders, substantially in the form of **Exhibit C**, attached hereto;

- e. authorizing the Debtors party thereto to execute and deliver the DIP Term Loan Credit Agreement and any other agreements and documents related thereto (collectively with the DIP Term Loan Credit Agreement, the “DIP Term Loan Documents,” and together with the DIP ABL Documents, the “DIP Documents”) and to perform such other acts as may be necessary or desirable in connection with the DIP Term Loan Documents;
- f. granting the DIP Term Loan Credit Facility and all obligations owing thereunder and under the DIP Term Loan Documents to the DIP Term Loan Agent and DIP Term Loan Lenders (collectively, and including all “Obligations” as described in the DIP Term Loan Credit Agreement, the “DIP Term Loan Obligations,” and together with the DIP ABL Obligations, the “DIP Obligations”) allowed superpriority administrative expense claim status in each of the Cases and any Successor Cases, in each case subject to the Carve Out;
- g. granting the DIP Agents, for the benefit of themselves and the DIP Lenders and the DIP Obligations, automatically perfected security interests in and liens on all of the DIP ABL Collateral (as defined below), or DIP Term Collateral (as defined herein), as applicable, including, without limitation, all property constituting “Cash Collateral” as defined in section 363(a) of the Bankruptcy Code, which liens shall be subject to the Carve Out and the priorities set forth herein;

- h. authorizing and directing the Debtors to pay the principal, interest, fees, expenses and other amounts payable under the DIP Documents as such become due, including, without limitation, letter of credit fees (including issuance and other related charges), continuing commitment fees, closing fees, audit fees, appraisal fees, liquidator fees, structuring fees, administrative agent's fees, the reasonable fees and disbursements of the DIP Agents' and DIP Lenders' respective attorneys, advisors, accountants and other consultants, all to the extent provided in, and in accordance with, the applicable DIP Documents, including on the terms set forth in the fee letters attached hereto as Exhibit D and Exhibit E;
- i. authorizing the Debtors to use the Prepetition Collateral, including the Cash Collateral (each as defined below) of the Prepetition ABL Secured Parties and Prepetition ABL Obligations under the Prepetition ABL Documents and the Prepetition Term Loan Secured Parties under the Prepetition Term Loan Documents (each as defined below), and providing adequate protection to the Prepetition ABL Secured Parties, Prepetition ABL Obligations and Prepetition Term Loan Secured Parties for any Diminution in Value (as defined below) of their respective interests in the Prepetition Collateral, including the Cash Collateral, as applicable, and subject to the Carve Out;
- j. vacating and modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of the DIP Documents and this Interim Order;
- k. scheduling a final hearing (the "Final Hearing") to consider the relief requested in the DIP Motion and approving the form of notice with respect to the Final Hearing; and
- l. granting related relief.

2. In support of this motion, the Debtors submit the declaration of Saul Burian, a Managing Director of Houlihan Lokey Capital, Inc. ("Houlihan"), the Debtors' proposed investment banker, filed contemporaneously herewith (the "Burian Declaration"), and the *Declaration of Marc Pfefferle, Chief Executive Officer of Hollander Sleep Products, LLC, in Support of Debtors' Chapter 11 Petitions and First Day Motions*, filed contemporaneously herewith (the "First Day Declaration").

Jurisdiction and Venue

3. The United States Bankruptcy Court for the Southern District of New York (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012. The Debtors confirm their consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

4. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

5. The bases for the relief requested herein are sections 105(a), 361, 362, 363(b), 363(c), 363(e), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e), and 507(b) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), Bankruptcy Rules 2002, 4001, 6003, 6004, and 9014, and Rule 4001-2 of the Local Bankruptcy Rules for the Southern District of New York (the “Local Rules”).

Background

6. Hollander Sleep Products is the largest pillow and mattress pad manufacturer in North America. The Debtors also manufacture comforters and other basic bedding products. The Debtors have their own brands, including Great Sleep®, I AM®, LC®, PCF®, and Restful Nights®, and also manufacture and sell licensed brands, including Simmons®, Ralph Lauren®, CHAPS®, Calvin Klein®, Therapedic®, Nautica®, 37.5®, and Dr. Maas®. The Debtors are headquartered in Boca Raton, Florida, operate a main showroom in New York City, and have thirteen manufacturing facilities throughout the United States and Canada. In addition to the North American operations, the Debtors also have a sourcing, product development, and quality control

office in China. The Debtors generated approximately \$527 million in net revenue in fiscal year 2018 and currently employ more than 2,300 people across the United States. As of the date hereof, the Debtors have approximately \$233 million in funded debt.

7. On the Petition Date, each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors have concurrently filed a motion requesting procedural consolidation and joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b).

Preliminary Statement

8. The Debtors require relief to continue operations which they can accomplish in chapter 11 with a balance sheet restructuring or an asset sale. Today's filings will enable them to pursue both paths towards a fairly prompt and efficient emergence. The Debtors urgently need an infusion of new money to continue operations and fund the administrative costs of these chapter 11 cases. New money will also send an important signal to their stakeholders that the Debtors have a path to emergence and will continue as a going-concern.

9. To these ends, they have entered into debtor-in-possession ("DIP") financing agreements with their prepetition secured term and asset-based lenders to fund these cases, whether the path is a restructuring or a sale. The proposed DIP facilities also reflect the lenders' support for the Debtors' proposed plan process in at least two important respects. First, the term lenders agreed to a restructuring support agreement pursuant to which they will either own the reorganized business or be paid cash from a sale process. In either event they will support the Debtors' exit through a chapter 11 plan and the payment of administrative expense and priority claims. Second, the term loan facility will roll into the Debtors' proposed new money exit facility (being provided by certain of the DIP term loan lenders), providing the Debtors a clear path to

emergence. Additionally, the proposed funding is essential to preserving and maximizing the value of the Debtors' assets.

10. As described below and in the Burian Declaration, the Debtors' proposed DIP Facilities are the product of hard-fought, good-faith negotiations with the Debtors' secured stakeholders. By this motion, the Debtors seek approval of the \$90 million DIP ABL Facility provided by the Prepetition ABL Lenders (as defined herein), consisting of a revolving credit facility of up to \$90 million, and the \$28 million DIP Term Loan Facility provided by certain Prepetition Term Loan Lenders (as defined herein), which will provide the Debtors with \$28 million of new money financing (and an immediate \$15 million upon entry of the Interim Order). If approved, the DIP Facilities will provide the Debtors with ample liquidity to fund the Debtors' business operations and administrative expenses during the contemplated time period of these chapter 11 cases. Moreover, access to the DIP Facilities will send a clear signal to the market that the Debtors' operations can and will continue on a business-as-usual basis, which is critical given concerns raised by certain of the Debtors' vendors prior to the Petition Date.

11. For these reasons, and for the reasons set forth below, in the Burian Declaration, and in the First Day Declaration, the Debtors firmly believe that authorizing the Debtors to enter into the DIP Documents is vital, will avoid irreparable harm to operations (through immediate access to funding under the Interim Order), will maximize value for the Debtors' stakeholders, and represents an exercise of the Debtors' sound business judgment. Accordingly, the Debtors respectfully request that the Court approve the entry of the Interim Order and the Final Order.

Concise Statements Pursuant to Bankruptcy Rule 4001(b) and Local Rule 4001-2⁴**I. Concise Statement Regarding the DIP ABL Facility.**

12. The below chart contains a summary of the material terms of the proposed DIP ABL Facility, together with references to the applicable sections of the relevant source documents, as required by Bankruptcy Rules 4001(b)(1)(B) and 4001(c)(1)(B) and Local Rule 4001-2.

Bankruptcy Code/Local Rule	Summary of Material Terms⁵
Borrowers Bankruptcy Rule 4001(c)(1)(B)	Hollander Home Fashions Holdings, LLC Hollander Sleep Products, LLC Hollander Sleep Products Kentucky, LLC Hollander Sleep Products Canada Limited Pacific Coast Feather, LLC, and Pacific Coast Feather Cushion, LLC <i>See DIP ABL Credit Agreement, Intro.</i>
Guarantors Bankruptcy Rule 4001(c)(1)(B)	Dream II Holdings, LLC <i>See DIP ABL Credit Agreement, Intro.</i>
DIP Lenders Bankruptcy Rule 4001(c)(1)(B)	A syndicate of banks, financial institutions, and other entities arranged by Wells Fargo Bank, National Association <i>See DIP ABL Credit Agreement, Intro.</i>
Reporting Information Bankruptcy Rule 4001(c)(1)(B)	The DIP Facilities include standard and customary conditions that require the Borrowers to provide periodic reports to the DIP ABL Lenders and their respective professionals regarding the Approved Budget, the status of these chapter 11 cases, and certain other matters. The failure of the Borrowers to comply with such reporting obligations will cause an Event of Default that may permit the DIP Agents to exercise remedies against the Borrowers, including terminating the DIP Facilities. <i>See DIP ABL Credit Agreement § 5.2.</i>
Entities with Interests in Cash Collateral Bankruptcy Rule 4001(b)(1)(B)(i)	Prepetition ABL Secured Parties and Prepetition Term Loan Secured Parties (the “ <u>Prepetition Secured Parties</u> ”) <i>See Interim Order, Intro.</i>

⁴ This statement is qualified in its entirety by reference to the applicable provisions of the DIP Documents. To the extent there exists any inconsistency between this concise statement and the provisions of the DIP Documents or the DIP Orders, the provisions of the DIP Documents or the DIP Orders, as applicable, shall control.

⁵ Capitalized terms used but not otherwise defined in this chart shall have the meanings ascribed to them in the DIP ABL Credit Agreement or Interim Order, as applicable.

Bankruptcy Code/Local Rule	Summary of Material Terms ⁵
Term Bankruptcy Rule 4001(b)(1)(B)(iii), 4001(c)(1)(B) Local Rule 4001-2(a)(2)	<p>The earliest of (a) the date that is one hundred fifty (150) days after the Filing Date, (b) the consummation of a sale of all or substantially all of the Debtors' assets, (c) if the Final Financing Order has not been entered, the date that is forty (40) days after the date of the First Day Hearing, (d) the Plan Effective Date of a Plan and (e) the Maturity Date (under and as defined in the Prepetition Term Loan Credit Agreement).</p> <p><i>See</i> DIP ABL Credit Agreement, Schedule 1.1.</p>
Adequate Protection Bankruptcy Rules 4001(b)(1)(B)(iv), 4001(c)(1)(B)(ii)	<p><u>Adequate Protection Liens.</u> Subject to the terms of the DIP Intercreditor Agreement and the Carve Out, pursuant to Sections 361, 363(e), and 364(d) of the Bankruptcy Code, as adequate protection of the interests of the Prepetition ABL Secured Parties and the Prepetition ABL Obligations in the Prepetition Collateral against any Diminution in Value of such interests in the Prepetition Collateral, the DIP ABL Loan Parties hereby grant to the Prepetition ABL Agent, for the benefit of itself and the Prepetition ABL Secured Parties and the Prepetition ABL Obligations, continuing valid, binding, enforceable, and perfected postpetition security interests in and liens on the DIP ABL Collateral.</p> <p><u>Priority of Adequate Protection Liens.</u> Subject to the terms of the DIP Intercreditor Agreement:</p> <p>(i) The Prepetition ABL Adequate Protection Liens shall be subject to the Carve Out (and the caps and limitations set forth therein). The Prepetition ABL Adequate Protection Liens shall otherwise be junior only to: (a) with respect to the DIP ABL Priority Collateral (other than to the extent securing the Last Out Loan Obligations) (1) Permitted Prior Liens; (2) the DIP ABL Liens; and (3) the Prepetition ABL Liens; and (b) with respect to the DIP Term Loan Priority Collateral (1) Permitted Prior Liens; (2) the DIP Term Loan Liens; (3) the Prepetition Term Loan Liens; (4) the Prepetition Term Loan Adequate Protection Liens; (5) the DIP ABL Liens; and (6) the Prepetition ABL Liens. The Prepetition ABL Adequate Protection Liens shall be senior to all other security interests in, liens on, or claims against any of the DIP ABL Loan Parties' assets.</p> <p>(ii) The Prepetition Term Loan Adequate Protection Liens shall be subject to the Carve Out and shall otherwise be junior only to: (a) with respect to the DIP ABL Priority Collateral (1) Permitted Prior Liens; (2) the DIP ABL Liens; (3) the Canadian Intercompany Superpriority Administrative Claims (4) the Prepetition ABL Liens; (5) the Prepetition ABL Adequate Protection Liens; (6) the DIP Term Loan Liens; and (7) the Prepetition Term Loan Liens; and (b) with respect to the DIP Term Loan Priority Collateral (1) Permitted Prior Liens; (2) the DIP Term Loan Liens; and (3) the Prepetition Term Loan Liens. The Prepetition Term Loan Adequate Protection Liens shall be senior to all other security interests in, liens on, or claims against any of the DIP Term Loan Parties' assets. Except as provided herein, the Adequate Protection Liens shall not be made subject to or <i>pari passu</i> with any lien or security interest heretofore or hereinafter in the Cases or any Successor Cases, and shall be valid and enforceable against any trustee appointed in any of the Cases or any Successor Cases, or upon the dismissal of any of the Cases or Successor Cases. The Adequate Protection Liens shall not be subject to sections 510, 549, or 550 of the Bankruptcy Code. No lien or interest avoided and preserved for the benefit of the estate pursuant to section 551 of the Bankruptcy Code shall be <i>pari passu</i> with or senior to the Prepetition Liens or the Adequate Protection Liens</p> <p><u>Adequate Protection Payments and Protections for Prepetition ABL Parties.</u> As further adequate protection, the Debtors are authorized and directed to provide adequate protection to the (A) Prepetition ABL Secured Parties and Prepetition ABL Obligations in the form of payment in cash (and as to fees and expenses, without the need for the filing of a formal fee application) of (i) interest, at the default rate (other than on account</p>

Bankruptcy Code/Local Rule	Summary of Material Terms ⁵
	<p>of Last Out Loans and Last Out Obligations, provided that the Last Out Loans and Last Out Obligations shall accrue interest at the default rate as part of the Last Out Loans and Last Out Obligations), (ii) principal due under the Prepetition ABL Documents (other than on account of Last Out Loans and Last Out Obligations), subject to the rights preserved in paragraph 42 below, and (iii) immediately upon entry of this Interim Order, payment of fees and expenses as provided in the DIP ABL Credit Agreement; <i>provided</i>, that Prepetition ABL Adequate Protection Payments with respect to the subsection (i) above shall be paid monthly and upon entry of the Final Order, all accrued and unpaid Prepetition ABL Adequate Protection Payments for the period prior to the entry of the Final Order shall be paid, in cash, upon entry of the Final Order.</p> <p><u>Adequate Protection Reservation.</u> Nothing herein shall impair or modify the application of section 507(b) of the Bankruptcy Code in the event that the adequate protection provided to the Prepetition Secured Parties and Prepetition Secured Obligations hereunder is insufficient to compensate for any Diminution in Value of their respective interests in the Prepetition Collateral during the Cases or any Successor Cases. The receipt by the Prepetition Secured Parties and Prepetition Secured Obligations of the adequate protection provided herein shall not be deemed an admission that the respective interests of the Prepetition Secured Parties and Prepetition Secured Obligations are adequately protected. Further, this Interim Order shall not prejudice or limit the rights of the Prepetition Secured Parties and Prepetition Secured Obligations to seek additional relief with respect to the use of Cash Collateral or for additional adequate protection.</p> <p><i>See Interim Order ¶¶ 12–18.</i></p>
<p>Waiver/Modification of the Automatic Stay Bankruptcy Rule 4001(c)(1)(B)(iv)</p>	<p>The automatic stay imposed under section 362(a)(2) of the Bankruptcy Code is hereby modified as necessary to effectuate all of the terms and provisions of this Interim Order, including, without limitation, to: (a) permit the Debtors to grant the DIP Liens, Adequate Protection Liens, DIP Superpriority Claims, and Adequate Protection Superpriority Claims; (b) permit the Debtors to perform such acts as the DIP Agents, DIP Lenders, or the Prepetition Agents each may reasonably request to assure the perfection and priority of the liens granted herein; (c) permit the Debtors to incur all liabilities and obligations to the DIP Agents, DIP Lenders, and the Prepetition Secured Parties under the DIP Documents, the DIP Facilities and this Interim Order; and (d) authorize the Debtors to pay, and the DIP Agents, the DIP Lenders, and the Prepetition Secured Parties to retain and apply, payments made in accordance with the terms of this Interim Order and the DIP Documents.</p> <p><i>See Interim Order ¶ 23.</i></p>
<p>Carve Out Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(5)</p>	<p>The Interim Order provides a “Carve Out” of certain statutory fees, allowed professional fees of the Debtors, and any official committee of unsecured creditors appointed under section 1102 of the Bankruptcy Code appointed in the chapter 11 cases pursuant to section 1103 of the Bankruptcy Code, including a Post-Carve Out Trigger Notice Cap, all as detailed in the Interim Order.</p> <p><i>See Interim Order ¶ 39.</i></p>

Bankruptcy Code/Local Rule	Summary of Material Terms ⁵
506(c) Waiver Bankruptcy Rule 4001(c)(1)(B)(x) Local Rule 4001-2(a)(i)(C)	<p>Subject to entry of a Final Order, no costs or expenses of administration which have been or may be incurred in the Cases at any time shall be charged against the DIP Agents, DIP Lenders, DIP Obligations, the Prepetition Secured Parties, the Prepetition Secured Obligations, or any of their respective claims, the DIP Collateral, or the Prepetition Collateral pursuant to sections 105 or 506(c) of the Bankruptcy Code, or otherwise, without the prior written consent, as applicable, of the DIP Agents, DIP Lenders, and Prepetition Secured Parties, as applicable, and no such consent shall be implied from any other action, inaction, or acquiescence by any such agents or lenders.</p> <p><i>See Interim Order ¶ 44.</i></p>
Section 552(b) Bankruptcy Rule 4001(c)(1)(B)	<p>Subject to entry of a Final Order, the Prepetition Secured Parties and Prepetition Secured Obligations are each entitled to all of the rights and benefits of section 552(h) of the Bankruptcy Code, and the “equities of the case” exception under section 552(b) of the Bankruptcy Code shall not apply to the Prepetition Secured Parties and Prepetition Secured Obligations, with respect to proceeds, product, offspring or profits of any of the Prepetition Collateral.</p> <p><i>See Interim Order ¶ 46.</i></p>
Commitments Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(ii)	<p>The DIP ABL Facility commitments total \$90 million.</p> <p><i>See DIP ABL Credit Agreement § 1.1; Interim Order ¶ 3.</i></p>
Interest Rates Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(ii)	<p>Loans will bear interest, at the option of the Borrower, at one of the following rates:</p> <ul style="list-style-type: none"> • if a US Revolving Loan or Canadian Obligation is a Base Rate Loan, the Base Rate + 2.00%; or • if a US Revolving Loan or Canadian Obligation is a Non-Base Rate Loan, LIBOR + 4.00% <p><u>Default Rate:</u> Upon the occurrence and during the continuation of an Event of Default and at the election of the Agent or Required Lenders (a) all Revolving Loans and all other Obligations (except for undrawn Letters of Credit) that have been charged to the Loan Account pursuant to the terms hereof shall bear interest at a per annum rate equal to 2 percentage points above the per annum rate otherwise applicable thereunder, and (b) the applicable Letter of Credit Fee shall be increased to 2 percentage points above the per annum rate otherwise applicable hereunder.</p> <p><i>See DIP ABL Credit Agreement §§ 2.6; Sch. 1.1.</i></p>
Milestones Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(ii)	<ul style="list-style-type: none"> • On or before the date that is 2 Business Days following the First Day Hearing in the Bankruptcy Cases, the Bankruptcy Court shall have entered the Interim Financing Order, on the terms and conditions contemplated by Loan Documents and otherwise in form and substance satisfactory to Agent; and on or before the date that is 3 Business Days following the entry of the Interim Financing Order, the Canadian Court shall have issued the Canadian Initial Recognition Order, the Canadian Interim DIP Recognition Order, and the Canadian Supplemental Order, in form and substance satisfactory to Agent; • On or before the date that is 7 days following the Filing Date, the Debtors shall have filed a motion requesting an order from the Bankruptcy Court approving bid procedures relating to the solicitations of qualified bids for the sale of substantially

Bankruptcy Code/Local Rule	Summary of Material Terms ⁵
	<p>all of the Debtors' assets and business (the "<u>Bidding Procedures</u>"), which motion and Bidding Procedures shall each be in form and substance reasonably satisfactory to Agent (the "<u>Bidding Procedures Order</u>") (it being agreed that the proposed bidding procedures order filed with the Bankruptcy Court on the Closing Date is satisfactory to Agent); and on or before the date that is 3 Business Days following the entry of the Bidding Procedures Order, the Canadian Court shall have issued an order recognizing the Bidding Procedures Order in the Recognition Proceedings;</p> <ul style="list-style-type: none"> • On or before the date that is 40 days following the First Day Hearing in the Bankruptcy Cases, the Bankruptcy Court shall have entered the Final Financing Order, on the terms and conditions contemplated by the Loan Documents and otherwise in form and substance satisfactory to Agent; and on or before the date that is 3 Business Days following the entry of the Final Financing Order, the Canadian Court shall have issued the Canadian Final DIP Recognition Order in the Recognition Proceedings; • On or before the date that is 40 days following the Filing Date, but in any event no later than entry of the Final Financing Order, the Loan Parties shall file the Proposed Plan, and a disclosure statement (the "<u>Disclosure Statement</u>") relating to the Proposed Plan, in each case, in form and substance reasonably satisfactory to Agent in respect of the Obligations (other than the Last Out Obligations) being paid in full upon the Plan Effective Date; • On or before the date that is 45 days following the Filing Date, the Debtors shall have filed their Schedules and Statement of Financial Affairs pursuant to Section 521 of the Bankruptcy Code and Rule 1007 of the Federal Rules of Bankruptcy Procedure with the Bankruptcy Court; • On or before the date that is 45 days following the Filing Date, the Bankruptcy Court shall have entered an order setting the date (the "<u>Bar Date</u>") by which proofs of claim for general unsecured creditors must be filed (the "<u>Bar Date Order</u>"); and on or before the date that is 3 Business Days following the entry of the Bar Date Order, the Canadian Court shall have issued an order recognizing the Bar Date Order in the Canadian Proceedings; • On or before the date that is 45 days following the Filing Date, the Bankruptcy Court shall have entered an order approving the Bidding Procedures, in form and substance satisfactory to Agent with respect to the economic treatment of the Obligations (other than Last Out Obligations) and Existing Secured Obligations (other than the Existing Last Out Obligations) (the "<u>Specified Bidding Procedures Order</u>") (it being agreed that the proposed bidding procedures order filed with the Bankruptcy Court on the Closing Date is satisfactory to Agent); and on or before the date that is 3 Business Days following the entry of the Specified Bidding Procedures Order, the Canadian Court shall have issued an order recognizing the Specified Bidding Procedures Order; • On or before the date that is 75 days following the Filing Date, the Bar Date shall have occurred; • On or before the date that is 75 days following the Filing Date, the Bankruptcy Court shall have entered an order approving the Disclosure Statement and voting and solicitation procedures for a Plan, in form and substance reasonably satisfactory to

Bankruptcy Code/Local Rule	Summary of Material Terms ⁵
	<p>Agent (the "<u>Disclosure Statement and Plan Solicitation Procedure Order</u>"); and on or before the date that is 3 Business Days following the entry of the Disclosure Statement and Plan Solicitation Procedure Order, the Canadian Court shall have issued an order recognizing the Disclosure Statement and Plan Solicitation Procedure Order in the Recognition Proceedings;</p> <ul style="list-style-type: none"> • On or before the date that is 110 days following the Filing Date, the Bankruptcy Court shall have entered an order confirming a Plan (the "<u>Plan Confirmation Order</u>"), in form and substance reasonably satisfactory to Agent in respect of the Obligations (other than Last Out Obligations) being paid in full on the Plan Effective Date and otherwise reasonably satisfactory to Agent; and on or before the date that is 3 Business Days following the entry of the Plan Confirmation Order, the Canadian Court shall have issued an order recognizing the Plan Confirmation Order; • On or before the date that is 120 days following the Closing Date, Parent and Borrowers shall have delivered to Agent a fully executed Exit Financing Commitment Letter; and • On or before the date that is 120 days following the Filing Date, the effective date of a Plan shall have occurred. <p><i>See DIP ABL Credit Agreement, Sch. 5.2.</i></p>
<p>Challenge Period Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(i)(10)</p>	<p>"<u>Challenge Period</u>" means (i) if the Creditors' Committee is not formed, seventy-five (75) calendar days (or such longer period as the Court orders for cause shown before the expiration of such period) from the entry of the Final Order and (ii) if the Creditors' Committee is formed, sixty (60) days after the entry of the Final Order (or such longer period as the Court orders for cause shown before the expiration of such period).</p> <p><i>See Interim Order ¶ 42.</i></p>
<p>Use of DIP Financing Facility and Cash Collateral Bankruptcy Rule 4001(b)(1)(B)(ii) Local Rule 4001-2(a)(ii)</p>	<p>Subject to the terms and conditions contained in the Interim Order and the DIP ABL Credit Agreement, the Debtors shall, in each case only in compliance with the Approved Budget and in compliance with the terms and conditions in this Interim Order and the DIP Documents, use the proceeds of the DIP ABL Facility:</p> <ul style="list-style-type: none"> • to refinance the Prepetition ABL Facility; • for working capital; • for general corporate purposes; • to pay adequate protection to the Prepetition ABL Lenders; and • to pay interest, fees, and expenses in accordance with the Interim Order and DIP ABL Credit Agreement; <p><i>See DIP ABL Credit Agreement § 6.11; Interim Order ¶ 9.</i></p>
<p>Stipulations to Prepetition Liens and Claims Bankruptcy Rule 4001(c)(1)(B)(iii) Local Rule 4001-2(a)(i)(B)</p>	<p><u>Debtors' Stipulations.</u> After consultation with their attorneys and financial advisors, and without prejudice to the rights of parties-in-interest, the Debtors, on their behalf and on behalf of their estates, admit, stipulate, acknowledge, and agree immediately upon entry of the Interim Order, to certain stipulations regarding the validity and extent of the Prepetition ABL Lenders,' Put Purchasers,' and Prepetition Term Loan Lenders' claims and liens.</p> <p><i>See Interim Order ¶ F.</i></p>

Bankruptcy Code/Local Rule	Summary of Material Terms ⁵
Waiver/Modification of Applicability of Nonbankruptcy Law Relating to Perfection or Enforceability of Liens Bankruptcy Rule 4001(c)(1)(B)(vii)	<p><u>Modification of Automatic Stay.</u> The automatic stay imposed under section 362(a)(2) of the Bankruptcy Code is hereby modified as necessary to effectuate all of the terms and provisions of this Interim Order, including, without limitation, to: (a) permit the Debtors to grant the DIP Liens, Adequate Protection Liens, DIP Superpriority Claims, and Adequate Protection Superpriority Claims; (b) permit the Debtors to perform such acts as the DIP Agents, DIP Lenders, or the Prepetition Agents each may reasonably request to assure the perfection and priority of the liens granted herein; (c) permit the Debtors to incur all liabilities and obligations to the DIP Agents, DIP Lenders, and the Prepetition Secured Parties under the DIP Documents, the DIP Facilities and this Interim Order; and (d) authorize the Debtors to pay, and the DIP Agents, the DIP Lenders and the Prepetition Secured Parties to retain and apply, payments made in accordance with the terms of this Interim Order and the DIP Documents.</p> <p><i>See Interim Order 23.</i></p>
Repayment Features Local Rule 4001-2(a)(13)	<p><u>Optional Prepayments.</u> Borrowers may prepay the principal of any Revolving Loan at any time in whole or in part, without premium or penalty.</p> <p><u>Mandatory Prepayments.</u></p> <p>(i) Borrowing Base. If, at any time, (A)(x) the US Revolver Usage (excluding Last Out Obligations) on such date exceeds (y) the US Borrowing Base reflected in the Borrowing Base Certificate most recently delivered by Borrowers to Agent, or (B)(x) the US Revolver Usage (including Last Out Obligations) on such date exceeds (y) the US Maximum Revolver Amount less the Dollar Equivalent of the Canadian Revolver Usage, then, in each case, US Borrowers shall within one Business Day prepay the US Obligations in accordance with <u>Section 2.4(f)(i)</u> in an aggregate amount equal to the amount of such excess. If, at any time, (A) the Dollar Equivalent of the Canadian Revolver Usage on such date exceeds (B) the lesser of the Canadian Borrowing Base reflected in the Borrowing Base Certificate most recently delivered by Borrowers to Agent and the Canadian Maximum Revolver Amount, then Canadian Borrower shall within one Business Day prepay the Canadian Obligations in accordance with <u>Section 2.4(f)(i)</u> in an aggregate amount equal to the amount of such excess.</p> <p>(ii) Disgorgement. In the event that Existing Agent or any of the Existing Lenders are required to repay or disgorge to Debtors or any representatives of the Debtors' estate (as agents, with derivative standing or otherwise) all or any portion of the Existing Secured Obligations authorized and directed to be repaid pursuant to the Financing Order, or any payment on account of the Existing Secured Obligations made to Existing Agent or any Existing Lender is rescinded for any reason whatsoever, including, but not limited to, as a result of any Avoidance Action, or any other action, suit, proceeding or claim brought under any other provision of any applicable Bankruptcy Code or other applicable Insolvency Laws or any applicable state or provincial law, or any other similar provisions under any other state, federal or provincial statutory or common law, then, in such event, Borrowers shall prepay the Revolving Loans in an amount equal to 100% of such Avoided Payments immediately upon receipt of the Avoided Payments by Debtors or any representative of the Debtors' estate.</p> <p>(iii) Dispositions. Immediately upon receipt by any Loan Party or any of its Subsidiaries of the Net Cash Proceeds of any disposition of any ABL Priority Collateral outside the ordinary course of business (including Net Cash Proceeds of insurance or arising from casualty losses or condemnations and payments in lieu thereof), Borrowers shall prepay the outstanding principal amount of the Obligations in accordance with <u>Section 2.4(f)</u> in an amount equal to 100% of the Net Cash Proceeds received by such Person in connection with such disposition of such ABL Priority Collateral. Nothing contained in</p>

Bankruptcy Code/Local Rule	Summary of Material Terms ⁵
	<p>this <u>Section 2.4(e)(iii)</u> shall permit any Loan Party or any of its Subsidiaries to sell or otherwise dispose of any assets other than in accordance with <u>Section 6.4</u>.</p> <p>(iv) Extraordinary Receipts. Immediately upon receipt by any Loan Party or any of its Subsidiaries of any Extraordinary Receipts, Borrowers shall prepay the outstanding principal amount of the Obligations in accordance with <u>Section 2.4(f)</u> in an amount equal to 100% of such Extraordinary Receipts; provided, that any Extraordinary Receipts shall not include items of Term Loan Priority Collateral or proceeds of any assets of the categories in the definition of Term Loan Priority Collateral.</p> <p><i>See DIP ABL Credit Agreement § 2.4.</i></p>
<p>Fees Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(3)</p>	<p>Specified in the Fee Letter.</p> <p><i>See DIP ABL Credit Agreement § 2.6.</i></p>
<p>Budget Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(2)</p>	<p>The Approved Budget is attached as <u>Exhibit A</u> to the Interim Order. The Approved Budget is provided for informational purposes only and the provision of the Budget does not imply a budget compliance covenant.</p> <p><i>See DIP ABL Credit Agreement §§ 4.12; Interim Order ¶ G(v).</i></p>
<p>Variance Covenant Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(ii)</p>	<p><u>Budget Compliance.</u> Except as otherwise provided herein or approved by the Agent (in its sole discretion), the Loan Parties will not, and will not permit any Subsidiary thereof to, directly or indirectly, (i) use any cash, including the proceeds of any Loans, in a manner or for a purpose other than those permitted under this Agreement or contemplated by the Financing Order or the Approved Budget, (ii) permit a disbursement causing any variance from the Approved Budget other than Permitted Variances without the prior written consent of the Agent (in its sole discretion), (iii) make any Pre-Petition Payment or application for authority to make any Pre-Petition Payment, other than those permitted by this Agreement, the Financing Order or the Approved Budget, (iv) make or commit to make payments to critical vendors (other than those critical vendors set forth in the Financing Order or in the Approved Budget, in each case as approved in writing by the Agent in respect of any pre-petition amount in excess of the amount included in the Approved Budget, (v) measured as of the end of each Testing Period, permit the aggregate cumulative amount of actual cash disbursements (in any event excluding disbursements for professional fees and expenses and restructuring expenses) as reported in the Variance Reports delivered with respect to periods ending after the Filing Date through the end of such Testing Period to exceed, by more than the applicable Permitted Variance, the aggregate cumulative corresponding amount forecast in the Approved Budget for the same such period, (vi) measured as of the end of each Testing Period, permit the aggregate cumulative amount of actual cash receipts (which shall exclude, for the avoidance of doubt, proceeds from borrowings hereunder and under the Term Loan Credit Agreement) as reported in the Variance Reports delivered with respect to periods ending after the Closing Date through the end of such Testing Period to be less than, by more than the applicable Permitted Variance, the aggregate cumulative corresponding amount (which shall exclude, for the avoidance of doubt, proceeds from borrowings hereunder and under the Term Loan Credit Agreement) forecast in the Approved Budget for the same such period, and (vii) measured as of the end of each Testing Period, permit the aggregate cumulative amount of actual net cash flow (in any event excluding from the calculation thereof disbursements for professional fees and expenses and restructuring expenses) as reported in the Variance Reports delivered with respect to periods ending after the Filing Date through the end of such Testing Period to exceed,</p>

Bankruptcy Code/Local Rule	Summary of Material Terms ⁵
	<p>by more than the applicable Permitted Variance, the aggregate cumulative corresponding amount forecast in the Approved Budget for the same such period.</p> <p><i>See</i> DIP ABL Credit Agreement § 7(a).</p>
<p>Liens and Priorities Bankruptcy Rule 4001(c)(1)(B)(i) Local Rule 4001-2(a)(i)(D) and (G), 4001-2(a)(4)</p>	<p><u>DIP Liens.</u> In order to secure the DIP Obligations, effective immediately upon entry of this Interim Order, pursuant to sections 361, 362, 364(c)(2), 364(c)(3), and 364(d) of the Bankruptcy Code, the applicable DIP Agents, for the benefit of themselves and the DIP Lenders and/or DIP Obligations, are hereby granted, continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected postpetition security interests in and liens on all real and personal property, whether now existing or hereafter arising and wherever located, tangible and intangible, of, with respect to the DIP ABL Obligations, each of the DIP ABL Loan Parties or, with respect to the DIP Term Loan Obligations, each of the DIP Term Loan Parties, including without limitation:</p> <p>(a) all cash, cash equivalents, deposit accounts, securities accounts, accounts, other receivables (including credit card receivables), chattel paper, contract rights, inventory (wherever located), instruments, documents, securities (whether or not marketable) and investment property (including, without limitation, all of the issued and outstanding capital stock of each of its subsidiaries), furniture, fixtures, equipment, goods, franchise rights, trade names, trademarks, servicemarks, copyrights, patents, intellectual property, general intangibles, rights to the payment of money (including, without limitation, tax refunds and any other extraordinary payments), supporting obligations, guarantees, letter of credit rights, commercial tort claims, causes of action and all substitutions, books and records related to the foregoing, accessions and proceeds of the foregoing, wherever located, including insurance or other proceeds,</p> <p>(b) all owned real property interests and all proceeds of leased real property,</p> <p>(c) upon entry of a Final Order, proceeds of any avoidance actions brought pursuant to section 549 of the Bankruptcy Code to recover any post-petition transfer of DIP Collateral and, upon entry of a Final Order, proceeds of any avoidance actions brought pursuant to Chapter 5 of the Bankruptcy Code, and</p> <p>(d) subject to entry of a Final Order, the Debtors' rights under section 506(c) of the Bankruptcy Code and the proceeds thereof and including all DIP Collateral that was not otherwise subject to valid, perfected, enforceable and unavoidable liens on the Petition Date. DIP Collateral that is of a type that would be ABL Priority Collateral (as defined the DIP Intercreditor Agreement) and the proceeds and products thereof shall in each case, constitute "DIP ABL Priority Collateral," DIP Collateral that is of a type that would be Term Loan Priority Collateral (as defined in the DIP Intercreditor Agreement) and the proceeds and products thereof and shall, in each case, constitute "DIP Term Loan Priority Collateral".</p> <p><u>DIP Lien Priority.</u> The DIP Liens securing the DIP ABL Obligations (are valid, automatically perfected, non-avoidable, senior in priority and superior to any security, mortgage, collateral interest, lien or claim to any of the DIP Collateral, except that the DIP ABL Liens shall be subject to the Carve Out, and shall otherwise be junior only to: (i) as to the DIP ABL Priority Collateral, Permitted Prior Liens; and (ii) as to the DIP Term Loan Priority Collateral, (A) Permitted Prior Liens; (B) the DIP Term Loan Liens (as defined below); (C) the Prepetition Term Loan Liens; and (D) the Prepetition Term Loan Adequate Protection Liens. The DIP Liens securing the DIP Term Loan Obligations are valid, automatically perfected, non-avoidable, senior in priority and superior to any security, mortgage, collateral interest, lien or claim to any of the DIP</p>

Bankruptcy Code/Local Rule	Summary of Material Terms ⁵
	<p>Term Loan Collateral, except that the DIP Term Loan Liens shall be (1) subject to the Carve Out and (2) shall otherwise be junior only to: (i) as to the DIP Term Loan Priority Collateral, Permitted Prior Liens; and (ii) as to the DIP ABL Priority Collateral, (A) Permitted Prior Liens; (B) the DIP ABL Liens; (C) the Prepetition ABL Liens; (D) the Prepetition ABL Adequate Protection Liens; and (E) the Canadian Intercompany Superpriority Administrative Claims. Other than as set forth herein or in the DIP Documents, the DIP Liens shall not be made subject to or <i>pari passu</i> with any lien or security interest heretofore or hereinafter granted in the Cases or any Successor Cases, and shall be valid and enforceable against any trustee appointed in the Cases or any Successor Cases, upon the conversion of any of the Cases to a case under Chapter 7 of the Bankruptcy Code (or in any other Successor Case), and/or upon the dismissal of any of the Cases or Successor Cases. The DIP Liens shall not be subject to section 510, 549 or 550 of the Bankruptcy Code. No lien or interest avoided and preserved for the benefit of the estate pursuant to section 551 of the Bankruptcy Code shall be <i>pari passu</i> with or senior to the DIP Liens. Notwithstanding anything herein to the contrary, none of the Prepetition Term Loan Adequate Protection Liens or DIP Term Loan Liens shall exist with respect to any ABL Canadian Collateral (as defined by the DIP Intercreditor Agreement).</p> <p><i>See Interim Order ¶ 5.</i></p>
<p>Liens on Avoidance Actions Local Rule 4001-2(a)(4)</p>	<p>Subject to entry of the Final Order, upon entry of a Final Order, proceeds of any avoidance actions brought pursuant to section 549 of the Bankruptcy Code to recover any post-petition transfer of DIP Collateral and, upon entry of a Final Order, proceeds of any avoidance actions brought pursuant to Chapter 5 of the Bankruptcy Code and subject to entry of a Final Order, the Debtors' rights under section 506(c) of the Bankruptcy Code and the proceeds thereof and including all DIP Collateral that was not otherwise subject to valid, perfected, enforceable and unavoidable liens on the Petition Date.</p> <p><i>See Interim Order ¶ 5.</i></p>
<p>Events of Default Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(10)</p>	<p>Usual and customary for financings of this type.</p> <p><i>See DIP ABL Credit Agreement § 8.</i></p>
<p>Indemnification Bankruptcy Rule 4001(c)(1)(B)(ix)</p>	<p>The Loan Documents and Interim Order contain indemnification provisions ordinary and customary for debtor-in-possession financings of this type by each Borrower and each Guarantor (jointly and severally) in favor of the Agent-Related Persons, the Lender-Related Persons, and each Participant, subject to customary carveouts.</p> <p><i>See DIP ABL Credit Agreement § 10.3; Interim Order ¶ 38.</i></p>
<p>Conditions of Borrowing Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(2)</p>	<p><u>Conditions Precedent to Closing Date.</u></p> <p>The DIP Loan Documents includes conditions to closing that are customary and appropriate for similar debtor-in-possession financings of this type.</p> <p><u>Conditions Precedent to Each Revolving Loan and Letter of Credit.</u></p> <p>The DIP Loan Documents includes conditions to all credit extensions that are customary and appropriate for similar debtor-in-possession financings of this type.</p> <p><i>See DIP ABL Credit Agreement §§ 3.1, 3.2.</i></p>

II. Concise Statement Regarding the DIP Term Loan Facility.⁶

13. The below chart contains a summary of the material terms of the proposed DIP Term Loan Facility, together with references to the applicable sections of the relevant source documents, as required by Bankruptcy Rules 4001(b)(1)(B) and 4001(c)(1)(B) and Local Rule 4001-2.

Bankruptcy Code/Local Rule	Summary of Material Terms⁷
Borrowers Bankruptcy Rule 4001(c)(1)(B)	Hollander Sleep Products, LLC <i>See</i> DIP Term Loan Credit Agreement Preamble; Interim Order Preamble.
Guarantors Bankruptcy Rule 4001(c)(1)(B)	All Debtors, excluding Hollander Sleep Products, LLC and Hollander Sleep Products Canada Limited. <i>See</i> DIP Term Loan Credit Agreement, Sch. 1.1.
DIP Lenders Bankruptcy Rule 4001(c)(1)(B)	Barings Finance LLC, as administrative agent, and the lenders party to the DIP Term Loan Credit Agreement from time to time. <i>See</i> DIP Term Loan Credit Agreement Preamble; Interim Order Preamble.
Reporting Information Bankruptcy Rule 4001(c)(1)(B)	Same as DIP ABL Credit Facility.
Entities with Interests in Cash Collateral Bankruptcy Rule 4001(b)(1)(B)(i)	Same as DIP ABL Credit Facility.
Term Bankruptcy Rule 4001(b)(1)(B)(iii), 4001(c)(1)(B) Local Rule 4001-2(a)(2)	Same as DIP ABL Credit Facility.

⁶ This statement is qualified in its entirety by reference to the applicable provisions of the DIP Documents. To the extent there exists any inconsistency between this concise statement and the provisions of the DIP Documents or the DIP Orders, the provisions of the DIP Documents or the DIP Orders, as applicable, shall control.

⁷ Capitalized terms used but not otherwise defined in this chart shall have the meanings ascribed to them in the DIP Term Loan Credit Agreement or Interim Order, as applicable.

Bankruptcy Code/Local Rule	Summary of Material Terms ⁷
Adequate Protection Bankruptcy Rules 4001(b)(1)(B)(iv), 4001(c)(1)(B)(ii)	<p><u>Prepetition Term Loan Adequate Protection Liens.</u> Subject to the terms of the DIP Intercreditor Agreement and the Carve Out, pursuant to Sections 361, 363(e) and 364(d) of the Bankruptcy Code, as adequate protection of the interests of the Prepetition Term Loan Secured Parties in the Prepetition Collateral against any Diminution in Value of such interests in the Prepetition Collateral, the Prepetition Term Loan Parties hereby grant to the Prepetition Term Loan Agent, on behalf of itself and the Prepetition Term Loan Secured Parties continuing valid, binding, enforceable, and perfected postpetition security interests in and liens on the DIP Term Collateral.</p> <p><u>Priority of Adequate Protection Liens.</u> Same as DIP ABL Credit Facility</p> <p><u>Adequate Protection Reservation.</u> Same as DIP ABL Credit Facility</p> <p><i>See Interim Order ¶¶ 12–18.</i></p>
Waiver/Modification of the Automatic Stay Bankruptcy Rule 4001(c)(1)(B)(iv)	<p>Same as DIP ABL Credit Facility.</p>
Carve Out Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(5)	<p>Same as DIP ABL Credit Facility.</p>
506(c) Waiver Bankruptcy Rule 4001(c)(1)(B)(x) Local Rule 4001-2(a)(i)(C)	<p>Same as DIP ABL Credit Facility.</p>
Section 552(b) Bankruptcy Rule 4001(c)(1)(B)	<p>Same as DIP ABL Credit Facility.</p>
Commitments Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(ii)	<p><u>Commitment.</u> The aggregate principal amount of \$28 million.</p> <p><u>Initial Commitment.</u> \$15 million in the aggregate.</p> <p><u>Final DIP Loan Commitment:</u> \$7 million in the aggregate.</p> <p><u>Budget Advance Date Commitment:</u> \$6 million in the aggregate.</p> <p><i>See DIP Term Loan Credit Agreement, Sch. D-1.</i></p>

Bankruptcy Code/Local Rule	Summary of Material Terms ⁷
Interest Rates Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001- 2(a)(ii)	<p>Loans will bear interest, at the option of the Borrower, at one of the following rates:</p> <ul style="list-style-type: none"> LIBOR Rate Loans: LIBOR + 7.00%; or Base Rate Loans: Base Rate + 6.00%. <p><u>Default Rate</u>: Automatically upon the occurrence of an Event of Default described in <u>Section 8.1</u>, (x) all the DIP Loans shall bear interest at a default rate of interest equal to an additional 2.00% per annum over the rate otherwise applicable and (y) all other DIP Facility Obligations under the DIP Loan Documents that are past due shall bear interest at a default rate of interest equal to (I) in the case of past due interest, the default rate applicable to the DIP Loans giving rise to such interest and (II) in the case of all such other DIP Facility Obligations, the default rate applicable to Base Rate Loans whether or not such Base Rate Loans are actually outstanding at such time, and, in each case, all such interest will be payable on demand.</p> <p>See DIP Term Loan Credit Agreement § 2.6.</p>
Milestones Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001- 2(a)(ii)	<ul style="list-style-type: none"> The Interim DIP Order shall have been entered by the Bankruptcy Court on or before two (2) Business Days following the date of the First Day Hearing; On or before the date that is 7 days following the Petition Date, the Loan Parties shall have filed a motion requesting an order from the Bankruptcy Court approving bid procedures relating to the solicitations of qualified bids for the sale of substantially all of the Loan Parties' assets and business, which motion and Bidding Procedures shall each be in form and substance reasonably satisfactory to Agent (it being agreed that the proposed bidding procedures order filed with the Bankruptcy Court on the Petition Date is satisfactory to the Agent); The Final DIP Order shall have been entered by the Bankruptcy Court on or before forty (40) days following the date of the First Day Hearing; Within forty (40) calendar days of the Petition Date, but in any event no later than entry of the Final DIP Order, the Loan Parties shall file a plan of reorganization, and a disclosure statement relating to such Plan, in each case, in form and substance reasonably satisfactory to the Agent (acting at the direction of the Required Lenders) (it being agreed that the plan of reorganization in the form attached to the RSA is satisfactory to the Agent and the Lenders); No later than forty-five (45) calendar days after the Petition Date, the Loan Parties shall have filed their Schedules and Statement of Financial Affairs pursuant to Section 521 of the Bankruptcy Code and Rule 1007 of the Federal Rules of Bankruptcy Procedure with the Bankruptcy Court; No later than forty-five (45) calendar days after the Petition Date the Bankruptcy Court shall have entered an order setting the date by which proofs of claim for general unsecured creditors must be filed; On or before the date that is 45 days following the Petition Date, the Bankruptcy Court shall have entered an order approving the Bidding Procedures, in form and substance reasonably satisfactory to the Agent (acting at the direction of the Required Lenders) (it being agreed that the proposed bidding procedures order filed

Bankruptcy Code/Local Rule	Summary of Material Terms⁷
	<p>with the Bankruptcy Court on the Petition Date is satisfactory to the Agent at the direction of the Required Lenders);</p> <ul style="list-style-type: none"> • The Bar Date shall have occurred on or before seventy-five (75) days following the Petition Date; • No later than seventy-five (75) calendar days after the Petition Date, the Bankruptcy Court shall have entered an order approving the Disclosure Statement and voting and solicitation procedures for the Proposed Plan in form and substance reasonably satisfactory to the Agent (acting at the direction of the Required Lenders); • No later than one hundred ten (110) calendar days after the Petition Date, the Bankruptcy Court shall have entered an order, in form and substance reasonably satisfactory to the Agent (acting at the direction of the Required Lenders) confirming the Proposed Plan; • No later than the Confirmation Date, Borrower shall have entered into a commitment letter reasonably acceptable to the Agent with respect to the funding of an exit asset-backed credit facility; and • No later than one hundred twenty days (120) calendar days after the Petition Date, the Plan Effective Date shall have occurred. <p>See DIP Term Loan Credit Agreement § 8.9.</p>
Challenge Period Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(i)(10)	<p>Same as DIP ABL Credit Facility.</p>
Use of DIP Financing Facility and Cash Collateral Bankruptcy Rule 4001(b)(1)(B)(ii) Local Rule 4001-2(a)(ii)	<p>The proceeds of DIP Loans shall be used by the Borrower only for the following purposes, in each case in accordance with and subject to compliance with Section 6.19 and the DIP Orders (except as otherwise agreed by the Agent and the Required Lenders): (i) working capital and general corporate purposes of the Loan Parties, (ii) to fund the costs of the administration of the Chapter 11 Cases and the consummation of the Plan under the Bankruptcy Code, (iii) to fund interest, fees, and other payments contemplated in respect of this Agreement and the other DIP Loan Documents, and (iv) to fund allowed administrative expenses incurred during the Chapter 11 Cases.</p> <p>See DIP Term Loan Credit Agreement § 4.28.</p>
Stipulations to Prepetition Liens and Claims Bankruptcy Rule 4001(c)(1)(B)(iii) Local Rule 4001-2(a)(i)(B)	<p>Same as DIP ABL Credit Facility.</p>
Waiver/Modification of Applicability of Nonbankruptcy Law	<p>Same as DIP ABL Credit Facility.</p>

Bankruptcy Code/Local Rule	Summary of Material Terms ⁷
Relating to Perfection or Enforceability of Liens Bankruptcy Rule 4001(c)(1)(B)(vii)	
Repayment Features Local Rule 4001- 2(a)(13)	<p><u>Optional Prepayments.</u> Borrower may prepay the principal of the DIP Loans at any time in whole or in part upon written notice, subject to the payment of any fees, premiums or other amounts owed under the Fee Letter and subject to any Funding Losses pursuant to <u>Section 2.12(b)(ii)</u>, to Agent prior to 1:00 P.M., New York City time three Business Days prior to the date of prepayment (in the case of LIBOR Rate Loans), or prior to 1:00 P.M., New York City time at least one Business Day prior to the date of prepayment (in the case of Base Rate Loans). Such notice shall specify, in the case of any prepayment of DIP Loans, the date and amount of prepayment and whether the prepayment is of LIBOR Rate Loans or Base Rate Loans or a combination thereof, and, in each case if a combination thereof, the principal amount allocable to each. Any such notice may state that such notice is conditioned upon the occurrence or non-occurrence of any event specified therein (including the effectiveness of other credit facilities), in which case such notice may be revoked by Borrower (by written notice to Agent on or prior to the specified effective date) if such condition is not satisfied. Upon the receipt of any such notice Agent shall promptly notify each affected Lender thereof. If any such notice is given and not revoked, the amount specified in such notice shall be due and payable on the date specified therein, together with (if a LIBOR Rate Loan is prepaid other than at the end of the Interest Period applicable thereto) any accrued and unpaid interest on the DIP Loans being repaid and amounts payable pursuant to <u>Section 2.12(b)(ii)</u>. Any prepayment of LIBOR Rate Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof; and any prepayment of Base Rate Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof or, in each case, if less, the entire principal amount thereof then outstanding. Agent shall apply any such optional prepayment to the outstanding amount of DIP Loans.</p> <p><u>Mandatory Prepayments.</u></p> <p>(A) Borrower hereby unconditionally promises to pay to Agent for the ratable account of each Lender the then unpaid principal amount of, and unpaid accrued interest on, each DIP Loan of such Lender made to Borrower, on the Maturity Date (or such earlier date on which the DIP Loans become due and payable pursuant to <u>Section 9.1</u>) in cash without further application to or order of the Bankruptcy Court. Borrower hereby further agrees to pay interest in cash on the unpaid principal amount of such DIP Loans from time to time outstanding from the date hereof until payment in full thereof at the rates per annum, and on the dates, set forth herein.</p> <p>(B) Notwithstanding the foregoing <u>Section 2.4(d)(i)(A)</u>, in lieu of any applicable portion of the cash payments otherwise owed to the Lenders with respect to the DIP Loans, the Lenders may receive non-cash consideration in the form of senior secured debt and equity in the reorganized Loan Parties on the Plan Effective Date of a confirmed Plan if a Plan as contemplated by the RSA is confirmed</p> <p>See DIP Term Loan Credit Agreement § 2.04.</p>

Bankruptcy Code/Local Rule	Summary of Material Terms ⁷
Fees Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001- 2(a)(3)	Specified in the Fee Letter. <i>See</i> DIP Term Loan Credit Agreement § 2.10.
Budget Bankruptcy Rule 4001 (c)(1)(B) Local Rule 4001- 2(a)(2)	The the Initial Approved Budget as amended and supplemented by any Weekly Cash Flow Forecast delivered in accordance with <u>Section 5.2(a)</u> and approved by the Agent and the Required Lenders in accordance with <u>Section 5.20</u> . <i>See</i> DIP Term Loan Credit Agreement, Sch. 1.1.
Variance Covenant Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001- 2(a)(ii)	Except as otherwise provided herein or approved by the Agent (at the direction of the Required Lenders, in their sole discretion), the Loan Parties will not, and will not permit any Subsidiary thereof to, directly or indirectly, (a) use any cash, including the proceeds of any DIP Loans, in a manner or for a purpose other than those permitted under this Agreement or contemplated by the DIP Orders or the Approved Budget, (b) permit a disbursement causing any variance from the Approved Budget other than Permitted Variances without the prior written consent of the Agent (at the direction of the Required Lenders, in their sole discretion), (c) make any Pre-Petition Payment or application for authority to make any Pre-Petition Payment, other than those permitted by this Agreement, the DIP Orders or the Approved Budget, (d) make or commit to make payments to critical vendors (other than those critical vendors set forth in the DIP Orders or in the Approved Budget, in each case as approved in writing by the Agent at the direction of the Required Lenders) in respect of any pre-petition amount in excess of the amount included in the Approved Budget, (e) measured as of the end of each Testing Period, permit the aggregate cumulative amount of actual cash disbursements (in any event excluding disbursements for professional fees and expenses and restructuring expenses) as reported in the Variance Reports delivered with respect to periods ending after the Petition Date through the end of such Testing Period to exceed, by more than the applicable Permitted Variance, the aggregate cumulative corresponding amount forecast in the Approved Budget for the same such period, (f) measured as of the end of each Testing Period, permit the aggregate cumulative amount of actual cash receipts (which shall exclude, for the avoidance of doubt, proceeds from borrowings of DIP Loans) as reported in the Variance Reports delivered with respect to periods ending after the Effective Date through the end of such Testing Period to be less than, by more than the applicable Permitted Variance, the aggregate cumulative corresponding amount (which shall exclude, for the avoidance of doubt, proceeds from borrowings of DIP Loans) forecast in the Approved Budget for the same such period, and (g) measured as of the end of each Testing Period, permit the aggregate cumulative amount of actual net cash flow (in any event excluding from the calculation thereof disbursements for professional fees and expenses and restructuring expenses) as reported in the Variance Reports delivered with respect to periods ending after the Petition Date through the end of such Testing Period to exceed, by more than the applicable Permitted Variance, the aggregate cumulative corresponding amount forecast in the Approved Budget for the same such period. <i>See</i> DIP Term Loan Credit Agreement § 6.19.

Bankruptcy Code/Local Rule	Summary of Material Terms⁷
Liens and Priorities Bankruptcy Rule 4001(c)(1)(B)(i) Local Rule 4001-2(a)(i)(D) and (G), 4001-2(a)(4)	Same as DIP ABL Credit Facility.
Liens on Avoidance Actions Local Rule 4001-2(a)(4)	Same as DIP ABL Credit Facility.
Events of Default Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(10)	<u>Events of Default.</u> Usual and customary for financings of this type, including failure to obtain entry of the Interim Order. <i>See</i> DIP Term Loan Credit Agreement § 8.
Indemnification Bankruptcy Rule 4001(c)(1)(B)(ix)	<u>Right to Indemnity.</u> The DIP Loan Documents and Interim Order contain indemnification provisions ordinary and customary for debtor-in-possession financings of this type by the Borrower and each Guarantor in favor of the Administrative Agent, each DIP Lender, and each of their respective affiliates and the respective officers, directors, employees, agents, advisors, attorneys and representatives of each of them, subject to customary carve outs. <i>See</i> DIP Term Loan Credit Agreement § 10.3; Interim Order ¶ 38.
Conditions of Borrowing Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(2)	<u>Conditions Precedent to Effective Date.</u> The DIP Loan Documents includes conditions to closing that are customary and appropriate for similar debtor-in-possession financings of this type, including entry of the Interim Order. <u>Conditions Precedent to Funding on the Final Order and Each Extension of Credit.</u> The DIP Loan Documents includes conditions to all credit extensions that are customary and appropriate for similar debtor-in-possession financings of this type, including entry of the Final Order. <i>See</i> DIP Term Loan Credit Agreement §§ 3.1–3.3.

Background

I. The Debtors' Prepetition Capital Structure.

14. As of the Petition Date, the Debtors' capital structure consists of outstanding funded-debt obligations in the aggregate principal amount of approximately \$233 million, consisting of prepetition asset-based loans and secured term loans. Each Debtor is an obligor (either as a borrower or guarantor) under the Prepetition ABL Facility and each Debtor, except for

Hollander Sleep Products Canada Limited (“Hollander Canada”), is an obligor (either as a borrower or a guarantor) under the Prepetition Term Loan Facility. The following table summarizes the Debtors’ outstanding funded-debt obligations:

Funded Debt	Maturity	Approximate Principal Amount Outstanding (MM)
\$125 Million Prepetition ABL Facility	June 9, 2022	\$ 66.4
Prepetition Term Loan Facility	June 9, 2023	\$ 166.5
Total:		\$ 232.9

A. Prepetition ABL Facility.

15. Each Debtor is party to that certain Third Amended and Restated Credit Agreement, dated as of June 9, 2017 (as amended, restated, supplemented, or otherwise modified from time to time prior to the Petition Date, the “Prepetition ABL Credit Agreement”), by and between Parent, and Hollander Home Fashions Holdings, LLC, Hollander Sleep Products, LLC, Hollander Sleep Products Kentucky, LLC, Hollander Canada, Pacific Coast Feather Company, and Pacific Coast Feather Cushion Co., as borrowers, the lenders party thereto (the “Prepetition ABL Lenders”), and Wells Fargo Bank, National Association, as agent (in such capacity, the “Prepetition ABL Agent”). The Prepetition ABL Credit Agreement provides for a \$125 million senior secured revolving credit facility (the “Prepetition ABL Facility”). Parent is not a borrower under the Prepetition ABL Facility but has guaranteed all obligations under the Prepetition ABL Facility.

16. The Prepetition ABL Facility provides for cash dominion when the excess availability under the Prepetition ABL Facility is less than either (a) 12.5% of the maximum credit available under the Prepetition ABL Facility or (b) \$12.5 million for three consecutive business days, at which point the Prepetition ABL Agent can exercise certain controls over the Debtors’ bank accounts. The Debtors have triggered cash dominion and the Prepetition ABL Agent currently sweeps the Debtors’ accounts that are subject to control agreements daily. Substantially

all of the Debtors' cash is subject to deposit account control agreements in favor of the Prepetition ABL Agent. The amount outstanding under the Prepetition ABL Facility is subject to fluctuations based on daily cash sweeps. The Debtors estimate that approximately \$61 million in principal will be outstanding as of the date hereof, not including approximately \$5 million in letters of credit (the "Prepetition ABL Obligations").

17. These Prepetition ABL Obligations are secured by a first lien on ABL-priority collateral of the Debtors, including certain accounts and inventory, Canadian assets, and a second lien on certain collateral on which the prepetition secured term loan lenders (the "Prepetition Term Loan Lenders") have a first lien. The relative rights and priorities among the Prepetition ABL Lenders and Prepetition Term Loan Lenders are governed by an intercreditor agreement.

B. Prepetition Put Agreement.

18. In November 2018, the Debtors entered into forbearances and an amendment to their credit agreements. In connection with these amendments, Sentinel Capital Partners V, L.P., Sentinel Dream Blocker, Inc., and Sentinel Capital Investors V, L.P. (collectively, together with their permitted successors and assigns, the "Purchasers") entered into a Put Agreement, dated as of November 27, 2018 (the "Put Agreement"), in favor of the Prepetition ABL Agent and SunTrust Bank, a prepetition lender under the ABL. Subject to the terms and conditions set forth in the Put Agreement, upon the occurrence of certain events of default under the Prepetition ABL Credit Agreement, the Prepetition ABL Agent may cause the Purchasers to execute an agreement to purchase their pro rata share of a participation interest in a subordinated last-out loan (the "Last-Out Loans").

19. If the Purchasers fail to purchase their participation interest in the Last-Out Loans in accordance with the Put Agreement, the Prepetition ABL Agent is permitted to draw from certain standby letters of credit that were posted by the Purchasers. The Purchasers share priority

with the Prepetition ABL Lenders with regard to the Debtors' collateral but have agreed to subordinate their right to payment to the Prepetition ABL Lenders until the Prepetition ABL Obligations are paid in full.

C. Prepetition Term Loan Facility.

20. Each Debtor, except for Hollander Canada, is party to that certain Term Loan Credit Agreement, dated as of June 9, 2017 (as amended, restated, supplemented, or otherwise modified from time to time prior to the Petition Date), by and between Parent and Hollander Home Fashions Holdings, LLC, as parent guarantors, Hollander Sleep Products, LLC, as borrower, Barings Finance LLC, as administrative agent (in such capacity, the "Prepetition Term Loan Agent"), and the lenders from time to time party thereto. The Prepetition Term Loan Credit Agreement provided a \$190 million secured term loan facility (the "Prepetition Term Loan Facility"). The Parent Guarantors, Hollander Sleep Products Kentucky, LLC, Pacific Coast Feather, LLC, and Pacific Coast Feather Cushion, LLC (collectively, the "Prepetition Term Loan Guarantors") have guaranteed all obligations under the Prepetition Term Loan Facility. As of the Petition Date, approximately \$166.5 million in aggregate principal amount remains outstanding under the Prepetition Term Loan Facility. The Prepetition Term Loan Facility is secured by a first lien on certain collateral of the Debtors, except for Hollander Canada, and a second lien on certain collateral on which the Prepetition ABL Lenders have a first lien. Hollander Canada's assets are not encumbered by the Prepetition Term Loan Facility; however, the Prepetition Term Loan Facility is secured by a pledge of 65% of Parent's equity interests in Hollander Canada.

D. Prepetition ABL and Term Loan Intercreditor Agreement.

21. The relative contractual rights and priorities of the Prepetition ABL Agent and the Prepetition Term Loan Agent with respect to shared collateral are governed by that certain Intercreditor Agreement, dated as of June 9, 2017 (as amended, restated, supplemented, waived,

or otherwise modified from time to time prior to the Petition Date, the “Prepetition Intercreditor Agreement”), by and among the Prepetition ABL Agent and the Prepetition Term Loan Agent. Pursuant to the Prepetition Intercreditor Agreement, obligations under the Prepetition ABL Facility are secured by a first priority lien on, among other things, all assets and interests in assets and proceeds owned or acquired by the Canadian Loan Parties (as defined in the Prepetition Intercreditor Agreement), the Debtors’ accounts (other than certain accounts that are identifiable proceeds of collateral of the Prepetition Term Loan Facility), inventory, all instruments and chattel paper (excluding all tangible and electronic chattel paper), deposit accounts and securities accounts into which any proceeds of such collateral are deposited into, cash and cash equivalents, all commercial tort claims and general intangibles, investment property, and receivables (collectively, the “Prepetition ABL Priority Collateral”), and a second priority lien on all other property of the borrowers and the guarantors (collectively, the “Prepetition Term Loan Priority Collateral”). The Prepetition Term Loan Priority Collateral includes all non-excluded collateral that is owned or hereafter acquired that does not constitute Prepetition ABL Priority Collateral.

22. The Prepetition Term Loan Lenders’ relative priorities mirror the Prepetition ABL Lenders; the Prepetition Term Loan Lenders have a first lien in the Prepetition Term Loan Priority Collateral and a second lien in the Prepetition ABL Priority Collateral, with one notable exception. Hollander Sleep Products Canada Limited is a borrower under the Prepetition ABL Facility and the Prepetition ABL Lenders have a first lien on the Canadian ABL collateral, which includes the assets and interests in assets and proceeds of Canadian accounts, inventory and similar property securing the Canadian ABL obligations, along with any equity pledges of Canadian entities that are not required to be pledged under the Prepetition Term Loan Credit Agreement.

23. Finally, with regard to the Last Out Loans, the Purchasers share priority with the Prepetition ABL Lenders with regard to the Debtors' collateral but have agreed to subordinate their right to payment to the Prepetition ABL Lenders until the Prepetition ABL Obligations are paid in full.

E. Equity Interests.

24. As of the Petition Date, Parent owns directly or indirectly 100% of the residual interests in each of the Debtors (other than Parent). Investment funds managed by Sentinel directly or indirectly hold the majority of the outstanding membership interests in Parent.

II. The Need to Use Cash Collateral and for Access to Financing.

25. The Debtors require immediate access to liquidity to ensure that they are able to continue operating during these chapter 11 cases and preserve the value of their estates for the benefit of all parties in interest. As of the Petition Date, the Debtors' total cash balance is insufficient to operate their enterprise and continue paying their debts as they come due. The Debtors have thus far largely been able to maintain the shipment and distribution of products (and thus the continued trust of their customers) notwithstanding their liquidity challenges, but the Debtors project they will run out of money as early as next week without an immediate infusion of post-petition financing and access to cash collateral, leaving the Debtors unable to pay wages for their employees or the invoices of vendors critical to business operations. Further, access to ample post-petition financing is necessary to send a strong market signal that these chapter 11 cases are well-funded. Accordingly, access to committed financing at the outset of these chapter 11 cases is necessary not only to operate, but also to quell uncertainty throughout the Debtors' supply chain that the Debtors will have the liquidity necessary to preserve and maximize the value of their estates and successfully emerge from chapter 11. *See* First Day Decl. ¶ 56. Otherwise, customers may seek other alternative products and services, and vendors and suppliers

may refuse to do business with the Debtors if there exists a market perception that these chapter 11 cases are not well-funded, or that the Debtors' chances of reorganization are slim.

26. In connection with their liquidity situation and the prospect of a chapter 11 filing, the Debtors, with the assistance of Carl Marks Advisory Group LLC ("Carl Marks"), analyzed their projected cash needs and prepared the budget outlining the Debtors' postpetition cash needs in the initial 17 weeks of these chapter 11 cases. The Debtors believe that the budget and their projections provide an accurate reflection of their funding requirements over the identified period, will allow them to meet their obligations—including the administrative expenses of these chapter 11 cases—and are reasonable and appropriate under the circumstances.

27. The Debtors relied on these forecasts to determine the amount of postpetition financing required to administer these chapter 11 cases. Each of the DIP Facilities is critical to the Debtors' ability to smoothly operate postpetition, including by providing sufficient liquidity to fund the administrative cost of these chapter 11 cases and, importantly, payments to the Debtors' vendors who are critical to the free flow of the Debtors' inventory. As a result, the Debtors believe that the DIP Facilities provide the Debtors sufficient liquidity to stabilize their operations and fund the administration of these chapter 11 cases as the Debtors seek to implement the restructuring contemplated by the RSA, and are therefore essential to the preservation of their assets during the pendency of these cases. *See* First Day Decl. ¶ 56.

III. Alternative Sources of Financing Are Not Readily Available.

28. The Debtors do not have alternative sources of financing readily available. Substantially all of the Debtors' assets are encumbered under their existing capital structure, which, along with the Debtors' uncertain financial condition, restricts the availability of, and options for, postpetition financing.

29. The Debtors engaged in good faith, arm's length negotiations with the Prepetition ABL Lenders, recognizing that the Debtors would need daily access to liquidity to fund their operations. The Debtors and their advisors negotiated over a number of weeks regarding the structure and economics of the proposed DIP ABL Credit Facility. *See* Burian Decl. ¶ 6. Ultimately, the Debtors and the Prepetition ABL Agent agreed to a set of terms that will provide the Debtors with necessary access to liquidity during the pendency of these chapter 11 cases at fees and rates that the Debtors and their advisors consider to be reasonable under the circumstances. *See* Burian Decl. ¶ 6.

30. At the same time, the Debtors engaged in good faith, arm's length negotiations with their Prepetition Term Loan Lenders regarding a chapter 11 plan and the funding of that plan process. *See* Burian Decl. ¶ 7. The Prepetition Term Loan Lenders ultimately committed to support the plan process and to finance these cases through a new money \$28 million DIP Term Loan Facility. The Prepetition Term Loan Lenders also signed a restructuring support agreement documenting their support for the Debtors' proposed plan. This commitment provides a platform for the Debtors to market test the restructuring transactions contemplated by their chapter 11 plan as well as allows for certainty of emergence from chapter 11 if no sale transaction under that plan materializes.

31. The Debtors also sought financing from third-party sources before the commencement of these cases. The Debtors recognized that it would be difficult to secure financing because of limited time and because essentially all of the Debtors' assets are encumbered by existing liens under their prepetition funded debt, and their prepetition lenders indicated that they would not consent to a "priming" DIP financing provided by a third party. *See* Burian Decl. ¶ 8.

32. Nonetheless, at the direction of the Debtors, Houlihan Lokey commenced a marketing process for possible DIP financing alternatives beginning in May 2019. Specifically, Houlihan Lokey contacted 15 banks and institutions in the business of extending postpetition financing under similar circumstances, six of which have executed non-disclosure agreements and have access to a data room that was set up by Houlihan Lokey. *See* Burian Decl. ¶ 8. To date, none of these institutions has proposed competing financing facilities on any terms. Moreover, to date, none of these institutions is willing to lend on a junior or unsecured basis. *See* Burian Decl. ¶ 8.

33. The fees to be paid under the proposed DIP facilities were the subject of arm's-length and good faith negotiation between the Debtors and the DIP lenders, and they are an integral component of the overall terms of the proposed DIP facilities. Also, as a condition to providing postpetition financing, the DIP agents and lenders required the exit financing commitments. In exchange, the Debtors required that the term lenders sign the restructuring support agreement (“RSA”) documenting their commitment to the Debtors’ restructuring. The RSA is important to the Debtors because it will reassure customers and vendors of the business’ continued viability and protect on-going operations, thereby maximizing value for creditors. *See* Burian Decl. ¶ 9. The DIP Term Loan Facility also proved to be the only postpetition term facility available to the Debtors before filing. *See* Burian Decl. ¶ 9. Absent this financing, the only alternative course may be liquidation in a very compressed timeline that could gravely injure employees, vendors, and customers, as well as jeopardize recoveries for the Prepetition Secured Parties. *See* Burian Decl. ¶ 9.

Basis for Relief

I. The Debtors Should Be Authorized to Obtain Postpetition Financing Through the DIP Documents.

A. Entry into the DIP Documents Is an Exercise of the Debtors' Sound Business Judgment.

34. Section 364 of the Bankruptcy Code authorizes a debtor to obtain secured or superpriority financing under certain circumstances as described in greater detail below. Provided that an agreement to obtain secured credit does not run afoul of the provisions of, and policies underlying, the Bankruptcy Code, courts grant debtors considerable deference in acting in accordance with their sound business judgment in obtaining such credit. *See In re Barbara K. Enters., Inc.*, No. 08-11474, 2008 WL 2439649, at *14 (Bankr. S.D.N.Y. June 16, 2008) (explaining that courts defer to a debtor's business judgment "so long as a request for financing does not 'leverage the bankruptcy process' and unfairly cede control of the reorganization to one party in interest"); *In re Ames Dep't Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) ("[C]ases consistently reflect that the court's discretion under section 364 [of the Bankruptcy Code] is to be utilized on grounds that permit [a debtor's] reasonable business judgment to be exercised so long as the financing agreement does not contain terms that leverage the bankruptcy process and powers or its purpose is not so much to benefit the estate as it is to benefit a party-in-interest.").

35. Furthermore, in determining whether the Debtors have exercised sound business judgment in deciding to enter into the DIP Documents, the Court may appropriately take into consideration non-economic benefits to the Debtors offered by a proposed postpetition facility. For example, in *In re ION Media Networks, Inc.*, the Bankruptcy Court for the Southern District of New York held that:

Although all parties, including the Debtors and the Committee, are naturally motivated to obtain financing on the best possible terms, a business decision to obtain credit from a particular lender is almost never based purely on economic

terms. Relevant features of the financing must be evaluated, including non-economic elements such as the timing and certainty of closing, the impact on creditor constituencies and the likelihood of a successful reorganization. This is particularly true in a bankruptcy setting where cooperation and established allegiances with creditor groups can be a vital part of building support for a restructuring that ultimately may lead to a confirmable reorganization plan. That which helps foster consensus may be preferable to a notionally better transaction that carries the risk of promoting unwanted conflict.

No. 09-13125, 2009 WL 2902568, at*5 (Bankr. S.D.N.Y. July 6, 2009).

36. This rationale applies with full force here. As stated above, the DIP Facilities represents a resolution between the Debtors and their prepetition secured lenders. Following extensive negotiations, the Debtors were able to come to a resolution not only on economic terms (such as interest rates, fees, and agency fees), but also achieved a resolution regarding case controls that provide the Debtors with flexibility to ensure they maintain a value-maximizing path to emergence. The Debtors' access to the DIP Facilities therefore will enable the Debtors to preserve their value as a going concern by providing crucial liquidity under terms that allow for the prospect of completing a successful, comprehensive reorganization.

B. The Debtors Should Be Authorized to Grant Liens and Superpriority Claims.

37. The Debtors propose to obtain financing under the DIP Facilities by providing security interests and liens as set forth in the DIP Documents pursuant to section 364(c) of the Bankruptcy Code. Specifically, the Debtors propose to provide to the DIP Lenders continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected postpetition security interests in and liens on the DIP Collateral (as defined in the Interim Order), which includes substantially all of the Debtors' assets. The Prepetition Lenders will have similar "criss cross" first and second priority liens on the DIP Collateral as they do on the Prepetition Collateral:

- a. The DIP Liens securing the DIP ABL Obligations (the "DIP ABL Liens") are valid, automatically perfected, non-avoidable, senior in priority and superior to any security, mortgage, collateral interest, lien or claim to any

of the DIP Collateral, except that the DIP ABL Liens shall be subject to the Carve Out, and shall otherwise be junior only to:

- i. as to the DIP ABL Priority Collateral, Permitted Prior Liens; and
 - ii. as to the DIP Term Loan Priority Collateral, (A) Permitted Prior Liens; (B) the DIP Term Loan Liens (as defined below); (C) the Prepetition Term Loan Liens; and (D) the Prepetition Term Loan Adequate Protection Liens.
- b. The DIP Liens securing the DIP Term Loan Obligations (the “DIP Term Loan Liens”) are valid, automatically perfected, non-avoidable, senior in priority and superior to any security, mortgage, collateral interest, lien or claim to any of the DIP Term Loan Collateral, except that the DIP Term Loan Liens shall be (1) subject to the Carve Out and (2) shall otherwise be junior only to:
- i. as to the DIP Term Loan Priority Collateral, Permitted Prior Liens; and
 - ii. as to the DIP ABL Priority Collateral, (A) Permitted Prior Liens; (B) the DIP ABL Liens; (C) the Prepetition ABL Liens; (D) the Prepetition ABL Adequate Protection Liens; and (E) the Canadian Intercompany Superpriority Administrative Claims.

38. The statutory requirement for obtaining postpetition credit under section 364(c) is a finding, made after notice and hearing, that a debtor is “unable to obtain unsecured credit allowable under Section 503(b)(1) of [the Bankruptcy Code].” 11 U.S.C. § 364(c). *See In re YL West 87th Holdings I LLC*, 423 B.R. 421, 440–41 (Bankr. S.D.N.Y. 2010) (noting that secured credit under section 364(c) of the Bankruptcy Code is authorized, after notice and hearing, upon showing that unsecured credit cannot be obtained). Courts have articulated a three-part test to determine whether a debtor is entitled to financing under section 364(c) of the Bankruptcy Code. Specifically, courts look to whether:

- a. the debtor is unable to obtain unsecured credit under section 364(b) of the Bankruptcy Code, i.e., by allowing a lender only an administrative claim;
- b. the credit transaction is necessary to preserve the assets of the estate; and
- c. the terms of the transaction are fair, reasonable, and adequate, given the circumstances of the debtor-borrower and proposed lenders.

See In re Ames Dep't Stores, 115 B.R. at 37–40; *see also Norris Square Civic Assoc. v. St. Mary Hosp. (In re St. Mary Hosp.)*, 86 B.R. 393, 401–02 (Bankr. E.D. Pa. 1988); *Crouse Grp.*, 71 B.R. at 549.

39. As described above and as set forth in the Burian Declaration, due to the Debtors' high level of existing secured debt obligations, third-party lenders were unwilling to provide postpetition financing on an unsecured basis or otherwise junior to the Prepetition Lenders. *See* Burian Decl. ¶ 8. Moreover, substantially all of the Debtors' existing assets, including Cash Collateral are encumbered. *See* Burian Decl. ¶ 8. Therefore, the Debtors, in consultation with their advisors, concluded that any workable financing likely would require the support of, or be provided by, the Debtors' existing lenders. The Debtors, however, also negotiated with their creditors and surveyed certain potential lending sources for actionable alternative proposals—but there are no other options that are readily available to the Debtors or that will also provide the Debtors with a value-maximizing restructuring support agreement. Thus, the Debtors determined that the DIP Facilities provided the best opportunity available to the Debtors under the circumstances to fund these chapter 11 cases. *See* Burian Decl. ¶¶ 9–10 & 13.

40. Absent the DIP Facilities, which will provide certainty that the Debtors will have sufficient liquidity to administer these chapter 11 cases, the value of the Debtors' estates would be significantly impaired to the detriment of all stakeholders. Given the Debtors' circumstances, the Debtors believe that the terms of the DIP Facilities, as set forth in the DIP Agreements, are reasonable and adequate, given the circumstances, all as more fully set forth below. For all these reasons, the Debtors submit that they have met the standard for obtaining postpetition financing.

41. To satisfy the requirements of section 364(c) of the Bankruptcy Code, a debtor need only demonstrate “by a good faith effort that credit was not available” to the debtor on an

unsecured or administrative expense basis. *Bray v. Shenandoah Fed. Savs. & Loan Ass'n (In re Snowshoe Co.)*, 789 F.2d 1085, 1088 (4th Cir. 1986). “The statute imposes no duty to seek credit from every possible lender before concluding that such credit is unavailable.” *Id.*; *see also Pearl-Phil GMT (Far East) Ltd. v. Caldor Corp.*, 266 B.R. 575, 584 (S.D.N.Y. 2001) (superpriority administrative expenses authorized where debtor could not obtain credit as an administrative expense). When few lenders are likely to be able and/or willing to extend the necessary credit to a debtor, “it would be unrealistic and unnecessary to require [the debtor] to conduct such an exhaustive search for financing.” *In re Sky Valley, Inc.*, 100 B.R. 107, 113 (Bankr. N.D. Ga. 1988), *aff'd sub nom. Anchor Savs. Bank FSB v. Sky Valley, Inc.*, 99 B.R. 117 (N.D. Ga. 1989); *see also Ames Dep't Stores*, 115 B.R. at 40 (approving financing facility and holding that the debtor made reasonable efforts to satisfy the standards of section 364(c) where it approached four lending institutions, was rejected by two, and selected the most favorable of the two offers it received).

42. In the event that a debtor is unable to obtain unsecured credit allowable as an administrative expense under section 503(b)(1) of the Bankruptcy Code, section 364(c) provides that a court “may authorize the obtaining of credit or the incurring of debt (1) with priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of [the Bankruptcy Code]; (2) secured by a lien on property of the estate that is not otherwise subject to a lien; or (3) secured by a junior lien on property of the estate that is subject to a lien.” 11 U.S.C. § 364(c). As described above, the Debtors are unable to obtain unsecured credit or credit on a junior basis, nor do the Debtors have significant unencumbered assets. Therefore, approving superpriority claims in favor of the DIP Lenders is reasonable and appropriate.

43. Further, section 364(d) provides that a debtor may obtain credit secured by a senior or equal lien on property of the estate already subject to a lien, after notice and a hearing, where the debtor is “unable to obtain such credit otherwise” and “there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted.” 11 U.S.C. § 364(d)(1). Consent by the secured creditors to priming obviates the need to show adequate protection. *See Anchor Savs. Bank FSB v. Sky Valley, Inc.*, 99 B.R. 117, 122 (N.D. Ga. 1989) (“[B]y tacitly consenting to the superpriority lien, those [undersecured] creditors relieved the debtor of having to demonstrate that they were adequately protected.”). Accordingly, the Debtors may incur “priming” liens under the DIP Facilities if either (a) the Prepetition Lenders have consented or (b) Prepetition Lenders’ interests in collateral are adequately protected.

44. Here, the Prepetition ABL Lenders and the substantial majority of the Prepetition Term Loan Lenders have affirmatively consented to the DIP Facilities and actively participated in facilitating the proposed DIP Financing. Moreover, as set forth more fully in the Interim Order, the Debtors propose to provide a variety of adequate protection to protect the interests of the Prepetition Lenders. Therefore, the relief requested pursuant to section 364(d)(1) of the Bankruptcy Code is appropriate.

II. The Debtors’ Should Be Authorized to Use the Cash Collateral.

45. Section 363 of the Bankruptcy Code generally governs the use of estate property. Section 363(c)(2)(A) permits a debtor in possession to use cash collateral with the consent of the secured party. Here, the substantial majority of the Prepetition Lenders consent to the Debtors’ use of the Cash Collateral (as well as the Prepetition Collateral), subject to the terms and limitations set forth in the Interim Order.

46. Section 363(e) provides for adequate protection of interests in property when a debtor uses cash collateral. Further, section 362(d)(1) of the Bankruptcy Code provides for adequate protection of interests in property due to the imposition of the automatic stay. *See In re Cont'l Airlines*, 91 F.3d 553, 556 (3d Cir. 1996) (en banc). Although section 361 of the Bankruptcy Code provides examples of forms of adequate protection, such as granting replacement liens and administrative claims, courts decide what constitutes sufficient adequate protection on a case-by-case basis. *In re Mosello*, 195 B.R. 277, 289 (Bankr. S.D.N.Y. 1996) (“[T]he determination of adequate protection is a fact-specific inquiry . . . left to the vagaries of each case.”); *In re Realty Sw. Assocs.*, 140 B.R. 360, 366 (Bankr. S.D.N.Y. 1992) (“‘Adequate protection’ is a question of fact because it has as its linchpin the concept of value, and therefore, is determined on a case-by-case basis.”) (citation omitted); *In re Beker Indus. Corp.*, 58 B.R. 725, 736 (Bankr. S.D.N.Y. 1986) (the application of adequate protection “is left to the vagaries of each case, but its focus is protection of the secured creditor from diminution in the value of its collateral during the reorganization process”) (citation omitted).

47. As described more fully above, and as set forth in the Interim Order, the Debtors propose to provide the Prepetition Lenders with a variety of adequate protection to protect against the postpetition diminution in value of the Cash Collateral (as well as the Prepetition Collateral) resulting from the use of the Cash Collateral by the Debtors and the imposition of the automatic stay (collectively, the “Adequate Protection Obligations”):

- a. the Prepetition ABL Secured Parties and Prepetition ABL Obligations will receive adequate protection liens and superpriority claims;
- b. superpriority administrative claims under section 507(b) of the Bankruptcy Code;
- c. the Prepetition Agents’ professionals’ fees and expenses; and

- d. with respect to the Prepetition ABL Secured Parties (other than on account of the Last Out Loans and Last Out Obligations) shall receive current payment of interest at the default rate (provided the Last Out Loans and Last Out Obligations shall accrue payment of interest at the default rate as part of the Last Out Loans and Last Out Obligations).

48. Therefore, the Debtors submit that the proposed Adequate Protection Obligations are sufficient to protect the Prepetition Lenders from any diminution in value to the Cash Collateral and Prepetition Collateral. In light of the foregoing, the Debtors further submit, and the substantial majority of the Prepetition Lenders have already agreed, that the proposed Adequate Protection Obligations to be provided for the benefit of the Prepetition Lenders are appropriate.⁸ Thus, the Debtors' provision of the Adequate Protection Obligations is not only necessary to protect against any diminution in value but is fair and appropriate under the circumstances of these chapter 11 cases to ensure the Debtors are able to continue using Cash Collateral, subject to the terms and limitations set forth in the Interim Order, for the benefit of all parties in interest and their estates.

III. The Proposed Roll-Up of Prepetition ABL Obligations is Necessary and Appropriate.

49. As set forth above, the DIP ABL Credit Agreement contemplates refinancing the Prepetition ABL Obligations upon entry of the Interim Order. Without the incremental liquidity provided by refinancing the Prepetition ABL Obligations and continued access to an asset-based lending facility to fund the administration of these chapter 11 cases and support the Debtors' business operations without interruption, the Debtors could face irreparable harm to their ability to continue their business on a go-forward basis. Maintaining the ability to continue as a going concern during these chapter 11 cases is essential to the preservation of the Debtors' assets and the

⁸ Pursuant to the DIP Orders, the Prepetition Lenders are permitted to seek additional adequate protection in accordance with the terms thereof.

Debtors' ability to maximize the value of those assets, either through a sale pursuant to a plan or a reorganization. *See* Burian Decl. ¶ 3.

50. The Prepetition ABL Lenders are highly unlikely to continue to lend postpetition without the roll-up of the Prepetition ABL Obligations, given the concerns raised by the Prepetition ABL Lenders with respect to the coverage of their loans under the Debtors' borrowing base and tight liquidity. Absent the Prepetition Lenders' support, the first month of the Debtors' chapter 11 cases would likely devolve into a costly priming fight that would almost certainly result in liquidation of the Debtors' estates, regardless of whether the Debtors ultimately prevailed. Due to the senior priority of the Prepetition ABL Lenders' loans, they are likely to receive a full recovery on their prepetition claims in any event. And, importantly, the roll-up proposed here is a gradual refinancing of the Prepetition ABL Obligations until the entry of the Final Order, rather than a complete refinancing at the onset of these cases.

51. Thus, after careful consideration of all available alternatives, the Debtors have determined that rolling up the Prepetition ABL Obligations under the DIP ABL Facility is necessary to obtain access to the liquidity necessary to preserve the value of their business for the benefit of all stakeholders. The refinancing of prepetition debt (often referred to as a "roll-up") is a common feature in debtor-in-possession financing arrangements. Courts in this jurisdiction have approved similar debtor-in-possession features on an interim basis. *See, e.g., In re Nine West Holdings, Inc.*, No. 18-10947 (SCC) (Bankr. S.D.N.Y. Apr. 9, 2018) (authorizing an initial draw of an ABL/FILO DIP Facility to refinance all of the ABL/FILO prepetition outstanding obligations); *In re Cenveo*, No. 18-22178 (RDD) (Bankr. S.D.N.Y. Feb. 6, 2018) (authorizing repayment of \$50 million of outstanding revolving obligations and conversion of all remaining outstanding prepetition revolving obligations on an interim basis); *In re BCBG Max Azria Global*

Holdings, LLC, No. 17-10466 (SCC) (Bankr. S.D.N.Y. Mar. 2, 2017) (approving interim roll-up of \$35 million outstanding revolving obligations); *In re Avaya Inc.*, No. 17-10089 (SMB) (Bankr. S.D.N.Y. Jan. 23, 2017) (approving repayment of \$105 million of outstanding revolving obligations on an interim basis); *In re Aéropostale, Inc.*, No. 16-11275 (Bankr. S.D.N.Y. May 6, 2016) (approving repayment of \$78 million outstanding revolving obligations on an interim basis).⁹

52. Consistent with this authority, the Debtors respectfully submit that the Court should approve the Debtors' decision to enter into the DIP Facilities and comply with the provisions of the DIP Documents, including the gradual roll-up and ultimate refinancing of the Prepetition ABL Obligations, as a sound exercise of the Debtors' business judgment.

IV. The DIP Facilities' Fees Are Reasonable and Should Be Approved.

53. As described above, the Debtors have agreed, subject to Court approval, to pay certain fees to the DIP Agents and the DIP Lenders in exchange for their providing the DIP Facilities. Specifically, the Debtors have agreed to pay the following fees under the DIP ABL Facility: (a) a closing fee, (b) an unused revolver fee, and (c) letter of credit fee, which the Debtors propose to seal pursuant to the *Debtors' Motion for Entry of an Order (I) Authorizing the Debtors to File Exit Backstop Commitment Letter and Fee Letters Under Seal and (II) Granting Related Relief* (the "Fee Sealing Motion"), filed contemporaneously herewith. The Debtors have also agreed to pay the following fees under the DIP Term Loan Facility: (a) a commitment fee, (b) a backstop fee, (c) a DIP Term Loan Agent fee, (d) an unused commitment fee, (e) and an exit fee, which the Debtors propose to seal pursuant to the Fee Sealing Motion. As described in the Burian

⁹ Because of the voluminous nature of the orders cited herein, such orders have not been attached to this motion. Copies of these orders are available upon request of the Debtors' proposed counsel.

Declaration, these fees are reasonable in the context of the nature and extent of the credit provided under the Debtors' circumstances.

54. It is understood and agreed by all parties, including the Debtors, that these fees are an integral component of the overall terms of the DIP Facilities, and were required by the applicable DIP Agents and the DIP Lenders as consideration for the extension of postpetition financing. *See* Burian Decl. ¶ 9. Accordingly, the Court should authorize the Debtors to pay the fees provided under the DIP Documents in connection with entering into those agreements.

V. Modification of the Automatic Stay Is Warranted.

55. The DIP Documents and the proposed Interim Order contemplate that the automatic stay arising under section 362 of the Bankruptcy Code shall be vacated or modified to permit the DIP Agent and the DIP Lenders to enforce their rights under the DIP Documents and the proposed Interim Order. Specifically, upon the occurrence of an Event of Default and following the giving of seven days' prior written notice (with such notice period extended to the next Business Day if such period expires on a day that is not a Business Day) to the Debtors and certain other interested parties, the DIP Lenders and the DIP Agent may exercise any remedies available to them, including foreclosure on the Collateral. No such notice is required for an acceleration. The Debtors believe that this seven-day notice period will provide the Debtors and other interested parties sufficient time to seek an expedited hearing before the Court for the purpose of determining whether, in fact, an Event of Default has occurred and is continuing, especially in light of the provision for an extension to the next Business Day should the notice period expire on a day that is not a Business Day.

56. Stay modification provisions are ordinary features of debtor in possession financing facilities and, in the Debtors' business judgment, this modification is reasonable under the circumstances. Courts in this jurisdiction have approved similar provisions. *See, e.g., In re Aegean*

Marine Petroleum Network Inc., No. 18-13374 (MEW) (Bankr. S.D.N.Y. Jan. 15, 2019); *In re Nine West Holdings, Inc.*, No. 18-10947 (SCC) (Bankr. S.D.N.Y. June 28, 2018); *In re Cenveo*, No. 18-22178 (RDD) (Bankr. S.D.N.Y. Feb. 6, 2018); *In re BCBG Max Azria Global Holdings, LLC*, No. 17-10466 (SCC) (Bankr. S.D.N.Y. Mar. 28, 2017); *In re Avaya, Inc.*, No. 17-10089 (SMB) (Bankr. S.D.N.Y. Mar. 10, 2017).

VI. The DIP Lenders Should Be Deemed Good Faith Lenders Under Section 364(e).

57. Section 364(e) of the Bankruptcy Code protects a good faith lender's right to collect on loans extended to a debtor, and its right in any lien securing those loans, even if the authority of the debtor to obtain such loans or grant such liens is later reversed or modified on appeal. Specifically, section 364(e) provides that:

The reversal or modification on appeal of an authorization under this section [364 of the Bankruptcy Code] to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.

11 U.S.C. § 364(e). Because “good faith” is not defined in the Bankruptcy Code, courts often look to case law under section 363(m). 7 *Collier on Bankruptcy*, 16th ed. ¶ 364.08, p. 37 (“Section 364(e) is consistent with section 363(m), which provides similar protection to a buyer or lessee of property of the estate in a section 363 transaction.”). As one court in this district explained, “the misconduct that would destroy a purchaser’s good faith status at a judicial sale involves fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders.” *In re Pan Am Corp.*, No. 91 CIV. 8319 (LMM), 1992 WL 154200, at *4 (S.D.N.Y. June 18, 1992) (citing *In re Rock Indus. Mach. Corp.*, 572 F.2d 1195, 1198 (7th Cir. 1978)); accord *In re Gen. Growth Props., Inc.*, 423 B.R. 716, 722 (S.D.N.Y. 2010).

58. As explained in detail herein and in the Burian Declaration, the DIP Documents are the result of: (a) the Debtors' reasonable and informed determination that the DIP Lenders offered the most favorable terms on which to obtain necessary postpetition financing, and (b) extended arm's-length, good faith negotiations between the Debtors and the DIP Lenders. *See, e.g., Gen. Growth Props.*, 423 B.R. at 722 (finding good faith based on testimony that the terms of the debtor-in-possession financing were "vigorously negotiated at arm's length and in good faith.").

59. The Debtors submit that the terms and conditions of the DIP Documents are reasonable and appropriate under the circumstances, and the proceeds of the DIP Facilities will be used only for purposes that are permissible under the Bankruptcy Code. Further, no consideration is being provided to any party to the DIP Documents other than as described herein. Accordingly, the Court should find that the DIP Lenders are "good faith" lenders within the meaning of section 364(e) of the Bankruptcy Code and are entitled to all of the protections afforded by that section.

VII. Failure to Obtain Immediate Interim Access to the DIP Facilities and Cash Collateral Would Cause Immediate and Irreparable Harm.

60. Bankruptcy Rules 4001(b) and 4001(c) provide that a final hearing on a motion to obtain credit pursuant to section 364 of the Bankruptcy Code or to use cash collateral pursuant to section 363 of the Bankruptcy Code may not be commenced earlier than 14 days after the service of such motion. Upon request, however, the Bankruptcy Court may conduct a preliminary, expedited hearing on the motion and authorize the obtaining of credit and use of cash collateral to the extent necessary to avoid immediate and irreparable harm to a debtor's estate.

61. The Debtors will use cash to, among other things, fund the administration of these chapter 11 cases and the operation of their business. The Debtors believe that substantially all of their available cash constitutes the Prepetition Lenders' Cash Collateral. Moreover, the Debtors

do not have sufficient cash on hand to fund their ongoing operations without access to the DIP Facilities. The Debtors will therefore be unable to operate their business or otherwise fund these chapter 11 cases without access to the Cash Collateral or the DIP Facilities and will suffer immediate and irreparable harm to the detriment of all creditors and other parties in interest. In short, the Debtors' ability to administer these chapter 11 cases through immediate access to the DIP Facilities and the use of Cash Collateral is vital to preserve and maximize the value of the Debtors' estates.

62. The Debtors request that the Bankruptcy Court hold and conduct a hearing to consider entry of the Interim Order authorizing the Debtors, from and after entry of the Interim Order until the Final Hearing, to receive initial funding under the DIP Facilities. This relief will enable the Debtors to preserve and maximize value and, therefore, avoid immediate and irreparable harm and prejudice to their estates and all parties in interest, pending the Final Hearing.

Request for a Final Hearing

63. Pursuant to Bankruptcy Rules 4001(b)(2) and 4001(c)(2), the Debtors request that the Court set a date which is no later than 25 days after the entry of the Interim Order, to hold a hearing to consider entry of the Final Order and the permanent approval of the relief requested in this motion. The Debtors also request authority to serve a copy of the signed Interim Order, which fixes the time and date for the filing of objections, if any, to entry of the Final Order, by first class mail upon the notice parties listed below, and further request that the Court deem service thereof sufficient notice of the hearing on the Final Order under Bankruptcy Rule 4001(c)(2).

Notice

64. The Debtors will provide notice of this motion to: (a) the Office of the United States Trustee for the Southern District of New York; (b) the holders of the 50 largest unsecured claims against the Debtors (on a consolidated basis); (c) the administrative agent for the Debtors'

term loan facility and counsel thereto; (d) the administrative agent for the Debtors' asset-based loan credit facility and counsel thereto; (e) the administrative agent for the Debtors' proposed debtor in possession term loan financing facility and counsel thereto; (f) the administrative agent for the Debtors' proposed debtor in possession asset-based loan credit facility and counsel thereto; (g) the United States Attorney's Office for the Southern District of New York; (h) the Internal Revenue Service; (i) the attorneys general for the states in which the Debtors operate; and (j) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

65. No prior request for the relief sought in this motion has been made to this or any other court.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

WHEREFORE, for the reasons set forth herein, in the First Day Declaration, and in the Burian Declaration, the Debtors respectfully request that this Court (a) enter the Interim Order and the Final Order granting the relief requested herein on an interim and permanent basis, respectively, and (b) grant such other and further relief as the Court deems appropriate.

New York, New York
Dated: May 19, 2019

/s/ Joshua A. Sussberg
Joshua A. Sussberg, P.C.
Christopher T. Greco, P.C.
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

- and -

Joseph M. Graham (*pro hac vice* pending)
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
300 North LaSalle Street
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Proposed Counsel to the Debtors and Debtors in Possession

Exhibit A

Interim Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

)	
In re:	)	Chapter 11
)	
HOLLANDER SLEEP PRODUCTS, LLC, <i>et al.</i> , ¹	)	Case No. 19-11608 (____)
)	
Debtors.	)	(Joint Administration Requested)
)	

**INTERIM ORDER (A) AUTHORIZING THE DEBTORS TO OBTAIN POSTPETITION
FINANCING, (B) AUTHORIZING THE DEBTORS TO USE CASH COLLATERAL,
(C) GRANTING LIENS AND PROVIDING SUPERPRIORITY ADMINISTRATIVE
EXPENSE STATUS, (D) GRANTING ADEQUATE PROTECTION TO
THE PREPETITION LENDERS, (E) MODIFYING THE AUTOMATIC STAY,
(F) SCHEDULING A FINAL HEARING, AND (G) GRANTING RELATED RELIEF**

Upon the motion, dated May 19, 2019 (the “DIP Motion”) of Hollander Sleep Products, LLC (the “DIP Term Loan Borrower”) and Hollander Home Fashions Holdings, LLC, Hollander Sleep Products Kentucky, LLC, Hollander Sleep Products Canada Limited, Pacific Coast Feather, LLC and Pacific Coast Feather Cushion, LLC (collectively the “DIP ABL Borrowers”) and together with the Term Loan Borrower, the “Borrowers”) on behalf of themselves and their affiliated debtors and debtors-in possession (together with Dream II Holdings, LLC (“Parent”), collectively, the “Debtors”) in the above-captioned chapter 11 cases (collectively, the “Cases”), seeking entry of an order (this “Interim Order”) and a Final Order (as defined herein) pursuant to sections 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), 364(d), 364(e), 507 and 552 of chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002, 4001, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Local Rule 4001-2, *inter alia*:

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors’ service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

(i) authorizing the Debtors to obtain \$90 million senior secured postpetition financing on a superpriority basis (the “DIP ABL Credit Facility” and the loans under the DIP ABL Credit Facility, the “DIP ABL Loans”) pursuant to the terms and conditions of that certain Debtor-in-Possession Credit Agreement (as the same may be amended, restated, supplemented, or otherwise modified from time to time, the “DIP ABL Credit Agreement”), by and among the DIP ABL Borrowers, Parent, as guarantor, and such other guarantors thereto from time to time (the “DIP ABL Guarantors,” together with the DIP ABL Borrowers, the “DIP ABL Loan Parties”), Wells Fargo Bank, National Association, as agent (in such capacity, the “DIP ABL Agent”), for and on behalf of itself and the other lenders party thereto (the “DIP ABL Lenders”), the Issuing Lenders (as therein defined) and the Bank Product Providers (as therein defined) (collectively, the “DIP ABL Parties”), substantially in the form of **Exhibit B** attached to the DIP Motion;

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

(iii) granting the DIP ABL Credit Facility and all obligations owing thereunder and under the DIP ABL Documents to the DIP ABL Agent and DIP ABL Parties (collectively, and including all “Obligations” as described in the DIP ABL Credit Agreement (including the Last Out Obligations), the “DIP ABL Obligations”) allowed superpriority administrative expense claim status in each of the Cases and any Successor Cases (as defined herein);

(iv) authorizing the Debtors (other than Debtor Hollander Sleep Products Canada Limited) to obtain senior secured postpetition financing on a superpriority basis in the aggregate principal amount of up to \$28,000,000.00 (the “DIP Term Loan Credit Facility,” and the loans

thereunder, the “DIP Term Loans,” and the DIP Term Loan Credit Facility together with the DIP ABL Credit Facility, the “DIP Facilities”) pursuant to the terms and conditions of that certain superpriority secured Debtor-in-Possession Term Loan Credit Agreement (as the same may be amended, restated, supplemented, or otherwise modified from time to time, the “DIP Term Loan Credit Agreement,” and together with the DIP ABL Credit Agreement, the “DIP Agreements”), by and among the DIP Term Loan Borrower, the guarantors party thereto from time to time (the “DIP Term Loan Guarantors,” and together with the DIP ABL Guarantors, the “DIP Guarantors”) (the DIP Term Loan Guarantors, together with the DIP Term Loan Borrower, the “DIP Term Loan Parties”) (the DIP Term Loan Parties, together with the DIP ABL Loan Parties, the “DIP Parties”), the financial institutions party thereto from time to time as lenders (collectively, the “DIP Term Loan Lenders,” and together with the DIP Term Loan Agent (defined below), the “DIP Term Loan Secured Parties”) (the DIP Term Loan Secured Parties, together with the DIP ABL Parties, the “DIP Lenders”), and Barings Finance LLC, as administrative agent (in such capacity, the “DIP Term Loan Agent,” and, together with the DIP ABL Agent, collectively, the “DIP Agents”) for and on behalf of itself and the DIP Term Loan Lenders, substantially in the form of **Exhibit C** attached to the DIP Motion;

(v) authorizing the Debtors party thereto to execute and deliver the DIP Term Loan Credit Agreement and any other agreements and documents related thereto (collectively with the DIP Term Loan Credit Agreement, the “DIP Term Loan Documents,” and together with the DIP ABL Documents, the “DIP Documents”) and to perform such other acts as may be necessary or desirable in connection with the DIP Term Loan Documents;

(vi) granting the DIP Term Loan Credit Facility and all obligations owing thereunder and under the DIP Term Loan Documents to the DIP Term Loan Agent and DIP Term Loan

Lenders (collectively, and including all “Obligations” as described in the DIP Term Loan Credit Agreement, the “DIP Term Loan Obligations,” and together with the DIP ABL Obligations, the “DIP Obligations”) allowed superpriority administrative expense claim status in each of the Cases and any Successor Cases, in each case subject to the Carve Out (as defined herein);

(vii) granting to the DIP Agents, for the benefit of themselves and the DIP Lenders and the DIP Obligations, automatically perfected security interests in and liens on all of the DIP ABL Collateral (as defined below), or DIP Term Collateral (as defined herein), as applicable, including, without limitation, all property constituting “Cash Collateral” as defined in section 363(a) of the Bankruptcy Code, which liens shall be subject to the Carve Out and the priorities set forth herein;

(viii) authorizing and directing the Debtors to pay the principal, interest, fees, expenses and other amounts payable under the DIP Documents as such become due, including, without limitation, letter of credit fees (including issuance and other related charges), continuing commitment fees, closing fees, audit fees, appraisal fees, liquidator fees, structuring fees, administrative agent’s fees, the reasonable fees and disbursements of the DIP Agents’ and DIP Lenders’ respective attorneys, advisors, accountants and other consultants, all to the extent provided in, and in accordance with, the applicable DIP Documents;

(ix) authorizing the Debtors to use the Prepetition Collateral, including the Cash Collateral (each as defined below) of the Prepetition ABL Secured Parties and Prepetition ABL Obligations under the Prepetition ABL Documents and the Prepetition Term Loan Secured Parties under the Prepetition Term Loan Documents (each as defined below), and providing adequate protection to the Prepetition ABL Secured Parties, Prepetition ABL Obligations and Prepetition Term Loan Secured Parties for any Diminution in Value (as defined below) of their respective

interests in the Prepetition Collateral, including the Cash Collateral, as applicable, and subject to the Carve Out;

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

(xi) scheduling a final hearing (the “Final Hearing”) to consider the relief requested in the DIP Motion and approving the form of notice with respect to the Final Hearing.

The Court having considered the DIP Motion, the exhibits attached thereto, the *Declaration of Saul Burian in Support of the Debtors’ Motion for Entry of Interim and Final Orders (A) Authorizing the Debtors to Obtain Postpetition Financing, (B) Authorizing the Debtors to Use Cash Collateral, (C) Granting Liens and Providing Superpriority Administrative Expense Status, (D) Granting Adequate Protection to the Prepetition Lenders, (E) Modifying the Automatic Stay, (F) Scheduling a Final Hearing, and (G) Granting Related Relief*, the DIP Documents, the *Declaration of Marc Pfefferle, Chief Executive Officer of Hollander Sleep Products, LLC, in Support of Debtors’ Chapter 11 Petitions and First Day Motions*, and the evidence submitted and argument made at the interim hearing (the “Interim Hearing”); and notice of the Interim Hearing having been given in accordance with Bankruptcy Rules 2002, 4001(b), (c) and (d), and all applicable Local Rules; and the Interim Hearing having been held and concluded; and all objections, if any, to the interim relief requested in the DIP Motion having been withdrawn, resolved or overruled by the Court; and it appearing that approval of the interim relief requested in the DIP Motion is necessary to avoid immediate and irreparable harm to the Debtors and their estates pending the Final Hearing, and otherwise is fair and reasonable and in the best interests of the Debtors, their estates and all parties-in-interest, and is essential for the continued operation of

the Debtors' businesses and the preservation of the value of the Debtors' assets; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the Debtors' entry into the DIP Agreements is a sound and prudent exercise of the Debtors' business judgment; and after due deliberation and consideration, and good and sufficient cause appearing therefor;

BASED UPON THE RECORD ESTABLISHED AT THE INTERIM HEARING, THE COURT MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:²

A. **Petition Date.** On May 19, 2019 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Southern District of New York (the "Court").

B. **Debtors in Possession.** The Debtors have continued in the management and operation of their businesses and properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Cases.

C. **Jurisdiction and Venue.** This Court has jurisdiction over the Cases, the DIP Motion and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157 and 1334. Consideration of the Motion constitutes a core proceeding pursuant to 28 U.S.C. § 157(b)(2). This Court may enter a final order consistent with Article III of the United States Constitution. Venue for the Cases and the proceedings on the Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The bases for the relief sought in the Motion and granted in this Interim Order

² The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

are sections 105, 361, 362, 363, 364, and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6004, and 9014, and the Local Rules.

D. **Committee Formation.** As of the date hereof, the United States Trustee for the Southern District of New York (the “U.S. Trustee”) has not appointed an official committee of unsecured creditors in these Cases pursuant to section 1102 of the Bankruptcy Code (a “Creditors’ Committee”).

E. **Notice.** Proper, timely, adequate, and sufficient notice of the Motion has been provided in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, and no other or further notice of the Motion with respect to the relief requested at the Interim Hearing or the entry of this Interim Order shall be required. The interim relief granted herein is necessary to avoid immediate and irreparable harm to the Debtors and their estates pending a Final Hearing.

F. **Debtors’ Stipulations.** After consultation with their attorneys and financial advisors, and without prejudice to the rights of parties-in-interest as set forth in paragraph 39 herein, the Debtors, on their behalf and on behalf of their estates, admit, stipulate, acknowledge, and agree as follows (paragraphs F(i) through F(xv) below are referred to herein, collectively, as the “Debtors’ Stipulations”), which Debtors’ Stipulations shall not constitute a finding of this Court in accordance with Local Bankruptcy Rule 4001-2(g)(4):

(i) *Prepetition ABL Facility.* Pursuant to that certain Third Amended and Restated Credit Agreement dated as of June 9, 2017 (as amended, restated, supplemented, or otherwise modified from time to time, the “Prepetition ABL Credit Agreement,” and collectively with any other agreements and documents executed or delivered in connection therewith, each as may be amended, restated, supplemented, or otherwise modified from time to time, the

“Prepetition ABL Documents”), among (a) the borrowers thereunder (the “Prepetition ABL Borrowers” and together with the “Guarantors” as defined in the Prepetition ABL Credit Agreement, the “Prepetition ABL Loan Parties”), (b) Dream II Holdings, LLC as parent, (c) Wells Fargo Bank, National Association, as agent (in such capacity, the “Prepetition ABL Agent”), sole lead arranger and sole book runner, and (d) the lenders party thereto (the “Prepetition ABL Lenders,” and collectively with the Prepetition ABL Agent, the “Issuing Lenders” (as defined under the Prepetition ABL Credit Agreement), and the “Bank Product Providers” (as defined under the Prepetition ABL Credit Agreement) the “Prepetition ABL Secured Parties”), the Prepetition ABL Lenders provided credit and other financial accommodations to, and issued letters of credit for the account of, the Prepetition ABL Borrowers pursuant to the Prepetition ABL Documents (the “Prepetition ABL Credit Facility”).

(ii) *Prepetition Put Agreement and Existing Participation Agreement.* Pursuant to that certain (i) Put Agreement dated as of November 27, 2018 (the “Put Agreement”) among Sentinel Capital Partners V, L.P., Sentinel Dream Blocker, Inc., and Sentinel Capital Investors V, L.P. (the “Put Purchasers”), Wells Fargo Bank, National Association and SunTrust Bank, as lenders under the Prepetition ABL Credit Agreement, and the Prepetition ABL Agent, in consideration of providing the Prepetition ABL Borrowers with “Last Out Loans” (as defined in the Prepetition ABL Credit Agreement) (the “Last Out Loans”) (the Last Out Loans and any interest, fees, costs, charges, indemnities and other amounts accrued thereon, the “Last Out Obligations”), the Put Purchasers agreed to purchase a one hundred percent subordinated participation interest in the Last Out Loans provided to the Prepetition ABL Borrowers pursuant to the Prepetition ABL Credit Agreement and (ii) Existing Participation Agreement (as defined in the DIP ABL Credit Agreement) and the occurrence of the “Exercise Date” (as defined in the

Existing Participation Agreement) upon the occurrence of the Petition Date and “Notice of Put Exercise” provided by Prepetition ABL Agent, the Put Purchasers acquired the Participation Interest (as defined in the Existing Participation Agreement) in respect of the Last Out Loans and Last Out Loan Obligations (as defined in the Prepetition ABL Credit Agreement).

(iii) *Prepetition ABL Obligations.* The Prepetition ABL Facility provided the Borrowers with, among other things, (x) \$125,000,000 in aggregate Commitments (as defined in the Prepetition ABL Credit Agreement). As of May 17, 2019, the aggregate principal amount of loans outstanding under the Prepetition ABL Facility was not less than \$61,697,731 plus \$5,136,180 in respect of letters of credit (together with accrued and unpaid interest, and outstanding letters of credit, any reimbursement obligations (contingent or otherwise) in respect of letters of credit, any fees, expenses and disbursements (including, without limitation, attorneys’ fees, accountants’ fees, auditor fees, appraisers’ fees and financial advisors’ fees, and related expenses and disbursements), treasury, cash management, bank product and derivative obligations, indemnification obligations, guarantee obligations, and other charges, amounts and costs of whatever nature owing, whether or not contingent, whenever arising, accrued, accruing, due, owing, or chargeable in respect of any of the Prepetition ABL Borrower’s and certain of the Prepetition ABL Guarantors’ obligations pursuant to the Prepetition ABL Documents, including all “Obligations” as defined in the Prepetition ABL Credit Agreement, including the Last Out Obligations, “Existing Secured Canadian Obligations” (as defined in the DIP ABL Credit Agreement), and “Existing Secured US Obligations” (as defined in the DIP ABL Credit Agreement) (collectively, the “Prepetition ABL Obligations”).

(iv) *Prepetition ABL Liens and Prepetition ABL Priority Collateral.* As more fully set forth in the Prepetition ABL Documents, prior to the Petition Date, the Prepetition ABL

Borrowers and the Prepetition ABL Guarantors granted to the Prepetition ABL Agent, for the benefit of itself and the Prepetition ABL Secured Parties and Prepetition ABL Obligations, a security interest in and continuing lien on (the “Prepetition ABL Liens”) substantially all of their assets and property, including, without limitation, (a) a first priority security interest in and continuing lien on the ABL Priority Collateral (as defined in that certain DIP Intercreditor Agreement referred to and as defined below) and all substitutions, replacements, accessions, products and proceeds of any of the ABL Priority Collateral, in any form, including insurance proceeds and all claims against third parties for loss or damage to, or destruction of, or other voluntary conversion (including claims in respect of condemnation or expropriation) of any kind or nature of any or all of the foregoing (the “Prepetition ABL Priority Collateral”), and (b) a second priority security interest in and continuing lien on the Term Loan Priority Collateral (as defined in that certain DIP Intercreditor Agreement referred to and as defined below) and all substitutions, replacements, accessions, products and proceeds of any of the Term Loan Priority Collateral, in any form, including insurance proceeds and all claims against third parties for loss or damage to, or destruction of, or other voluntary conversion (including claims in respect of condemnation or expropriation) of any kind or nature of any or all of the foregoing (collectively, the “Prepetition Term Loan Priority Collateral,” and together with the Prepetition ABL Priority Collateral, the “Prepetition Collateral”).

(v) *Roll-Up of Obligations Under Prepetition ABL Credit Agreement.* Upon entry of the Final Order, all Existing Secured Obligations (as defined under the DIP ABL Credit Agreement as all “Obligations” under the Prepetition ABL Credit Agreement (as defined below)), including all accrued and unpaid interest thereon and fees, costs, other charges and expenses shall

³ Prepetition Term Loan Obligations and does not include any ABL Canadian Collateral (as defined in the Intercreditor Agreement).

be repaid, deemed repaid, deemed issued or deemed incurred, or otherwise replaced, as applicable, as "Obligations" under the DIP ABL Credit Agreement subject to the terms herein and contained within the Final Order. Notwithstanding the foregoing, nothing in this Interim Order shall impact the ability for the Court to unwind or partially unwind, after notice and a hearing, the pay down of Obligations under the Prepetition ABL Credit Agreement, in the event there is a timely and successful Challenge (as defined below) to the validity, enforceability, extent, perfection or priority of the Prepetition ABL Lenders' liens or claims, or a determination that the Prepetition ABL Obligations were undersecured as of the Petition Date, or that the roll-up of Obligations under the Prepetition ABL Credit Agreement unduly advantaged the Prepetition ABL Lenders.

(vi) *Prepetition Term Loan Facilities.* Pursuant to that certain Term Loan Credit Agreement dated as of June 9, 2017 (as amended, restated or otherwise modified from time to time, the "Prepetition Term Loan Credit Agreement," and collectively with any other agreements and documents executed or delivered in connection therewith, each as may be amended, restated, supplemented, or otherwise modified from time to time, the "Prepetition Term Loan Documents," and together with the Prepetition ABL Documents, the "Prepetition Documents") among (a) the borrower thereto (the "Prepetition Term Loan Borrower" and together with the "Guarantors" as defined in the Prepetition Term Loan Credit Agreement, the "Prepetition Term Loan Parties"), (b) Dream II Holdings, LLC and Hollander Home Fashions Holdings, LLC, as parent guarantors, (c) Barings Finance LLC, as administrative agent (in such capacity, the "Prepetition Term Loan Administrative Agent," and together with the Prepetition ABL Agent, the "Prepetition Agents"), and (d) the lenders party thereto (the "Prepetition Term Loan Lenders," and together with the Prepetition Term Loan Agent, the "Prepetition Term Loan Secured Parties") (the Prepetition Term Loan Lenders, together with the Prepetition ABL Lenders, the "Prepetition Lenders") (the

Prepetition Term Loan Secured Parties, together with the Prepetition ABL Secured Parties, the “Prepetition Secured Parties”), the Prepetition Term Loan Lenders provided first lien term loans to the Prepetition Term Loan Borrower (the “Prepetition Term Loan Credit Facility,” and together with the Prepetition ABL Facility, the “Prepetition Secured Facilities”).

(vii) *Prepetition Term Loan Obligations.* The Prepetition Term Loan Credit Facility provided the Prepetition Term Loan Borrower with commitments to provide term loans in the aggregate principal amount of up to \$190,000,000. As of the Petition Date, the aggregate principal amount outstanding under the Prepetition Term Loan Credit Agreement Facility was \$166,472,407.49 (together with accrued and unpaid interest, any fees, expenses and disbursements (including, without limitation, attorneys’ fees, accountants’ fees, appraisers’ fees and financial advisors’ fees, and related expenses and disbursements), indemnification obligations, and other charges, amounts and costs of whatever nature owing, whether or not contingent, whenever arising, accrued, accruing, due, owing, or chargeable in respect of any of the Prepetition Term Loan Borrowers and certain Prepetition Term Loan Guarantors’ obligations pursuant to the Prepetition Term Loan Documents, including all “Obligations” as defined in the Prepetition Term Loan Credit Agreement, the “Prepetition Term Loan Obligations,” and together with the Prepetition ABL Obligations, the “Prepetition Secured Obligations”).

(viii) *Prepetition Term Loan Liens and Prepetition Term Loan Priority Collateral.* As more fully set forth in the Prepetition Term Loan Documents, prior to the Petition Date, the Prepetition Term Loan Parties granted to the Prepetition Term Loan Agent, for the benefit of itself and the Prepetition Term Loan Lenders security interests in and continuing liens on (the “Prepetition Term Loan Liens,” and together with the Prepetition ABL Liens, the “Prepetition Liens”) substantially all of their assets and property, including, without limitation, (a) first priority

security interests in and continuing liens on the Prepetition Term Loan Priority Collateral, and (b) second priority security interests in and continuing liens on the Prepetition ABL Priority Collateral, provided however that the Prepetition Term Loan Secured Parties do not have liens on and security interests in the assets of the Canadian Loan Parties (as defined in the DIP Intercreditor Agreement).

(ix) *Priority of Prepetition Liens; Prepetition Intercreditor Agreement; DIP Intercreditor Agreement.* The Prepetition Agents entered into that certain Intercreditor Agreement dated as of June 9, 2017 (as amended, restated, supplemented, or otherwise modified in accordance with its terms, the “Prepetition Intercreditor Agreement”) to govern the respective rights, interests, obligations, priority, and positions of the Prepetition Secured Parties with respect to the assets and properties of the Debtors and other obligors, including the Prepetition ABL Priority Collateral and Prepetition Term Loan Priority Collateral. Each of the Prepetition ABL Borrowers and Prepetition Term Loan Borrower acknowledged the Prepetition Intercreditor Agreement. The Prepetition Intercreditor Agreement is binding and enforceable against the Borrowers, the other “Grantors” thereunder and Prepetition Secured Parties in accordance with its terms and the Borrowers, such Grantors and the Prepetition Secured Parties are not entitled to take any action that would be contrary to the provisions thereof. As of the Petition Date, the ABL Agent and Term Loan Agent entered into the Amended and Restated Intercreditor Agreement, amending and restating the Prepetition Intercreditor Agreement in its entirety (the “DIP Intercreditor Agreement”). The DIP Intercreditor Agreement is binding and enforceable against the Borrowers, the other “Grantors” thereunder, the Prepetition Secured Parties and the DIP Lenders in accordance with its terms and the Borrowers, the Prepetition Secured Parties and DIP Lenders are not entitled to take any action that would be contrary to the provisions thereof.

(x) *Validity, Extent, Perfection and Priority of Prepetition ABL Liens and Prepetition ABL Obligations.* The Debtors acknowledge and agree that as of the Petition Date: (a) the Prepetition ABL Liens on the Prepetition Collateral were valid, binding, enforceable, non-avoidable and properly perfected and were granted to, or for the benefit of, the Prepetition ABL Secured Parties and Prepetition ABL Obligations, for fair consideration and reasonably equivalent value; (b) the Prepetition ABL Liens were senior in priority over any and all other liens on the Prepetition Collateral, subject only to (1) the Prepetition Term Loan Liens on the Prepetition Term Loan Priority Collateral, and (2) certain liens otherwise permitted by the Prepetition ABL Documents (solely to the extent any such permitted liens were valid, properly perfected, non-avoidable and senior in priority to the Prepetition ABL Liens as of the Petition Date, the “Prepetition ABL Permitted Prior Liens”); (c) the Prepetition ABL Obligations constitute legal, valid, binding, and non-avoidable obligations of the Prepetition ABL Loan Parties enforceable in accordance with the terms of the applicable Prepetition ABL Documents; (d) no offsets, challenges, objections, defenses, claims or counterclaims of any kind or nature to any of the Prepetition ABL Liens or Prepetition ABL Obligations exist, and no portion of the Prepetition ABL Liens or Prepetition ABL Obligations (including the Last Out Obligations) is subject to any challenge or defense including, without limitation, avoidance, disallowance, disgorgement, recharacterization, or subordination (equitable or otherwise) pursuant to the Bankruptcy Code or applicable non- bankruptcy law; (e) the Debtors and their estates have no claims, objections, challenges, causes of action, and/or choses in action, including without limitation, avoidance claims under Chapter 5 of the Bankruptcy Code or applicable state law equivalents or actions for recovery or disgorgement, against any of the Prepetition ABL Secured Parties or the Put Purchasers (as to the Put Purchasers, subject to and only effective upon the Disinterested Director’s

Determination (as defined below)) or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors and employees arising out of, based upon or related to the Prepetition ABL Facility (including the Last Out Obligations) and entry into the Put Agreement and Existing Participation Agreement; (f) the Debtors have waived, discharged, and released any right to challenge any of the Prepetition ABL Obligations (including the Last Out Obligations), the priority of the Prepetition ABL Loan Parties' obligations thereunder, and the validity, extent, and priority of the liens securing the Prepetition ABL Obligations; and (g) the Prepetition ABL Obligations constitute allowed, secured claims within the meaning of sections 502 and 506 of the Bankruptcy Code. Notwithstanding the foregoing, all of the Debtors' rights and remedies (whether at law or in equity) in connection with any potential claim or cause of action against the Put Purchasers which are, or may be, the subject to investigation by the Debtors' disinterested director are preserved (and nothing shall impair any of the Debtors' right or remedies against the Put Purchasers) until (a) the completion of the investigation by the Debtors' disinterested director and (b) the disinterested director's determination that there are no such claims or causes of action against the Put Purchasers or their respective affiliates or agents (collectively (a) and (b), the "Disinterested Director's Determination").

(xi) *Validity, Extent, Perfection and Priority of Prepetition Term Loan Liens and Prepetition Term Loan Obligations.* The Debtors further acknowledge and agree that, as of the Petition Date: (a) the Prepetition Term Loan Liens were senior in priority over any and all other liens on the Prepetition Collateral (other than ABL Canadian Collateral), subject only to (1) the Prepetition ABL Liens on the Prepetition ABL Priority Collateral and (2) certain liens otherwise permitted by the Prepetition Term Loan Documents (solely to the extent any such permitted liens were valid, properly perfected, non-avoidable and senior in priority to the

Prepetition Term Loan Liens as of the Petition Date, the “Prepetition Term Loan Permitted Prior Liens,” and together with the Prepetition ABL Permitted Prior Liens, the “Permitted Prior Liens”);⁴ (b) the Prepetition Term Loan Liens on the Prepetition Collateral (other than ABL Canadian Collateral) were valid, binding, enforceable, non-avoidable and properly perfected and were granted to, or for the benefit of, the Prepetition Term Loan Secured Parties for fair consideration and reasonably equivalent value; (c) the Prepetition Term Loan Obligations constitute legal, valid, binding, and non-avoidable obligations of the Prepetition Term Loan Parties enforceable in accordance with the terms of the applicable Prepetition Term Loan Documents; (d) no offsets, challenges, objections, defenses, claims or counterclaims of any kind or nature to any of the Prepetition Term Loan Liens or Prepetition Term Loan Obligations exist, and no portion of the Prepetition Term Loan Liens or Prepetition Term Loan Obligations is subject to any challenge or defense including, without limitation, avoidance, disallowance, disgorgement, recharacterization, or subordination (equitable or otherwise) pursuant to the Bankruptcy Code or applicable non-bankruptcy law; (e) the Debtors and their estates have no claims, objections, challenges, causes of action, and/or choses in action, including without limitation, avoidance claims under Chapter 5 of the Bankruptcy Code or applicable state law equivalents or actions for recovery or disgorgement, against any of the Prepetition Term Loan Secured Parties, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors and employees arising out of, based upon or related to the Prepetition Term Loan Facilities; (f) the Debtors have waived, discharged, and released any right to challenge any of the Prepetition Term Loan Obligations, the priority of

⁴ Nothing herein shall constitute a finding or ruling by this Court that any such Permitted Prior Lien is valid, senior, enforceable, prior, perfected or non-avoidable. Moreover, nothing shall prejudice the rights of any party-in-interest, including, but not limited to the Debtors, the DIP Agents, the Prepetition ABL Parties, the Prepetition Term Loan Secured Parties, or a Creditors’ Committee (if appointed), to challenge the validity, priority, enforceability, seniority, avoidability, perfection or extent of any alleged Permitted Prior Lien and/or security interests. The right of a seller of goods to reclaim such goods under section 546(c) of the Bankruptcy Code is not a Permitted Prior Lien and is expressly subject to the Prepetition Liens and DIP Liens.

the Debtors' obligations thereunder, and the validity, extent, and priority of the liens securing the Prepetition Term Loan Obligations; and (g) the Prepetition Term Loan Obligations constitute allowed, secured claims within the meaning of sections 502 and 506 of the Bankruptcy Code.

(xii) *Default by the Debtors.* The Debtors acknowledge and stipulate that the Prepetition ABL Loan Parties are in default of their obligations under the Prepetition ABL Documents and Prepetition Term Loan Parties are in default of their obligations under the Prepetition Term Loan Documents.

(xiii) *Releases.* Subject to entry of the Final Order, the Debtors hereby absolutely and unconditionally release and forever discharge and acquit the Prepetition Secured Parties and the Put Purchasers (as to the Put Purchasers, subject to and only effective upon the occurrence of the Disinterested Director's Determination) and their respective affiliates and each of their respective former, current or future officers, partners, directors, managers, members, principals, employees, agents, related funds, investors, financing sources, financial advisors, attorneys, accountants, investment bankers, consultants, representatives and other professionals and the respective successors and assigns thereof, in each case in their respective capacity as such (collectively, the "Released Parties") from any and all obligations and liabilities to the Debtors (and their successors and assigns) and from any and all claims, counterclaims, demands, debts, accounts, contracts, liabilities, actions and causes of action arising prior to the Petition Date (collectively, the "Released Claims") of any kind, nature or description, whether known or unknown, foreseen or unforeseen or liquidated or unliquidated, arising in law or equity or upon contract or tort or under any state or federal law or otherwise, arising out of or related to (as applicable) the Prepetition Documents, the obligations owing and the financial obligations made thereunder, the negotiation thereof and of the transactions reflected thereby and the obligations

and financial obligations made thereunder, in each case that the Debtors at any time had, now have or may have, or that their successors or assigns hereafter can or may have against any of the Released Parties for or by reason of any act, omission, matter, cause or thing whatsoever arising at any time on or prior to the date of this Interim Order arising out of or related to (as applicable) the Prepetition Documents, the obligations owing and the financial obligations made thereunder, the negotiation thereof and of the transactions reflected thereby and the obligations and financial obligations made thereunder, whether such Released Claims are matured, contingent, liquidated, unliquidated, unmatured, known, unknown or otherwise.

(xiv) *Cash Collateral*. All cash, securities or other properties of the DIP Parties (and the proceeds therefrom) as of the Petition Date, including, without limitation, all cash, securities or other property (and the proceeds therefrom) and other amounts on deposit or maintained by the DIP Parties in any account or accounts were subject to rights of set-off under the Prepetition Documents and applicable law, for the benefit of the Prepetition Secured Parties and Prepetition Secured Obligations, subject to the terms of the DIP Intercreditor Agreement. All proceeds of the Prepetition Collateral (including cash on deposit in any account or accounts as of the Petition Date, securities or other property, whether subject to control agreements or otherwise, in each case that constitutes Prepetition Collateral) are “Cash Collateral” of the applicable Prepetition Secured Parties and Prepetition Secured Obligations within the meaning of section 363(a) of the Bankruptcy Code (the “Cash Collateral”), subject to the Carve Out and the terms of the DIP Intercreditor Agreement.

(xv) *DIP Intercreditor Agreement*. Pursuant to section 510 of the Bankruptcy Code, except as expressly provided by the terms of this Interim Order, the DIP Intercreditor Agreement and any other intercreditor agreement or subordination agreement between and/or

among any Prepetition ABL Loan Party, any Prepetition Term Loan Party, any Debtor or affiliate thereof, and any other applicable intercreditor or subordination provisions contained in any of the Prepetition Documents (i) shall remain in full force and effect, (ii) shall continue to govern the relative priorities, rights and remedies of the Prepetition ABL Secured Parties and the Prepetition Term Loan Secured Parties (including the relative priorities, rights and remedies of such parties with respect to the replacement liens and administrative expense claims and superpriority administrative expense claims granted, or amounts payable, by the Debtors under this Interim Order or otherwise and the modification of the automatic stay), and (iii) shall not be deemed to be amended, altered or modified by the terms of this Interim Order or the DIP Documents, unless expressly set forth herein. The DIP ABL Credit Facility is an ABL Document as that term is used in the DIP Intercreditor Agreement, and any repayment of the Prepetition ABL Obligations pursuant to this Interim Order shall not be deemed to constitute a “Payment in Full of ABL Debt” as such term is defined in the DIP Intercreditor Agreement. The DIP Term Loan Credit Facility is a Term Loan Document as that term is used in the DIP Intercreditor Agreement.

G. Findings Regarding Postpetition Financing

(i) *Request for Postpetition Financing.* The Debtors seek authority to (a) enter into the DIP Facilities on the terms described herein and in the DIP Documents, and (b) use Cash Collateral on the terms described herein to administer their Cases and fund their operations. At the Final Hearing, the Debtors will seek final approval of the proposed postpetition financing and use of Cash Collateral arrangements pursuant to a proposed final order (the “Final Order”), which shall be in form and substance acceptable to each of the DIP Agents, and DIP Term Loan Lenders holding in excess of fifty percent (50%) of the outstanding loans and commitments under the DIP Term Loan Credit Facility (the “Required DIP Term Loan Lenders”) (the Required DIP Term

Loan Lenders or the “Required Lenders” under the DIP ABL Credit Agreement, as applicable, the “Required DIP Lenders”). Notice of the Final Hearing and Final Order will be provided in accordance with this Interim Order.

(ii) *Priming of the Prepetition Liens.* The priming of the Prepetition Secured Parties on the Prepetition Collateral under section 364(d) of the Bankruptcy Code, as contemplated by the DIP Facilities and as further described below, will enable the Debtors to obtain the DIP Facilities and to continue to operate their businesses to the benefit of their estates and creditors. The Prepetition ABL Secured Parties, the Prepetition ABL Obligations and the Prepetition Term Loan Secured Parties are each entitled to receive adequate protection as set forth in this Interim Order pursuant to sections 361, 363, and 364 of the Bankruptcy Code, for any diminution in value (“Diminution in Value”) of each of their respective interests in the Prepetition Collateral (including Cash Collateral).

(iii) *Need for Postpetition Financing and Use of Cash Collateral.* The Debtors have an immediate and critical need to obtain the financing pursuant to the DIP Facilities and to continue to use the Prepetition Collateral (including Cash Collateral) in order to, among other things, (i) permit the orderly continuation of the operation of their businesses, (ii) maintain business relationships with customers, vendors and suppliers, (iii) make payroll, and (iv) satisfy other working capital and operational needs. The access by the DIP Parties to sufficient working capital and liquidity through the use of Cash Collateral and other Prepetition Collateral, incurrence of new indebtedness under the DIP Documents and other financial accommodations provided under the DIP Documents are necessary and vital to the preservation and maintenance of the going concern value of the DIP Parties and to a successful reorganization of the DIP Parties and DIP Obligations. The terms of the proposed financing are fair and reasonable, reflect each DIP Parties’

exercise of prudent business judgment, and are supported by reasonably equivalent value and fair consideration. The adequate protection provided in this Interim Order and other benefits and privileges contained herein are consistent with and authorized by the Bankruptcy Code.

(iv) *No Credit Available on More Favorable Terms.* The DIP Facilities are the best source of debtor in possession financing available to the Debtors. Given their current financial condition, financing arrangements, and capital structure, the Debtors have been and continue to be unable to obtain financing from sources other than the DIP Lenders on terms more favorable than the DIP Facilities. The Debtors are unable to obtain unsecured credit allowable under Bankruptcy Code section 503(b)(1) as an administrative expense. The Debtors have also been and are unable to obtain: (a) unsecured credit having priority over that of administrative expenses of the kind specified in sections 503(b), 507(a) and 507(b) of the Bankruptcy Code; (b) credit secured solely by a lien on property of the Debtors and their estates that is not otherwise subject to a lien; or (c) credit secured solely by a junior lien on property of the Debtors and their estates that is subject to a lien. Financing on a postpetition basis is not otherwise available without granting the DIP Agents, for the benefit of themselves and the DIP Lenders and on account of the obligations under the DIP Facilities (including the Last Out Obligations): (1) perfected security interests in and liens on (each as provided herein) all of the Debtors' existing and after-acquired assets with the priorities set forth in paragraph 6 hereof, (2) superpriority claims and liens, and (3) the other protections set forth in this Interim Order.

(v) *Use of proceeds of the DIP Facilities.* As a condition to entry into the DIP Documents, the extension of credit under the DIP Facilities and the authorization to use Cash Collateral, the DIP Agents, the DIP Lenders, and the Prepetition Secured Parties require, and the Debtors have agreed, that proceeds of the DIP Facilities shall be used, in each case in a manner

consistent with the terms and conditions of this Interim Order and the DIP Documents and in accordance with the budget attached hereto as **Exhibit A**, as the same may be modified from time to time consistent with the terms of the DIP Documents, and subject to such variances as permitted in the DIP Agreements (such budget, as so modified, the “Approved Budget”),⁵ solely for: (a) working capital and letters of credit; (b) other general corporate purposes of the Debtors; (c) permitted payment of costs of administration of the Cases; (d) (1) payment of such prepetition expenses of the Prepetition Term Loan Secured Parties as consented to by the DIP Term Agent and the Required DIP Term Loan Lenders, and (2) payment of such prepetition expenses of the Prepetition ABL Secured Parties as consented to by the DIP ABL Agent in its sole discretion, in each case under clauses (1) and (2) as approved by the Court; (e) payment of interest, fees and expenses (including without limitation, legal and other professionals’ fees and expenses of the DIP Agents) owed under the DIP Documents; (f) payment of certain adequate protection amounts to the Prepetition Secured Parties and Prepetition Secured Obligations, as set forth in paragraph 16 hereof; (g) the reduction of the Prepetition ABL Obligations pending entry of the Final Order (or as otherwise required under any recognition orders by the Canadian Court (as defined in the DIP ABL Credit Agreement)) in respect of the Canadian Borrower (as defined in the DIP ABL Credit Agreement) and payment in full of the Prepetition ABL Obligations upon entry of a Final Order (or as otherwise required under such recognition orders of the Canadian Court in respect of the Canadian Borrower); (h) the Canadian Borrower to borrow under the DIP ABL Credit Agreement and lend such borrowed amounts to any Debtor other than the Canadian Borrower on a superpriority administrative expense basis pursuant to section 507(b) of the Bankruptcy Code (the “Canadian Intercompany Superpriority Administrative Claims”); (i) upon entry of the Final Order,

⁵ A copy of the initial Approved Budget is attached hereto as **Exhibit 1**.

and delivery of the Participation Agreement (as defined in the DIP ABL Credit Agreement), deemed refinancing and replacement of the Last Out Obligations with the Last Out DIP Obligations⁶ (as defined by the DIP ABL Credit Agreement), subject to the rights preserved in paragraph 42 of this Interim Order; and (j) payment of the Carve Out shall be in accordance with paragraph 39 of this Interim Order. The reduction of the Prepetition ABL Obligations from the Cash Collateral consisting of ABL Priority Collateral in accordance with this Interim Order is necessary as the Prepetition ABL Parties have not otherwise consented to the use of their Cash Collateral or the subordination of their liens to the DIP Liens (as defined below), and the DIP ABL Agent and the DIP ABL Lenders will not otherwise consent to providing the DIP ABL Credit Facility and extending credit to the Debtors thereunder. Further the DIP ABL Agent and DIP ABL Lenders are not willing to provide the DIP ABL Credit Facility unless the Canadian Borrower is a joint and several obligor with respect to the DIP ABL Obligations.

(vi) *Application of Proceeds of Collateral.* As a condition to entry into the DIP Agreements, the extension of credit under the DIP Facilities and authorization to use Cash Collateral, the Debtors, the DIP Agents, the DIP Lenders, the Prepetition ABL Secured Parties and the Prepetition Term Loan Secured Parties have agreed that, as of and commencing on the date of the Interim Hearing, the Debtors shall apply the proceeds of DIP Collateral in accordance with this Interim Order and the DIP Intercreditor Agreement.

H. **Adequate Protection.** Subject to the Carve Out, the Prepetition ABL Agent, for the benefit of itself and the Prepetition ABL Secured Parties on account of the Prepetition ABL Obligations (including the Last Out Obligations), and the Prepetition Term Loan Agent, for the benefit of itself and the Prepetition Term Loan Secured Parties, are each entitled to receive

⁶ “Last Out DIP Obligations” shall have the meaning ascribed to the term “Last Out Obligations” in the DIP ABL Credit Agreement.

adequate protection to the extent of any Diminution in Value of their respective interests in the Prepetition Collateral. Pursuant to sections 361, 363 and 507(b) of the Bankruptcy Code, as adequate protection: (i) the Prepetition ABL Secured Parties and Prepetition ABL Obligations will receive adequate protection liens and superpriority claims, as more fully set forth in paragraphs 11-14 herein and the Prepetition ABL Secured Parties (other than on account of the Last Out Loans and Last Out Obligations) shall receive current payment of interest at the default rate (provided the Last Out Loans and Last Out Obligations shall accrue payment of interest at the default rate as part of the Last Out Loans and Last Out Obligations), reasonable and documented fees and expenses (including without limitation, legal and other professionals' fees and expenses of the Prepetition ABL Agent, whether arising before or after the Petition Date); and (ii) the Prepetition Term Loan Secured Parties will receive (a) adequate protection liens and superpriority claims, as more fully set forth in paragraphs 11-14 herein, and (b) current payment of reasonable and documented expenses (including without limitation, legal and other professionals' fees and expenses of the Prepetition Term Loan Agent whether arising before or after the Petition Date.

I. **Sections 506(c) and 552(b).** In light of (i) the DIP Agents' and DIP Lenders' agreement that their liens and superpriority claims shall be subject to the Carve Out (including the caps and limitations set forth therein); (ii) the Prepetition ABL Secured Parties' agreement that, with respect to the Prepetition ABL Priority Collateral, their liens shall be subject to the Carve Out (and the caps and limitations set forth therein), subordinate to the DIP ABL Liens, and, in the case of the Prepetition Term Loan Priority Collateral, subordinate to the DIP Term Loan Liens and the Prepetition Term Loan Liens; and (iii) the Prepetition Term Loan Secured Parties' agreement that, with respect to the Prepetition Term Loan Priority Collateral, their liens shall not include the ABL Canadian Collateral (as defined in the DIP Intercreditor Agreement) and shall be subject to the

Carve Out and subordinate to the DIP Term Loan Liens and, in the case of the ABL Priority Collateral, subordinate to the DIP ABL Liens, the Prepetition ABL Liens and the DIP Term Loan Liens, (a) subject to entry of a Final Order, the Prepetition ABL Secured Parties, Prepetition ABL Obligations, and Prepetition Term Loan Secured Parties are each entitled to a waiver of any “equities of the case” exception under section 552(b) of the Bankruptcy Code, and (b) subject to entry of a Final Order, the DIP Agents, DIP Lenders, DIP Obligations, Prepetition ABL Secured Parties, Prepetition ABL Obligations, and Prepetition Term Loan Secured Parties are each entitled to a waiver of the provisions of section 506(c) of the Bankruptcy Code, subject to the terms of the DIP Intercreditor Agreement.

J. **Good Faith of the DIP Agents and DIP Lenders.**

(i) *Willingness to Provide Financing.* The DIP Lenders have indicated a willingness to provide financing to the Debtors subject to: (a) entry of this Interim Order and the Final Order; (b) approval of the terms and conditions of the DIP Facilities and the DIP Documents; (c) satisfaction of the closing conditions set forth in the DIP Documents; (d) entry of the Canadian Recognition Orders (as defined by the DIP ABL Credit Agreement) and (e) findings by this Court that the DIP Financing is essential to the Debtors’ estates, that the DIP Agents and DIP Lenders are extending credit to the Debtors pursuant to the DIP Documents in good faith, and that the DIP Agents’ and DIP Lenders’ claims, superpriority claims, security interests and liens and other protections granted pursuant to this Interim Order and the DIP Documents will have the protections provided by section 364(e) of the Bankruptcy Code.

(ii) *Business Judgment.* Based on the Motion, the declarations filed in support of the Motion, and the record presented to the Court at the Interim Hearing, (i) the terms of the financing provided by the DIP Facilities, (ii) the adequate protection provided by the Interim Order

and DIP Documents and (iii) the terms on which the DIP Parties may continue to use the Prepetition Collateral (including Cash Collateral), in each case pursuant to this Interim Order and the DIP Documents, are in each case fair and reasonable, reflect the DIP Parties' exercise of prudent business judgment consistent with their fiduciary duties, constitute reasonably equivalent value and fair consideration, and represents the best financing (and terms) presently available.

(iii) *Good Faith Pursuant to Section 364(e)*. The terms and conditions of the DIP Facilities and the use of Cash Collateral were negotiated in good faith and at arms' length among the Debtors, DIP Agents, DIP Lenders, Prepetition ABL Secured Parties and Prepetition Term Loan Secured Parties, with the assistance and counsel of their respective advisors. Use of Cash Collateral and credit to be extended under the DIP Facilities shall be deemed to have been allowed, advanced, made, or extended in good faith by the DIP Agents, DIP Lenders, Prepetition ABL Secured Parties, and Prepetition Term Loan Secured Parties within the meaning of section 364(e) of the Bankruptcy Code.

K. **Immediate Entry**. Sufficient cause exists for immediate entry of this Order pursuant to Bankruptcy Rule 4001(c)(2).

L. **Interim Hearing**. Notice of the Interim Hearing and the relief requested in the DIP Motion has been provided by the Debtors, whether by facsimile, electronic mail, overnight courier or hand delivery, to certain parties-in-interest, including, among others: (i) the U.S. Trustee, (ii) those entities or individuals included on the Debtors' list of 50 largest unsecured creditors on a consolidated basis, (iii) counsel to the Prepetition ABL Agent, (iv) counsel to the Prepetition Term Loan Agent; (v) counsel to the Put Purchasers; and (vi) all other parties entitled to notice under the Local Rules. The Debtors have made reasonable efforts to afford the best notice possible

under the circumstances and no other notice is required in connection with the relief set forth in this Interim Order.

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

IT IS HEREBY ORDERED THAT:

1. Interim Financing Approved. The DIP Motion is granted, the Interim Financing (as defined below) is authorized and approved, and the use of Cash Collateral on an interim basis is authorized, in each case, subject to the terms and conditions set forth in this Interim Order. All objections to this Interim Order to the extent not withdrawn, waived, settled or resolved, and all reservations of rights included therein, are hereby denied and overruled on the merits. This Interim Order shall become effective immediately upon its entry.

DIP Facilities Authorization

2. Authorization of the DIP Financing. The Interim Financing is hereby approved. The Debtors are expressly and immediately authorized and empowered to execute and deliver the DIP Documents, and to incur and to perform the DIP Obligations in accordance with, and subject to, the terms of this Interim Order and the DIP Documents, and to deliver all instruments, certificates, agreements, and documents which may be required or necessary for the performance by the Debtors under the DIP Facilities and the creation and perfection of the DIP Liens (as defined below) described in and provided for by this Interim Order and the DIP Documents. The Debtors are hereby authorized and directed to pay, in accordance with this Interim Order, the principal, interest, fees, expenses and other amounts described in the DIP Documents and all other documents comprising the DIP Facilities as such become due and without

need to obtain further Court approval, including, without limitation, closing fees, letter of credit fees (including issuance, fronting, and other related charges), unused facility fees, continuing commitment fees, backstop fees, exit fees, servicing fees, audit fees, appraisal fees, liquidator fees, structuring fees, administrative agent's fees, the reasonable fees and disbursements of the DIP Agents' attorneys, advisors, accountants, and other consultants, whether or not such fees arose before or after the Petition Date, and whether or not the transactions contemplated hereby are consummated, to implement all applicable reserves and to take any other actions that may be necessary or appropriate, all to the extent provided in this Interim Order or the DIP Documents. All collections and proceeds, whether from ordinary course collections, asset sales, debt or equity issuances, insurance recoveries, condemnations or otherwise, will be deposited and applied as required by this Interim Order and the DIP Documents. Upon execution and delivery, the DIP Documents shall represent valid and binding obligations of the Debtors, enforceable against each of the Debtors and their estates in accordance with their terms. The Last Out DIP Obligations and Last Out Obligations (as applicable) shall include interest at the default rate and reasonable and documented fees and expenses of the Put Purchasers (such amounts not to be paid currently but to accrue as part of the Last Out DIP Obligations and Last Out Obligations (as applicable)).

3. Authorization to Borrow. In order to prevent immediate and irreparable harm to the Debtors' estates, from the entry of this Interim Order through and including the earliest to occur of (i) entry of the Final Order or (ii) the Termination Declaration (as defined below), and subject to the terms, conditions, limitations on availability and reserves set forth in the DIP Documents and this Interim Order, the Debtors are hereby authorized to (a) forthwith borrow money pursuant to the DIP ABL Credit Agreement and the DIP ABL Guarantors are hereby authorized to guaranty the DIP ABL Obligations, in each case up to an aggregate principal or face

amount equal to, on an interim basis, the amount of incremental funding under the DIP ABL Credit Facility as set forth in the Approved Budget and in accordance with the terms of this Interim Order pending entry of the Final Order, and up to \$90 million under the DIP ABL Credit Facility upon entry of the Final Order, together with applicable interest, expenses, fees and other charges payable in connection with the DIP ABL Credit Facility, subject in each case to any limitations on borrowing under the DIP ABL Documents, which shall be used for all purposes permitted under the DIP Documents, including, without limitation, to refinance the portions of the Prepetition ABL Credit Facility and Prepetition ABL Obligations as provided herein and (ii) forthwith borrow money pursuant to the DIP Term Loan Credit Agreement and the DIP Term Loan Guarantors are hereby authorized to guaranty the DIP Term Loan Parties' DIP Term Loan Obligations with respect to such borrowings, in each case up to an aggregate principal amount equal to \$15,000,000 on an interim basis (together with the interim financing under the DIP ABL Credit Agreement, the "Interim Financing") together with applicable interest, expenses, fees and other charges payable in connection with the DIP Term Loan Credit Facility and, subject to entry of the Final Order, an aggregate amount of \$13 million, in two draws, \$7 million upon entry of the Final Order and \$6 million on the date contemplated in the Approved Budget, in each case together with applicable interest, expenses, fees and other charges payable in connection with the DIP Term Loan Credit Facility, subject to any limitations on borrowing under the DIP Term Loan Documents, which shall be used for all purposes permitted under the DIP Documents, including, without limitation, to satisfy certain outstanding amounts of the Prepetition ABL Credit Facility and Prepetition ABL Obligations as provided herein, to provide working capital for the DIP Parties and to pay interest, fees, costs, charges and expenses in accordance with this Interim Order, the DIP Documents and the Approved Budget (subject to the variances permitted by the DIP Agreements). In connection

with obtaining and using funds to enable the Debtors to pay the expenses set forth in the Approved Budget (subject to the variances permitted by the DIP Agreements), the Debtors shall borrow and use (or in the case of amounts already then borrowed under the DIP Term Loan Credit Facility, use), on a weekly and cumulative basis, an approximately equal amount from the DIP ABL Credit Facility (subject to Availability) and the amounts borrowed under the DIP Term Loan Credit Facility; *provided, however*, until the entry of the Canadian Initial Recognition Order (as defined in the DIP ABL Credit Agreement), the Canadian Borrowing Base is deemed to be \$0.

4. DIP Obligations. The DIP Documents and this Interim Order shall constitute and evidence the validity and binding effect of the Debtors' DIP Obligations, which DIP Obligations shall be enforceable against the Debtors, their estates and any successors thereto, including without limitation, any trustee appointed in the Cases, or in any case under Chapter 7 of the Bankruptcy Code upon the conversion of any of the Cases, or in any other proceedings superseding or related to any of the foregoing (collectively, the "Successor Cases"). Upon entry of this Interim Order, the DIP Obligations will include all loans, letter of credit reimbursement obligations, and any other indebtedness or obligations, contingent or absolute, which may now or from time to time be owing by any of the Debtors to the DIP Agents or any of the DIP Lenders, under the DIP Documents or this Interim Order, including, without limitation, all principal, accrued interest, costs, charges, fees, expenses and other amounts under the DIP Documents. Upon entry of this Interim Order, all (i) Bank Products, (ii) Cash Management Services, and (iii) Letters of Credit (each as defined in the Prepetition ABL Credit Agreement) shall continue in place and all obligations under or in connection therewith shall be subject to the DIP ABL Credit Agreement and shall constitute DIP ABL Obligations. The DIP ABL Loan Parties shall be jointly and severally liable for the DIP ABL Obligations. The DIP Term Loan Parties shall be jointly and

severally liable for the DIP Term Obligations. The DIP Obligations, as applicable, shall be due and payable, without notice or demand, and the use of Cash Collateral shall automatically cease on each applicable Termination Date, as applicable, except as provided in paragraph 30 herein. No obligation, payment, transfer, or grant of collateral security hereunder or under the DIP Documents (including any DIP Obligation or DIP Liens, and including in connection with any adequate protection provided to the Prepetition Secured Parties and Prepetition Secured Obligations hereunder) shall be stayed, restrained, voidable, avoidable, or recoverable, under the Bankruptcy Code or under any applicable law (including, without limitation, under sections 502(d), 544, and 547 to 550 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, or similar statute or common law), or subject to any avoidance, reduction, setoff, recoupment, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), counterclaim, cross-claim, defense, or any other challenge under the Bankruptcy Code or any applicable law or regulation by any person or entity.

5. DIP Liens. In order to secure the DIP Obligations, effective immediately upon entry of this Interim Order, pursuant to sections 361, 362, 364(c)(2), 364(c)(3), and 364(d) of the Bankruptcy Code, the applicable DIP Agents, for the benefit of themselves and the DIP Lenders and/or DIP Obligations, are hereby granted, continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected postpetition security interests in and liens on (collectively, the “DIP Liens”) all real and personal property, whether now existing or hereafter arising and wherever located, tangible and intangible, of, with respect to the DIP ABL Obligations, each of the DIP ABL Loan Parties (the “DIP ABL Collateral”) or, with respect to the DIP Term Loan Obligations, each of the DIP Term Loan Parties (the “DIP Term Collateral,” together with

the DIP ABL Collateral, the “DIP Collateral”),⁷ including without limitation: (a) all cash, cash equivalents, deposit accounts, securities accounts, accounts, other receivables (including credit card receivables), chattel paper, contract rights, inventory (wherever located), instruments, documents, securities (whether or not marketable) and investment property (including, without limitation, all of the issued and outstanding capital stock of each of its subsidiaries), furniture, fixtures, equipment, goods, franchise rights, trade names, trademarks, servicemarks, copyrights, patents, intellectual property, general intangibles, rights to the payment of money (including, without limitation, tax refunds and any other extraordinary payments), supporting obligations, guarantees, letter of credit rights, commercial tort claims, causes of action and all substitutions, books and records related to the foregoing, accessions and proceeds of the foregoing, wherever located, including insurance or other proceeds, (b) all owned real property interests and all proceeds of leased real property, (c) upon entry of a Final Order, proceeds of any avoidance actions brought pursuant to section 549 of the Bankruptcy Code to recover any post-petition transfer of DIP Collateral and, upon entry of a Final Order, proceeds of any avoidance actions brought pursuant to Chapter 5 of the Bankruptcy Code and (d) subject to entry of a Final Order, the Debtors’ rights under section 506(c) of the Bankruptcy Code and the proceeds thereof and including all DIP Collateral that was not otherwise subject to valid, perfected, enforceable and unavoidable liens on the Petition Date. DIP Collateral that is of a type that would be ABL Priority Collateral (as defined the DIP Intercreditor Agreement) and the proceeds and products thereof shall in each case, constitute “DIP ABL Priority Collateral,” DIP Collateral that is of a type that would be Term Loan Priority Collateral (as defined in the DIP Intercreditor Agreement) and the

⁷ For the avoidance of doubt, the DIP Term Collateral does not include ABL Canadian Collateral (as defined by the DIP Intercreditor Agreement).

proceeds and products thereof and shall, in each case, constitute “DIP Term Loan Priority Collateral”.

6. DIP Lien Priority. The DIP Liens securing the DIP ABL Obligations (the “DIP ABL Liens”) are valid, automatically perfected, non-avoidable, senior in priority and superior to any security, mortgage, collateral interest, lien or claim to any of the DIP Collateral, except that the DIP ABL Liens shall be subject to the Carve Out, and shall otherwise be junior only to: (i) as to the DIP ABL Priority Collateral, Permitted Prior Liens; and (ii) as to the DIP Term Loan Priority Collateral, (A) Permitted Prior Liens; (B) the DIP Term Loan Liens (as defined below); (C) the Prepetition Term Loan Liens; and (D) the Prepetition Term Loan Adequate Protection Liens. The DIP Liens securing the DIP Term Loan Obligations (the “DIP Term Loan Liens”) are valid, automatically perfected, non-avoidable, senior in priority and superior to any security, mortgage, collateral interest, lien or claim to any of the DIP Term Loan Collateral, except that the DIP Term Loan Liens shall be (1) subject to the Carve Out and (2) shall otherwise be junior only to: (i) as to the DIP Term Loan Priority Collateral, Permitted Prior Liens; and (ii) as to the DIP ABL Priority Collateral, (A) Permitted Prior Liens; (B) the DIP ABL Liens; (C) the Prepetition ABL Liens; (D) the Prepetition ABL Adequate Protection Liens; and (E) the Canadian Intercompany Superpriority Administrative Claims. Other than as set forth herein or in the DIP Documents, the DIP Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter granted in the Cases or any Successor Cases, and shall be valid and enforceable against any trustee appointed in the Cases or any Successor Cases, upon the conversion of any of the Cases to a case under Chapter 7 of the Bankruptcy Code (or in any other Successor Case), and/or upon the dismissal of any of the Cases or Successor Cases. The DIP Liens shall not be subject to section 510, 549 or 550 of the Bankruptcy Code. No lien or interest avoided

and preserved for the benefit of the estate pursuant to section 551 of the Bankruptcy Code shall be *pari passu* with or senior to the DIP Liens. Notwithstanding anything herein to the contrary, none of the Prepetition Term Loan Adequate Protection Liens or DIP Term Loan Liens shall exist with respect to any ABL Canadian Collateral (as defined by the DIP Intercreditor Agreement).

7. Superpriority Claims. Upon entry of this Interim Order, the DIP Agents and DIP Lenders are hereby granted, pursuant to Section 364(c)(1) of the Bankruptcy Code, allowed superpriority administrative expense claims in each of the Cases and any Successor Cases (collectively, the “DIP Superpriority Claims”) for all DIP Obligations (including Last Out DIP Obligations): (a) except as set forth herein, with priority over any and all administrative expense claims and unsecured claims against the Debtors or their estates in any of the Cases and any Successor Cases, at any time existing or arising, of any kind or nature whatsoever, including, without limitation, administrative expenses of the kinds specified in or ordered pursuant to Bankruptcy Code Sections 105, 326, 328, 330, 331, 364, 503(a), 503(b), 507(a), 507(b), 546(c), 546(d), 726, 1113 and 1114, and any other provision of the Bankruptcy Code, as provided under Section 364(c)(1) of the Bankruptcy Code; and (b) which shall at all times be senior to the rights of the Debtors and their estates, and any successor trustee or other estate representative to the extent permitted by law. Notwithstanding the foregoing, the DIP Superpriority Claims shall be *pari passu* with each other, without otherwise impairing the lien priorities as set forth herein, and subject to the terms of the DIP Intercreditor Agreement and Carve Out (including the caps and limitations therein).

8. No Obligation to Extend Credit. Except as required to fund the Carve Out in accordance with the terms of this Order, the DIP Agents and DIP Lenders shall have no obligation to make any loan or advance under the DIP Documents unless all of the conditions

precedent to the making of such extension of credit or the issuance, amendment, renewal or extension of such letter of credit or bankers' acceptance under the DIP Documents and this Interim Order have been satisfied in full or waived by the DIP ABL Agent (in its sole discretion), DIP Term Loan Agent (acting at the direction of the Required DIP Term Loan Lenders), as applicable, and in accordance with the terms of the DIP ABL Credit Agreement and the DIP Term Loan Credit Agreement, as applicable.

9. Use of Proceeds of DIP Facilities. From and after the Petition Date, the Debtors shall use advances of credit under the DIP Facilities, in accordance with the Approved Budget (subject to such variances as permitted in the DIP Agreements), only for the purposes specifically set forth in this Interim Order and the DIP Documents, and in compliance with the terms and conditions in this Interim Order and the DIP Documents.

10. No Monitoring Obligation. No DIP Lender or DIP Agent shall have any obligation nor responsibility to monitor any DIP Party's use of DIP Facilities, and each DIP Lender or DIP Agent may rely upon each DIP Party's representation that the use of the DIP Facilities at any time is in accordance with the requirements of this Interim Order, the DIP Documents and Bankruptcy Rule 4001(c)(2).

Authorization to Use Cash Collateral

11. Authorization to Use Cash Collateral. Subject to the terms and conditions of this Interim Order, the DIP Facilities and the DIP Documents and in accordance with the Approved Budget (subject to variances as permitted in the DIP Agreements), the Debtors are authorized to use Cash Collateral until each applicable Termination Date. Nothing in this Interim Order shall authorize the disposition of any assets of the Debtors outside the ordinary course of business, or any Debtor's use of any Cash Collateral or other proceeds resulting therefrom, except

as permitted in this Interim Order (including with respect to the Carve Out), the DIP Facilities, the DIP Documents, and in accordance with the Approved Budget (subject to such variances as permitted in the DIP Agreements). All Cash Collateral consisting of ABL Priority Collateral shall be applied to reduce the Prepetition ABL Obligations as set forth in the DIP ABL Credit Agreement.

12. Adequate Protection Liens. Subject to the terms of the DIP Intercreditor Agreement and the Carve Out:

(i) *Prepetition ABL Adequate Protection Liens*. Pursuant to Sections 361, 363(e) and 364(d) of the Bankruptcy Code, as adequate protection of the interests of the Prepetition ABL Secured Parties and the Prepetition ABL Obligations in the Prepetition Collateral against any Diminution in Value of such interests in the Prepetition Collateral, the DIP ABL Loan Parties hereby grant to the Prepetition ABL Agent, for the benefit of itself and the Prepetition ABL Secured Parties and the Prepetition ABL Obligations, continuing valid, binding, enforceable and perfected postpetition security interests in and liens on the DIP ABL Collateral (the “Prepetition ABL Adequate Protection Liens”).

(ii) *Prepetition Term Loan Adequate Protection Liens*. Pursuant to Sections 361, 363(e) and 364(d) of the Bankruptcy Code, as adequate protection of the interests of the Prepetition Term Loan Secured Parties in the Prepetition Collateral against any Diminution in Value of such interests in the Prepetition Collateral, the Prepetition Term Loan Parties hereby grant to the Prepetition Term Loan Agent, on behalf of itself and the Prepetition Term Loan Secured Parties continuing valid, binding, enforceable and perfected postpetition security interests in and liens on the DIP Term Collateral (the “Prepetition Term Loan Adequate Protection Liens,” and together with the Prepetition ABL Adequate Protection Liens, the “Adequate Protection Liens”).

13. Priority of Adequate Protection Liens. Subject to the terms of the DIP Intercreditor Agreement:

(i) The Prepetition ABL Adequate Protection Liens shall be subject to the Carve Out (and the caps and limitations set forth therein). The Prepetition ABL Adequate Protection Liens shall otherwise be junior only to: (a) with respect to the DIP ABL Priority Collateral (other than to the extent securing the Last Out Loan Obligations) (1) Permitted Prior Liens; (2) the DIP ABL Liens; and (3) the Prepetition ABL Liens; and (b) with respect to the DIP Term Loan Priority Collateral (1) Permitted Prior Liens; (2) the DIP Term Loan Liens; (3) the Prepetition Term Loan Liens; (4) the Prepetition Term Loan Adequate Protection Liens; (5) the DIP ABL Liens; and (6) the Prepetition ABL Liens. The Prepetition ABL Adequate Protection Liens shall be senior to all other security interests in, liens on, or claims against any of the DIP ABL Loan Parties' assets.

(ii) The Prepetition Term Loan Adequate Protection Liens shall be subject to the Carve Out and shall otherwise be junior only to: (a) with respect to the DIP ABL Priority Collateral (1) Permitted Prior Liens; (2) the DIP ABL Liens; (3) the Canadian Intercompany Superpriority Administrative Claims (4) the Prepetition ABL Liens; (5) the Prepetition ABL Adequate Protection Liens; (6) the DIP Term Loan Liens; and (7) the Prepetition Term Loan Liens; and (b) with respect to the DIP Term Loan Priority Collateral (1) Permitted Prior Liens; (2) the DIP Term Loan Liens; and (3) the Prepetition Term Loan Liens. The Prepetition Term Loan Adequate Protection Liens shall be senior to all other security interests in, liens on, or claims against any of the DIP Term Loan Parties' assets. Except as provided herein, the Adequate Protection Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter in the Cases or any Successor Cases, and shall be valid and

enforceable against any trustee appointed in any of the Cases or any Successor Cases, or upon the dismissal of any of the Cases or Successor Cases. The Adequate Protection Liens shall not be subject to sections 510, 549, or 550 of the Bankruptcy Code. No lien or interest avoided and preserved for the benefit of the estate pursuant to section 551 of the Bankruptcy Code shall be *pari passu* with or senior to the Prepetition Liens or the Adequate Protection Liens.

14. Adequate Protection Superpriority Claims. Subject to the terms of the DIP Intercreditor Agreement and the Carve Out:

(i) *Prepetition ABL Superpriority Claim.* As further adequate protection of the interests of the Prepetition ABL Secured Parties and Prepetition ABL Obligations in the Prepetition Collateral against any Diminution in Value of such interests in the Prepetition Collateral, the Prepetition ABL Agent, on behalf of itself and the Prepetition ABL Parties and Prepetition ABL Obligations, is hereby granted as and to the extent provided by section 507(b) of the Bankruptcy Code an allowed superpriority administrative expense claim in each of the Cases and any Successor Cases (the “Prepetition ABL Superpriority Claim”).

(ii) *Prepetition Term Loan Superpriority Claim.* As further adequate protection of the interests of the Prepetition Term Loan Secured Parties in the Prepetition Collateral (other than the ABL Canadian Collateral) against any Diminution in Value of such interests in the Prepetition Collateral (other than the ABL Canadian Collateral), (x) the Prepetition Term Loan Agent, on behalf of itself and the Prepetition Term Loan Secured Parties, is hereby granted as and to the extent provided by section 507(b) of the Bankruptcy Code allowed superpriority administrative expense claims in each of the Cases and any Successor Cases (other than in the Case of the Canadian Borrower) (the “Prepetition Term Loan Superpriority Claim,”

and together with the Prepetition ABL Superpriority Claim, the “Adequate Protection Superpriority Claims”).

15. Priority of the Adequate Protection Superpriority Claims. Except as set forth herein, the Adequate Protection Superpriority Claims shall have priority over all administrative expense claims and unsecured claims against the Debtors or their estates, now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expenses of the kinds specified in or ordered pursuant to Sections 105, 326, 328, 330, 331, 503(a), 503(b), 507(a), 506(c) (subject to entry of the Final Order), 507(b), 546(c), 546(d), 726, 1113 and 1114 of the Bankruptcy Code; *provided, however*, that the Adequate Protection Superpriority Claims shall be *pari passu* with each other (in each of the Cases other than the Case of the Canadian Borrower, which shall be limited to Adequate Protection Superpriority Claims in favor of the ABL Secured Parties), without otherwise impairing the lien priorities as set forth herein, and subject to the Carve Out and junior to the DIP Superpriority Claims.

16. Adequate Protection Payments and Protections for Prepetition ABL Parties. As further adequate protection (the “Prepetition ABL Adequate Protection Payments”), the Debtors are authorized and directed to provide adequate protection to the (A) Prepetition ABL Secured Parties and Prepetition ABL Obligations in the form of payment in cash (and as to fees and expenses, without the need for the filing of a formal fee application) of (i) interest, at the default rate (other than on account of Last Out Loans and Last Out Obligations, provided that the Last Out Loans and Last Out Obligations shall accrue interest at the default rate as part of the Last Out Loans and Last Out Obligations), (ii) principal due under the Prepetition ABL Documents (other than on account of Last Out Loans and Last Out Obligations), subject to the rights preserved

in paragraph 42 below, and (iii) immediately upon entry of this Interim Order, payment of fees and expenses as provided in the DIP ABL Credit Agreement; *provided*, that Prepetition ABL Adequate Protection Payments with respect to the subsection (i) above shall be paid monthly and upon entry of the Final Order, all accrued and unpaid Prepetition ABL Adequate Protection Payments for the period prior to the entry of the Final Order shall be paid, in cash, upon entry of the Final Order.

17. Adequate Protection Payments and Protections for Prepetition Term Loan Secured Parties. As further adequate protection (the “Prepetition Term Loan Adequate Protection Payments,” and together with the Prepetition ABL Adequate Protection Payments, the “Adequate Protection Payments”), the Debtors are authorized and directed to pay in cash in connection with these chapter 11 cases and the Case of the Canadian Borrower, without the need for the filing of formal fee applications, immediately upon entry of this Interim Order, payment of fees and expenses as provided in the DIP Term Loan Credit Agreement.

18. Adequate Protection Reservation. Nothing herein shall impair or modify the application of section 507(b) of the Bankruptcy Code in the event that the adequate protection provided to the Prepetition Secured Parties and Prepetition Secured Obligations hereunder is insufficient to compensate for any Diminution in Value of their respective interests in the Prepetition Collateral during the Cases or any Successor Cases. The receipt by the Prepetition Secured Parties and Prepetition Secured Obligations of the adequate protection provided herein shall not be deemed an admission that the respective interests of the Prepetition Secured Parties and Prepetition Secured Obligations are adequately protected. Further, this Interim Order shall not prejudice or limit the rights of the Prepetition Secured Parties and Prepetition Secured

Obligations to seek additional relief with respect to the use of Cash Collateral or for additional adequate protection.

Provisions Common to DIP Financing and Use of Cash Collateral

19. Amendment of the DIP Documents. The DIP Documents may from time to time be amended, modified or supplemented by the parties thereto without further order of the Court if: (a) the amendment, modification, or supplement is in accordance with the DIP Documents, and (b) a copy (which may be provided through electronic mail or facsimile) of the amendment, modification or supplement is provided to counsel to each of the other DIP Agents, a Creditors' Committee (if appointed) or any other committee appointed under section 1102 or 1104 of the Bankruptcy Code, and the U.S. Trustee (collectively, the "Notice Parties"); and (c) the amendment, modification or supplement is filed with the Court; *provided, however*, that neither consent of the Notice Parties nor approval of the Court will be necessary to effectuate any such amendment, modification or supplement and provided further that such amendment, modification or supplement shall be without prejudice to the right of any party in interest to be heard; provided, further, that no such amendment, modification, or supplement shall modify the DIP Documents in a manner that is materially different from that approved by the Court.

20. Budget Maintenance. The use of borrowings and letters of credit under the DIP Facilities shall be in accordance with the Approved Budget (subject to such variances as permitted in the DIP Agreements) and the terms and conditions set forth in the DIP Documents. The Approved Budget and any modification to, or amendment or update of, the Approved Budget shall be subject to the reasonable approval of, and in form and substance reasonably acceptable to the applicable DIP Agents and the Required DIP Term Loan Lenders in accordance with the applicable DIP Documents.

21. Budget Compliance. The use of borrowings and letters of credit under the DIP Facilities shall be in accordance with the Approved Budget (subject to such variances as permitted in the DIP Agreements) and the DIP Documents; *provided, however*, that, in the case of the fees, costs and expenses of the DIP Agents, the Debtors shall pay such fees, costs and expenses in accordance with the DIP Documents and this Interim Order without being limited by the Approved Budget.

22. Modification of Automatic Stay. The automatic stay imposed under section 362(a)(2) of the Bankruptcy Code is hereby modified as necessary to effectuate all of the terms and provisions of this Interim Order, including, without limitation, to: (a) permit the Debtors to grant the DIP Liens, Adequate Protection Liens, DIP Superpriority Claims, and Adequate Protection Superpriority Claims; (b) permit the Debtors to perform such acts as the DIP Agents, DIP Lenders, or the Prepetition Agents each may reasonably request to assure the perfection and priority of the liens granted herein; (c) permit the Debtors to incur all liabilities and obligations to the DIP Agents, DIP Lenders, and the Prepetition Secured Parties under the DIP Documents, the DIP Facilities and this Interim Order; and (d) authorize the Debtors to pay, and the DIP Agents, the DIP Lenders and the Prepetition Secured Parties to retain and apply, payments made in accordance with the terms of this Interim Order and the DIP Documents.

23. Perfection of DIP Liens and Adequate Protection Liens. This Interim Order shall be sufficient and conclusive evidence of the creation, validity, perfection, and priority of all liens granted herein, including the DIP Liens and the Adequate Protection Liens, without the necessity of filing or recording any financing statement, mortgage, notice, or other instrument or document which may otherwise be required under the law or regulation of any jurisdiction or the taking of any other action (including, for the avoidance of doubt, entering into any deposit account

control agreement) to validate or perfect (in accordance with applicable non-bankruptcy law) the DIP Liens, the Adequate Protection Liens, or to entitle the DIP Agents, the DIP Lenders, the DIP Obligations, the Prepetition Secured Parties and the Prepetition Secured Obligations to the priorities granted herein (subject to the DIP Intercreditor Agreement and Existing Participation Agreement, as applicable). Notwithstanding the foregoing, the DIP Agents and the Prepetition Agents each are authorized to file, as in its reasonable discretion it deems necessary or advisable, such financing statements, security agreements, mortgages, notices of liens and other similar documents to perfect in accordance with applicable non-bankruptcy law or to otherwise evidence the DIP Liens and the Adequate Protection Liens, and all such financing statements, mortgages, notices and other documents shall be deemed to have been filed or recorded as of the Petition Date; *provided, however*, that no such filing or recordation shall be necessary or required in order to create or perfect the DIP Liens, or the Adequate Protection Liens. The Debtors are authorized and directed to execute and deliver reasonably promptly to the DIP Agents and Prepetition Agents all such financing statements, mortgages, notices and other documents as the DIP Agents and Prepetition Agents may reasonably request; provided that nothing herein shall require the Debtors to obtain any required consent of third parties to any such financing statements, mortgages, notices, and other documents. The DIP Agents and the Prepetition Agents, each in its discretion, may file a photocopy of this Interim Order as a financing statement with any filing or recording office or with any registry of deeds or similar office, in addition to or in lieu of such financing statements, notices of lien or similar instrument. To the extent that any Prepetition Agent is the secured party under any security agreement, mortgage, leasehold mortgage, landlord waiver, credit card processor notices or agreements, bailee letters, custom broker agreements, financing statement, account control agreements, or any other Prepetition Documents or is listed as loss payee, lenders'

loss payee or additional insured under any of the Debtors' insurance policies, each DIP Agent (as applicable) shall also be deemed to be the secured party or mortgagee, as applicable, under such documents or to be the loss payee or additional insured, as applicable. The Prepetition Agents shall serve as agents for the DIP Agents for purposes of perfecting the DIP Agents' liens on all DIP Collateral that, without giving effect to the Bankruptcy Code and this Interim Order, is of a type such that perfection of a lien therein may be accomplished only by possession or control by a secured party.

24. Application of Proceeds of Collateral. Subject to the Carve Out, as a condition to the entry of the DIP Documents, the extension of credit under the DIP Facilities and the authorization to use Cash Collateral, the Debtors have agreed that as of and commencing on the date of the Interim Hearing, the Debtors shall apply all net proceeds of DIP Collateral that is sold in the ordinary course or liquidated as follows: (a) with respect to DIP ABL Priority Collateral (i) *first*, to costs and expenses of the DIP ABL Agent; (ii) *second*, to permanently reduce the Prepetition ABL Obligations (other than the Last Out Obligations); (iii) *third*, to reduce the DIP ABL Obligations (including the Last Out DIP Obligations or Last Out Obligations, as applicable), *fourth*, to the repayment of the Canadian Intercompany Superpriority Administrative Claims, and (v) after indefeasible repayment in full in cash of the Prepetition ABL Obligations and the DIP ABL Obligations (including, in each case, provision for contingent obligations), the termination of the DIP ABL Credit Facility and all commitments thereunder, and "payment in full" of all other DIP ABL Obligations as provided under the DIP ABL Credit Agreement and repayment in full of the Canadian Intercompany Superpriority Administrative Claims, (x) to costs and expenses of the DIP Term Loan Agent, (y) to reduce the DIP Term Loan Obligations, and (z) then to reduce the Prepetition Term Loan Obligations; and (b) with respect to DIP Term Loan Priority Collateral,

(i) *first*, to costs and expenses of the DIP Term Loan Agent; (ii) *second*, to reduce the DIP Term Loan Obligations; (iii) *third*, to reduce the Prepetition Term Loan Obligations, and (iv) after indefeasible repayment in full in cash of the Prepetition Term Loan Obligations and the DIP Term Loan Obligations (including, in each case, provision for contingent obligations), (w) to costs and expenses of the DIP ABL Agent, (x) to permanently reduce the Prepetition ABL Obligations, (y) to reduce the DIP ABL Obligations (including the Last Out DIP Obligations or Last Out Obligations, as applicable), and (z) to the repayment of the Canadian Intercompany Superpriority Administrative Claims. The reduction of the Prepetition Secured Obligations is subject to the preservation of rights provided in paragraph 42 herein. Notwithstanding anything herein, or in the Prepetition ABL Documents or DIP ABL Documents, (i) all ABL Priority Collateral (other than ABL Canadian Collateral) of the Debtors (other than the Canadian Borrower) to be applied to the Prepetition ABL Obligations and DIP ABL Obligations as provided in this Paragraph 24 shall be applied first to reduce the Prepetition ABL Obligations and DIP ABL Obligations of the Debtors other than the Canadian Borrower; and thereafter to the remaining DIP ABL Obligations of the Canadian Borrower, if any; and (ii) all ABL Canadian Collateral to be applied to the Prepetition ABL Obligations and DIP ABL Obligations as provided in this Paragraph 24 shall be applied first to reduce the Prepetition ABL Obligations of the Canadian Borrower, then to the direct DIP ABL Obligations of the Canadian Borrower, and then to remaining Prepetition ABL Obligations and DIP ABL Obligations of the Debtors, if any, but only to the extent not paid under clause (i) above and after all ABL Priority Collateral (other than ABL Canadian Collateral) of the Debtors (other than the Canadian Borrower) has been applied.

25. Protections of Rights of DIP Agents, DIP Lenders and Prepetition Secured Parties.

(i) Unless the DIP Agents, the Required DIP Lenders and the Prepetition Agents shall have provided their prior written consent or all DIP Obligations and all Prepetition Secured Obligations have been indefeasibly paid in full in cash and all commitments thereunder are terminated, there shall not be entered in any of these Cases or any Successor Cases (including any order confirming any plan of reorganization or liquidation) that authorizes any of the following: (i) the obtaining of credit or the incurring of indebtedness that is secured by a security, mortgage, or collateral interest or other Lien on all or any portion of the DIP Collateral or Prepetition Collateral and/or that is entitled to administrative priority status, in each case that is superior to or *pari passu* with the DIP Liens, the DIP Superpriority Claims, the Prepetition Liens, the Prepetition Adequate Protection Liens, and/or the Adequate Protection Superpriority Claims; (ii) the use of Cash Collateral for any purpose other than as permitted in the DIP Documents and this Interim Order and the Approved Budget, the return of goods pursuant to section 546(h) of the Bankruptcy Code (or other return of goods on account of any prepetition indebtedness) to any creditor of any Debtor or any creditor's taking any setoff against any of its prepetition indebtedness based upon any such return of goods pursuant to section 553 of the Bankruptcy Code or otherwise, or (iii) any modification of any of the DIP Agents', DIP Lenders', or the Prepetition Secured Parties' rights under this Interim Order, the DIP Documents or the Prepetition Documents with respect any DIP Obligations or Prepetition Secured Obligations.

(ii) The Debtors (and/or their legal and financial advisors in the case of clauses (ii) through (iv) below) will, whether or not the DIP Obligations have been indefeasibly paid in full in cash, (i) maintain books, records, and accounts to the extent and as required by the DIP Documents, (ii) reasonably cooperate with, consult with, and provide to the DIP Agents and the DIP Lenders all such information and documents that any or all of the Debtors are obligated

(including upon reasonable request by any of the DIP Agents or the DIP Lenders) to provide under the DIP Documents or the provisions of this Interim Order or as reasonably requested by the DIP Agents or DIP Lenders, in each case as and to the extent required by the DIP Documents, (iii) upon reasonable advance notice, permit consultants, advisors and other representatives (including third party representatives) of each of the DIP Agents, the DIP Lenders and the Prepetition Agents to visit and inspect any of the Debtors' respective properties, to examine and make abstracts or copies from any of their respective books and records, to tour the Debtors' business premises and other properties, and to discuss, and provide advice with respect to, their respective affairs, finances, properties, business operations, and accounts with their respective officers, employees, independent public accountants and other professional advisors as and to the extent required by the DIP Documents and/or the Prepetition Documents, (iv) permit the DIP Agents, the DIP Lenders, and the Prepetition Agents, and their respective consultants, advisors and other representatives to consult with the Debtors' management and advisors on matters concerning the Debtors' businesses, financial condition, operations and assets, in each case as and to the extent required by the DIP Documents, and (v) upon reasonable advance notice, permit the DIP Agents, the DIP Lenders and the Prepetition Agents to conduct, at their discretion and at the Debtors' cost and expense, field audits, collateral examinations, liquidation valuations and inventory appraisals at reasonable times in respect of any or all of the DIP Collateral and Prepetition Collateral in each case as and to the extent required by the DIP Documents.

(iii) No Debtor shall object to any DIP Lenders or any Prepetition Secured Parties credit bidding up to the full amount of the applicable outstanding DIP Obligations, Prepetition ABL Obligations (as applicable), and Prepetition Term Loan Obligations (as applicable), in each case, including any accrued interest and expenses, in any sale of any DIP

Collateral or Prepetition Collateral, as applicable, and whether such sale is effectuated through Section 363 or 1129 of the Bankruptcy Code, by a Chapter 7 trustee under Section 725 of the Bankruptcy Code, or otherwise, subject, in each case, to the rights and duties of the parties under the DIP Intercreditor Agreement, a Challenge (as defined herein), and to the provision of consideration sufficient to pay in full in cash any senior liens on the collateral that is subject to the credit bid.

26. Proceeds of Subsequent Financing. If the Debtors, any trustee, any examiner with expanded powers, or any responsible officer subsequently appointed in these Cases or any Successor Cases, shall obtain credit or incur debt pursuant to Bankruptcy Code sections 364(b), 364(c) or 364(d) or in violation of the DIP Documents at any time prior to the indefeasible repayment in full of all DIP Obligations and Prepetition Secured Obligations, and the termination of the DIP Agents' and DIP Lenders' obligation to extend credit under the DIP Facilities, including subsequent to the confirmation of any plan with respect to any or all of the Debtors and the Debtors' estates, and such facilities are secured by any DIP Collateral, then all the cash proceeds derived from such credit or debt shall immediately be turned over to the DIP Agents to be applied in accordance with this Interim Order, the DIP Documents and the DIP Intercreditor Agreement.

27. Cash Collection. From and after the date of the entry of this Interim Order, the Debtors shall maintain cash management in accordance with the DIP Documents. Unless otherwise agreed to in writing by the DIP Agents and Prepetition Agents, the Debtors shall maintain no accounts except those identified in any interim and/or final order granting the *Debtors' Motions for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Continue to Operate their Cash Management System, (B) Honor Certain Prepetition Obligations*

Related Thereto, (C) Maintain Existing Business Forms, and (D) Continue to Perform Intercompany Transactions, and (II) Granting Related Relief (the “Cash Management Order”).

The Debtors and the financial institutions where the Debtors’ maintain deposit accounts (as identified in any Cash Management Order), are authorized and directed to remit, without offset or deduction, funds in such deposit accounts upon receipt of any direction to that effect from the applicable DIP Agent in accordance with the DIP Documents. Until such time as Debtors are able to establish a deposit account at a bank other than Wells Fargo Bank, National Association to serve as the TL Deposit Account (as defined in the DIP Term Loan Credit Agreement), the account established for such purpose at Wells Fargo Bank, National Association shall constitute such TL Deposit Account and shall be subject to a fully perfected first priority lien and security interest in favor of the DIP Term Loan Agent as fully as if it were subject to a control agreement in favor of the DIP Term Loan Agent. For the avoidance of doubt, any TL Deposit Account shall not be subject to any liens or security interests other than liens and security interests in favor of the DIP Term Loan Agent.

28. Maintenance of DIP Collateral. Until the indefeasible payment in full of all DIP Obligations (including “payment in full” of the DIP ABL Obligations as provided under the DIP ABL Credit Agreement), all Prepetition Secured Obligations, and the termination of the DIP Agents and the DIP Lenders’ obligation to extend credit under the DIP Facilities, the Debtors shall: (a) insure the DIP Collateral as required under the DIP Documents or the Prepetition Documents, as applicable; and (b) maintain the cash management system in effect as of the Petition Date, as modified by any Cash Management Order which has first been agreed to by the DIP Agents or as otherwise required by the DIP Documents.

29. Disposition of DIP Collateral. The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP ABL Priority Collateral or Prepetition ABL Priority Collateral other than in the ordinary course of business without the prior written consent of the DIP ABL Agent and Prepetition ABL Agent, except as otherwise provided for in the DIP ABL Documents, and subject to the DIP Intercreditor Agreement. The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP Term Loan Priority Collateral or Prepetition Term Loan Priority Collateral other than in the ordinary course of business without the prior written consent of the DIP Term Loan Agent (acting at the direction of the Required Term DIP Lenders) and the Prepetition Term Loan Agent (acting at the direction of the “Required Lenders” (as defined in the Prepetition Term Loan Credit Agreement) (and no such consent shall be implied, from any other action, inaction or acquiescence by the DIP Term Loan Agent, DIP Term Loan Lenders, or Prepetition Term Loan Secured Parties), except as otherwise provided for in the DIP Term Loan Documents, and subject to the DIP Intercreditor Agreement.

30. Termination Date. On the applicable termination date, (a) all applicable DIP Obligations shall be immediately due and payable, all commitments to extend credit under the applicable DIP Facilities will terminate, other than as required in paragraph 39 with respect to the Carve Out, and (b) all authority to use Cash Collateral shall cease. For the purposes of this Interim Order, the “DIP Term Loan Termination Date” shall mean the date the commitments are terminated pursuant to the terms of the DIP Term Loan Credit Agreement; and the “DIP ABL Termination Date” shall mean the date the commitments are terminated pursuant to the terms of the DIP ABL Credit Agreement.

31. Events of Default. The occurrence of any of the following events, unless waived by the DIP Agents in writing and in accordance with the terms of the applicable DIP

Documents, shall constitute an event of default (collectively, the “Events of Default”): (a) the failure of the Debtors to perform, in any respect, any of the terms, provisions, conditions, covenants, or obligations under this Interim Order or any Canadian Recognition Order, including, without limitation, failure to make any payment under this Interim Order when due, (b) the occurrence of an “Event of Default” under, and as defined in, the DIP ABL Credit Agreement or the DIP Term Loan Credit Agreement, (c) any modifications, amendments, or reversal of this Interim Order, and no such consent shall be implied by any other action, inaction or acquiescence by any party, (d) an order converting or dismissing any of the Cases, (e) an order appoint a chapter 11 trustee in the Cases, (f) an order appointing an examiner with enlarged powers in the Cases (beyond those set forth in sections 1106(a)(3 and (4) of the Bankruptcy Code, and (g) a plan proposed by the Debtors or confirmation thereof that does not propose to indefeasibly repay the DIP Obligations (other than the Last Out DIP Obligations) in full in cash, unless otherwise consented to by the DIP Agents.

32. Milestones. As a condition to the DIP Facilities and the use of Cash Collateral, the Debtors shall comply with the case milestones set forth in the applicable DIP Agreements, subject to waiver or extension on the terms set forth in the DIP Agreements.

33. Rights and Remedies Upon Event of Default. Immediately upon the occurrence and during the continuation of an Event of Default under either the DIP ABL Documents or the DIP Term Loan Documents, notwithstanding the provisions of section 362 of the Bankruptcy Code, without any application, motion or notice to, hearing before, or order from the Court, but subject to the terms of this Interim Order and the Canadian Recognition Orders (a) each DIP Agent may declare (any such declaration shall be referred to herein as a “Termination Declaration”) (1) all DIP Obligations owing under the respective DIP Documents to be

immediately due and payable, (2) the termination, reduction or restriction of any further commitment to extend credit to the Debtors to the extent any such commitment remains under the respective DIP Facilities, (3) termination of the respective DIP Credit Facilities and the respective DIP Documents as to any future liability or obligation of the applicable DIP Agents and the DIP Lenders, but without affecting any of the DIP Liens or the DIP Obligations, and (4) that the application of the Carve Out has occurred through the delivery of the Carve Out Trigger Notice to the Borrower; (b) interest, including, where applicable, default interest, shall accrue and be paid as set forth in the DIP Documents, and (c) either the DIP ABL Agent (in the case of Cash Collateral of proceeds of the DIP ABL Priority Collateral) or the DIP Term Loan Agent (in the case of Cash Collateral of proceeds of the DIP Term Loan Priority Collateral), or both, may declare a termination, reduction or restriction on the ability of the Debtors to use Cash Collateral (the date which is the earliest to occur of (i) any such date a Termination Declaration is delivered by either DIP ABL Agent or DIP Term Loan Agent and (ii) the DIP ABL Termination Date or DIP Term Loan Termination Date (as applicable), shall be referred to herein as the “Termination Date”). The Termination Declaration shall be given by electronic mail (or other electronic means) to counsel to the Debtors, counsel to the DIP Agents, counsel to a Creditors’ Committee (if appointed) or any other committee appointed under section 1102 or 1104 of the Bankruptcy Code, and the U.S. Trustee. The automatic stay in the Cases otherwise applicable to the DIP Agents, the DIP Lenders and the Prepetition Secured Parties is hereby modified so that seven (7) business days after the date a Termination Declaration is delivered (the “Remedies Notice Period”): (A) the applicable DIP Agent and the DIP Lenders shall be entitled to exercise their rights and remedies in accordance with the respective DIP Documents and this Interim Order and shall be permitted to satisfy the relevant DIP Obligations, DIP Superpriority Claim and DIP Liens, subject to the Carve Out,

(B) the applicable Prepetition Secured Parties shall be entitled to exercise their rights and remedies to satisfy the relevant Prepetition Secured Obligations, Adequate Prepetition Superpriority Claims and Prepetition Adequate Protection Liens, subject to and consistent with (i) the Carve Out, (ii) this Interim Order, and (iii) the DIP Intercreditor Agreement. During the Remedies Notice Period, unless otherwise ordered by the Court, the only basis on which the Debtors and/or a Creditors' Committee (if appointed) shall be entitled to seek an emergency hearing within the Remedies Notice Period with the Court shall be to contest whether an Event of Default has occurred and/or is continuing and the DIP Lenders shall consent to such an emergency hearing, and the Debtors hereby waive their right to and shall not be entitled to seek relief, including, without limitation, under Section 105 of the Bankruptcy Code, to the extent that such relief would in any way impair or restrict the rights and remedies of the DIP Agents, the DIP Lenders, or the Prepetition Secured Parties. During the Remedies Notice Period, none of the DIP Agents or DIP Lenders shall be required to consent to the use of any Cash Collateral or provide any loans or other financial accommodations under the DIP Facilities. Unless the Court orders otherwise, the automatic stay, as to all of the DIP Agents, DIP Lenders, and Prepetition Secured Parties, shall automatically be terminated at the end of the Remedies Notice Period without further notice or order. Upon expiration of the Remedies Notice Period, the DIP Agents, DIP Lenders, and the Prepetition Secured Parties shall be permitted to exercise all remedies set forth herein, in the DIP Documents, the Prepetition Documents, and as otherwise available at law without further order of or application or motion to the Court consistent with the DIP Intercreditor Agreement and Existing Participation Agreement, as applicable.

34. Good Faith Under Section 364(e) of the Bankruptcy Code; No Modification or Stay of this Interim Order. The DIP Agents, DIP Lenders, and the Prepetition Secured Parties

have acted in good faith in connection with this Interim Order and are entitled to rely upon the protections granted herein and by section 364(e) of the Bankruptcy Code. Based on the findings set forth in this Interim Order and the record made during the Interim Hearing, and in accordance with section 364(e) of the Bankruptcy Code, in the event any or all of the provisions of this Interim Order are hereafter modified, amended or vacated by a subsequent order of this Court or any other court, the DIP Agents, the DIP Lenders, the DIP Obligations, Prepetition Secured Parties and the Prepetition Secured Obligations are entitled to the protections provided in section 364(e) of the Bankruptcy Code. Any such modification, amendment or vacatur shall not affect the validity and enforceability of any advances previously made or made hereunder, or lien, claim or priority authorized or created hereby.

35. DIP and Other Expenses. The Debtors are authorized and directed to pay all reasonable and documented fees and expenses of (x) the DIP Agents and DIP Lenders in connection with the DIP Facilities, as provided in the DIP Documents (subject to applicable limitations on the DIP Parties' obligations to pay such amounts in the DIP Documents), whether or not the transactions contemplated hereby are consummated, and (y) the Prepetition Agents (including the fees and expenses of counsel), as provided in the applicable Prepetition Document. Payment of all such fees and expenses shall not be subject to allowance by the Court. Professionals for the DIP Agents, the DIP Lenders and the Prepetition Agents shall not be required to comply with the U.S. Trustee fee guidelines. No attorney or advisor to the DIP Agents, DIP Lenders, or Prepetition Agents shall be required to file an application seeking compensation for services or reimbursement of expenses with the Court. Any and all fees, costs, and expenses paid prior to the Petition Date by any of the Debtors to (x) the DIP Agents or DIP Lenders in connection with or

with respect to the DIP Facilities, or (y) the Prepetition Secured Parties in connection with or with respect to the Prepetition Secured Facilities, are, in each case, hereby approved in full.

36. Budget. The Approved Budget is approved on an interim basis and the proceeds of the DIP Facilities and Cash Collateral under this Interim Order shall be used by the Debtors in accordance with the Approved Budget (subject to such variances as permitted in the DIP Agreements), this Interim Order and the DIP Documents. None of the DIP Lenders' or DIP Agents' consent (if any) to, or acknowledgement of, the Approved Budget shall be construed as consent to use the proceeds of the DIP Facilities or Cash Collateral beyond the respective maturity dates set forth in the DIP Documents, regardless of whether the aggregate funds shown on the Approved Budget have been expended.

37. Indemnification. The Debtors shall indemnify and hold harmless the DIP Agents and the DIP Lenders in accordance with the terms and conditions of the DIP Agreements.

38. Master Proofs of Claim. The DIP Agents, the DIP Lenders, the Prepetition ABL Secured Parties and the Prepetition Term Loan Secured Parties will not be required to file proofs of claim in any of the Cases or Successor Cases for any claim allowed herein. Notwithstanding any order entered by the Court in relation to the establishment of a bar date in any of the Cases or Successor Cases to the contrary, and in order to facilitate the processing of claims, to ease the burden upon the Court and to reduce an unnecessary expense to the Debtors' estates, each Prepetition Agent and/or other Prepetition Secured Party is authorized to file in the Debtors' lead chapter 11 Case, Case No. 19-11607, a single, master proof of claim on behalf of the relevant Prepetition Secured Parties on account of any and all of their respective claims arising under the applicable Prepetition Documents and hereunder (each a "Master Proof of Claim") against each of the Debtors. Upon the filing of a Master Proof of Claim against each of the Debtors,

the Prepetition Secured Parties, and each of their respective successors and assigns, shall be deemed to have filed a proof of claim in the amount set forth opposite its name therein in respect of its claims against each of the Debtors of any type or nature whatsoever with respect to the applicable Prepetition Documents, and the claim of each Prepetition Secured Party (and each of its respective successors and assigns), named in a Master Proof of Claim shall be treated as if such entity had filed a separate proof of claim in each of these Cases. The Master Proofs of Claim shall not be required to identify whether any Prepetition Secured Party acquired its claim from another party and the identity of any such party or to be amended to reflect a change in the holders of the claims set forth therein or a reallocation among such holders of the claims asserted therein resulting from the transfer of all or any portion of such claims. The provisions of this paragraph and each Master Proof of Claim are intended solely for the purpose of administrative convenience and shall not affect the right of each Prepetition Secured Party (or its successors in interest) to vote separately on any plan proposed in these Cases. The Master Proofs of Claim shall not be required to attach any instruments, agreements or other documents evidencing the obligations owing by each of the Debtors to the applicable Prepetition Secured Parties, which instruments, agreements or other documents will be provided upon reasonable request to counsel to the applicable Prepetition Agent.

39. Carve Out.

(a) Carve Out. As used in this Interim Order, the “Carve Out” means the sum of (i) all fees required to be paid to the Clerk of the Court and to the Office of the United States Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate; (ii) all reasonable fees and expenses up to \$50,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (the “Chapter 7 Trustee Carve-Out”); (iii) to the extent allowed at

any time, whether by interim order, procedural order, or otherwise (and, in the case of the Committee Professionals (as defined below), subject to the Approved Budget), all unpaid fees and expenses (the “Allowed Professional Fees”) incurred by persons or firms retained by the Debtors pursuant to section 327, 328, or 363 of the Bankruptcy Code (the “Debtor Professionals”) and the Creditors’ Committee pursuant to section 328 or 1103 of the Bankruptcy Code (the “Committee Professionals” and, together with the Debtor Professionals, the “Professional Persons”) at any time before or on the first business day following delivery by the DIP ABL Agent or DIP Term Loan Agent of a Carve Out Trigger Notice (as defined below), whether allowed by the Court prior to or after delivery of a Carve Out Trigger Notice; and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed \$1,250,000 incurred after the first business day following delivery by the DIP ABL Agent or the DIP Term Loan Agent of the Carve Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, or otherwise (the amounts set forth in this clause (iv) being the “Post-Carve Out Trigger Notice Cap”).⁸ For purposes of the foregoing, “Carve Out Trigger Notice” shall mean a written notice delivered by email (or other electronic means) by the DIP ABL Agent or DIP Term Loan Agent to the Debtors, their lead restructuring counsel, the U.S. Trustee, and counsel to the Creditors’ Committee, which notice may be delivered following the occurrence and during the continuation of an Event of Default and acceleration of the Post-Petition Obligations under the DIP ABL Agreement or the DIP Term Loan Agreement, respectively, stating that the Post Carve Out Trigger Notice Cap has been invoked.

⁸ Notwithstanding the foregoing, up to \$250,000 of the Post-Carve Out Trigger Notice Cap may be used to pay Allowed Professional Fees of Professional Persons incurred prior to the delivery of a Carve Out Trigger Notice to the extent such Allowed Professional Fees exceed the Professional Fee Carve Out Cap (as defined below).

(b) Fee Estimates. Not later than 7:00 p.m. New York time on the third business day of each week starting with the first full calendar week following the Closing Date, each Professional Person shall deliver to the Debtors a statement setting forth a good-faith estimate of the amount of fees and expenses (collectively, "Estimated Fees and Expenses") incurred during the preceding week by such Professional Person (through Saturday of such week, the "Calculation Date"), along with a good-faith estimate of the cumulative total amount of unreimbursed fees and expenses incurred through the applicable Calculation Date and a statement of the amount of such fees and expenses that have been paid to date by the Debtors (each such statement, a "Weekly Statement"); *provided, that* within one business day of the occurrence of the Termination Declaration Date (as defined below), each Professional Person shall deliver one additional statement (the "Final Statement") setting forth a good-faith estimate of the amount of fees and expenses incurred during the period commencing on the calendar day after the most recent Calculation Date for which a Weekly Statement has been delivered and concluding on the Termination Declaration Date. If any Professional Person fails to deliver a Weekly Statement within three calendar days after such Weekly Statement is due, such Professional Person's entitlement (if any) to any funds in the Carve Out Reserves (as defined below) with respect to the aggregate unpaid amount of Allowed Professional Fees for the applicable period(s) for which such Professional Person failed to deliver a Weekly Statement covering such period shall be limited to the aggregate unpaid amount of Allowed Professional Fees included in the Approved Budget for such period for such Professional Person; *provided, that* such Professional Person shall be entitled to be paid any unpaid amount of Allowed Professional Fees in excess of Allowed Professional Fees included in the Approved Budget for such period for such Professional Person from a reserve to be funded by the Debtors from all cash on hand as of such date and any available cash thereafter

held by any Debtor pursuant to paragraph 39(c) below. Solely as it relates to the DIP ABL Agent and DIP ABL Lenders, any deemed draw and borrowing pursuant to paragraph 39(c)(i)(x) for amounts under paragraph 39(a)(iii) above shall be limited to the greater of (x) the sum of (I) the aggregate unpaid amount of Estimated Fees and Expenses included in such Weekly Statements timely received by the Debtors prior to the Termination Declaration Date *plus*, without duplication, (II) the aggregate unpaid amount of Estimated Fees and Expenses included in the Final Statements timely received by the Debtors pertaining to the period through and including the Termination Declaration Date, and (y) the aggregate unpaid amount of Allowed Professional Fees included in the Approved Budget for the period prior to the Termination Declaration Date (such amount, the “Professional Fee Carve Out Cap”). For the avoidance of doubt, the DIP ABL Agent and DIP ABL Lenders shall be entitled to maintain at all times a reserve (the “Carve-Out Reserve”) in an amount (the “Carve-Out Reserve Amount”) equal to the sum of (i) the greater of (x) the aggregate unpaid amount of Estimated Fees and Expenses included in all Weekly Statements timely received by the Debtors, and (y) the aggregate amount of Allowed Professional Fees contemplated to be unpaid in the Approved Budget at the applicable time, *plus* (ii) the Post-Carve Out Trigger Notice Cap, *plus* (iii) an amount equal to the amount of Allowed Professional Fees set forth in the Approved Budget for the following week occurring after the most recent Calculation Date, *plus* (iv) the amounts contemplated under paragraph 39(a)(i) and 39(a)(ii) above. Not later than 7:00 p.m. New York time on the fourth business day of each week starting with the first full calendar week following the Closing Date, the Debtors shall deliver to the DIP ABL Agent or the DIP Term Loan Agent a report setting forth the Carve-Out Reserve Amount as of such time (the “Fee Report”), and, in setting the Carve-Out Reserve, the DIP ABL Agent and DIP ABL Lenders shall be entitled to rely upon such reports in accordance with the DIP ABL Agreement or the DIP Term

Loan Agreement. Prior to the delivery of the first report setting forth the Carve-Out Reserve Amount, the DIP ABL Agent or the DIP Term Loan Agent may calculate the Carve-Out Reserve Amount by reference to the Approved Budget for subsection (i) of the Carve-Out Reserve Amount. Notwithstanding anything herein to the contrary, DIP ABL Agent may increase the Carve-Out Reserve Amount to include additional amounts with respect to any monitoring charge or other charge arising from the Canadian insolvency proceeding of the Canadian Borrower and for the projected amount of any success, completion, commission-based, or other non-hourly fees billed by or due to any financial advisor, investment banker, monitor, or other Professional engaged by any Debtor or any Committee in the Cases.

(c) Carve Out Reserves. On the day on which a Carve Out Trigger Notice is given by either the DIP ABL Agent or the DIP Term Loan Agent to the Debtors with a copy to counsel to the Creditors' Committee (the "Termination Declaration Date"), the Carve Out Trigger Notice shall be deemed (i) a draw request and notice of borrowing by the Debtors for DIP ABL Loans under the DIP ABL Agreement in an amount equal to the sum of (x) the amounts set forth in paragraphs (a)(i) and (a)(ii), above, and (y) the then unpaid amounts of the Allowed Professional Fees up to the ABL Professional Fee Carve Out Cap (any such amounts actually advanced shall constitute DIP ABL Loans) and (ii) a draw request and notice of borrowing by the Debtors for DIP Term Loans under the DIP Term Loan Facility in an amount equal to the unpaid amounts of the Allowed Professional Fees in excess of the Professional Fee Carve Out Cap (any such amounts actually advanced shall constitute DIP Term Loans), and shall also constitute a demand to the Debtors to utilize all cash on hand as of such date and any available cash thereafter held by any Debtor to fund a reserve in an amount equal to the then unpaid amounts of the Allowed Professional Fees (which cash amounts shall reduce, on a dollar for dollar basis, the draw requests

and applicable DIP ABL Loans and DIP Term Loans pursuant to the foregoing clauses (i) and (ii) of this sentence of this paragraph (c)). The Debtors shall deposit and hold such amounts in a segregated account at the DIP ABL Agent in trust exclusively to pay such unpaid Allowed Professional Fees (the “Pre-Carve Out Trigger Notice Reserve”). On the Termination Declaration Date, the Carve Out Trigger Notice shall also be deemed a request by the Debtors for (x) DIP ABL Loans under the DIP ABL Agreement in an amount equal to the Post Carve Out Trigger Notice Cap (any such amounts actually advanced shall constitute DIP ABL Loans) and, (y) to the extent not funded by the DIP ABL Lenders, for DIP Term Loans in an amount equal to any unfunded portion of the Post-Carve Out Trigger Notice Cap (any such amounts actually advanced shall constitute DIP Term Loans), and shall also constitute a demand to the Debtors to utilize all cash on hand as of such date and any available cash thereafter held by any Debtor to fund a reserve in an amount equal to the Post-Carve Out Trigger Notice Cap (which cash amounts shall reduce, on a dollar for dollar basis, the draw requests and applicable DIP ABL Loans and DIP Term Loans pursuant to the foregoing clauses (x) and (y) of this sentence of this paragraph (c)). The Debtors shall deposit and hold such amounts in a segregated account at the DIP ABL Agent in trust exclusively to pay such Allowed Professional Fees benefiting from the Post-Carve Out Trigger Notice Cap (the “Post Carve Out Trigger Notice Reserve” and, together with the Pre-Carve Out Trigger Notice Reserve, the “Carve Out Reserves”). On the third business day following the Termination Declaration Date and the deemed requests for the making of DIP ABL Loans and DIP Term Loans as provided in this paragraph (c), notwithstanding anything in the DIP ABL Agreement or the DIP Term Loan Agreement to the contrary, including with respect to (1) the existence of a Default (as defined in the DIP ABL Agreement or the DIP Term Loan Agreement) or Event of Default, (2) the failure of the Debtors to satisfy any or all of the conditions precedent

for the making of any DIP ABL Loan under the DIP ABL Agreement or DIP Term Loans under the DIP Term Loan Agreement, respectively, (3) any termination of the DIP ABL Loan Commitments or DIP Term Loan Commitments following an Event of Default, or (4) the occurrence of the Maturity Date, each DIP ABL Lender and DIP Term Loan Lender with an outstanding Commitment shall make available to the DIP ABL Agent or DIP Term Loan Agent, as applicable, such DIP ABL Lender's or such DIP Term Loan Lender's pro rata share of such DIP ABL Loans or DIP Term Loans, as applicable. For the avoidance of doubt, the Carve Out Reserves shall constitute the primary source for payment of Allowed Professional Fees entitled to benefit from the Carve Out, and any lien priorities or superpriority claims granted pursuant to this Interim Order to secure payment of the Carve Out shall be limited to any shortfall in funding as provided below.

(d) Application of Carve Out Reserves. (i) All funds in the Pre-Carve Out Trigger Notice Reserve shall be used first to pay the obligations set forth in subparagraphs (a)(i) through (a)(iii) of the definition of Carve Out set forth above (the "Pre-Carve Out Amounts"), but not, for the avoidance of doubt, the Post-Carve Out Trigger Notice Cap (other than amounts up to \$250,000 to the extent the Pre-Carve Out Amounts exceed the Professional Fee Carve Out Cap), until paid in full. If the Pre-Carve Out Trigger Notice Reserve has not been reduced to zero, subject to clause (iii), below, all remaining funds shall be distributed *first* to the DIP ABL Agent on account of the applicable DIP ABL Obligations until indefeasibly paid in full, in cash, all Commitments have been terminated, and all Letters of Credit have been cancelled (or all such Letters of Credit have been fully cash collateralized or otherwise back-stopped, in each case to the satisfaction of the applicable Issuing Bank), and *thereafter* to the Prepetition ABL Lenders in accordance with their rights and priorities as of the Petition Date.

(i) All funds in the Post-Carve Out Trigger Notice Reserve (other than up to \$250,000, which may be used to pay Pre-Carve Out Amounts to the extent they exceed the Professional Fee Carve Out Cap) shall be used first to pay the obligations set forth in clause (iv) of the definition of Carve Out set forth above (the “Post-Carve Out Amounts”). If the Post-Carve Out Trigger Notice Reserve has not been reduced to zero, subject to clause (iii), below, all remaining funds shall be distributed *first* to the DIP ABL Agent on account of the applicable DIP ABL Obligations until indefeasibly paid in full, in cash, all Commitments have been terminated, and all Letters of Credit have been cancelled (or all such Letters of Credit have been fully cash collateralized or otherwise back-stopped, in each case to the satisfaction of the applicable Issuing Bank), and *thereafter* to the Prepetition ABL Lenders in accordance with their rights and priorities as of the Petition Date.

(ii) Notwithstanding anything to the contrary in the Financing Agreements or this Interim Order, if either of the Carve Out Reserves is not funded in full in the amounts set forth in this paragraph (c), then, any excess funds in one of the Carve Out Reserves following the payment of the Pre-Carve Out Amounts and Post-Carve Out Amounts, respectively, shall be used to fund the other Carve Out Reserve to the extent of any shortfall in funding prior to making any payments to the DIP ABL Agent or the Prepetition ABL Lenders, as applicable.

(iii) Notwithstanding anything to the contrary in the Financing Agreements or the Interim Order, following the third business day after delivery of a Carve Out Trigger Notice, the DIP ABL Agent, the Prepetition ABL Agent, the DIP Term Loan Agent, and the Prepetition Term Loan Agent shall not sweep or foreclose on cash (including cash received as a result of the sale or other disposition of any assets) of the Debtors until the Carve Out Reserves have been fully

funded, but shall have a security interest in any residual interest in the Carve Out Reserves, with any excess paid as provided in paragraphs (ii) and (iii) above.

(iv) Notwithstanding anything to the contrary in this Interim Order, (i) the failure of the Carve Out Reserves to satisfy in full the Allowed Professional Fees shall not affect the priority of the Carve Out with respect to any shortfall (as described below), and (ii) subject to the limitations with respect to the DIP ABL Agent, DIP ABL Lenders, Prepetition ABL Agent and Prepetition ABL Lenders set forth in paragraph (b), above, in no way shall the Initial Budget, any Approved Budget, Annual Operating Forecast, Carve Out, Post-Carve Out Trigger Notice Cap or Carve Out Reserves be construed as a cap or limitation on the amount of the Allowed Professional Fees due and payable by the Debtors. For the avoidance of doubt and notwithstanding anything to the contrary herein or in the DIP ABL Agreement or the DIP Term Loan Agreement, the Carve Out subject to the Professional Fee Carve Out Cap shall be senior to all liens and claims securing the DIP ABL Agreement or the DIP Term Loan Agreement, the Adequate Protection Liens, and the Diminution in Value claims, and any and all other forms of adequate protection, liens, or claims securing the Post-Petition Obligations or the Pre-Petition Obligations.

(v) Notwithstanding anything herein to the contrary, the Carve Out in respect of any “Transaction Fees” for Houlihan Lokey will be junior to the Prepetition ABL Obligations and DIP ABL Obligations to the extent secured by the DIP ABL Priority Collateral, unless and to the extent otherwise agreed in writing by the DIP ABL Agent in its sole discretion.

(e) No Direct Obligation To Pay Allowed Professional Fees. The DIP Agents and the DIP Lenders shall not be responsible for the payment or reimbursement of any fees or disbursements of any Professional Person incurred in connection with the Cases or any Successor Cases under any chapter of the Bankruptcy Code. Nothing in this Final Order or otherwise shall

be construed to obligate the DIP Agents or the DIP Lenders, or any Issuing Bank, in any way, to pay compensation to, or to reimburse expenses of, any Professional Person or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement.

(f) Payment of Allowed Professional Fees Prior to the Termination Declaration Date. Any payment or reimbursement made prior to the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall not reduce the Carve Out.

(g) Payment of Carve Out On or After the Termination Declaration Date. Any payment or reimbursement made on or after the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall permanently reduce the Carve Out on a dollar-for-dollar basis. Any funding of the Carve Out shall be added to, and made a part of, the Obligations secured by the Post-Petition Collateral and shall be otherwise entitled to the protections granted under this Final Order, the Financing Agreements, the Bankruptcy Code, and applicable law.

(h) Reservation of Rights. Nothing herein shall be construed to impair the right or ability of any party to object to the fees, expenses, reimbursement or other compensation described with respect to these Carve-Out provisions.

40. Limitations on the Use of DIP Proceeds, Cash Collateral and Carve Out. The DIP Facilities, the DIP Collateral, the Prepetition Collateral, the Cash Collateral and the Carve Out may not be used in connection with: (a) preventing, hindering, or delaying any of the DIP Agents', the DIP Lenders', DIP Obligations, or the Prepetition Secured Parties' or Prepetition Secured Obligations' enforcement or realization upon any of the DIP Collateral or Prepetition Collateral; (b) using or seeking to use Cash Collateral or selling or otherwise disposing of DIP Collateral without the consent of the applicable DIP Agents and the applicable Required DIP

Lenders; (c) using or seeking to use any insurance proceeds constituting DIP Collateral without the consent of the applicable DIP Agents and the applicable Required DIP Lenders; (d) incurring Indebtedness (as defined in the DIP ABL Credit Agreement or the DIP Term Loan Credit Agreement, as applicable) without the prior consent of the applicable DIP Agents and the applicable Required DIP Lenders, except to the extent permitted under the applicable DIP Agreements; (e) seeking to amend or modify any of the rights granted to the DIP Agents, the DIP Lenders, or the Prepetition Secured Parties under this Interim Order, the DIP Documents, or the Prepetition Documents, including seeking to use Cash Collateral and/or DIP Collateral on a contested basis; (f) objecting to or challenging in any way the DIP Liens, DIP Obligations, Prepetition Liens, Prepetition Secured Obligations, DIP Collateral (including Cash Collateral) or, as the case may be, Prepetition Collateral, or any other claims or liens, held by or on behalf of any of the DIP Agents, the DIP Lenders, or the Prepetition Secured Parties, respectively; (g) asserting, commencing or prosecuting any claims or causes of action whatsoever, including, without limitation, any actions under Chapter 5 of the Bankruptcy Code or applicable state law equivalents or actions to recover or disgorge payments, against any of the DIP Agents, the DIP Lenders, the Prepetition Secured Parties, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors and employees; (h) litigating, objecting to, challenging, or contesting in any manner, or raising any defenses to, the validity, extent, amount, perfection, priority, or enforceability of any of the DIP Obligations, the DIP Liens, the Prepetition Liens, Prepetition Secured Obligations or any other rights or interests of any of the DIP Agents, the DIP Lenders, the Prepetition Secured Parties; or (i) seeking to subordinate, recharacterize, disallow or avoid the DIP Obligations or the Prepetition Secured Obligations; *provided, however*, that the Carve Out and such collateral proceeds and loans under the DIP Documents may be used for

allowed fees and expenses, in an amount not to exceed \$25,000 in the aggregate, incurred solely by a Creditors' Committee (if appointed), in investigating (but not prosecuting or challenging) the validity, enforceability, perfection, priority or extent of the Prepetition Liens (the "Limited Amount"); and *provided, further*, that during the Remedies Notice Period the Debtors and a Creditors' Committee (if appointed) shall be entitled to an emergency hearing before the Court to contest solely whether an Event of Default has occurred and/or is continuing. Notwithstanding anything to the contrary, any fees, expenses or costs incurred by Committee Professionals in excess of the Limited Amount or in excess of the amount budgeted for Committee Professionals set forth in the Approved Budget shall not constitute an allowable administrative expense claim, including for purposes of section 1129(a)(9)(A) of the Bankruptcy Code.

41. Payment of Compensation. Nothing herein shall be construed as a consent to the allowance of any professional fees or expenses of any Professional Person or shall affect the right of the DIP Agents, the DIP Lenders, the Prepetition ABL Secured Parties, or the Prepetition Term Loan Secured Parties to object to the allowance and payment of such fees and expenses. So long as an unwaived Event of Default has not occurred, the Debtors shall be permitted to pay fees and expenses allowed and payable by final order of the Court (that has not been vacated or stayed, unless the stay has been vacated) under sections 328, 330, 331, and 363 of the Bankruptcy Code, as the same may be due and payable, as reflected in the most recent Approved Budget provided by the Debtors to the DIP Agents.

42. Effect of Stipulations on Third Parties.

(i) *Generally.* Except as set forth in this Interim Order, the admissions, stipulations, agreements, releases, and waivers set forth in this Interim Order (collectively, the "Prepetition Lien and Claim Matters") are and shall be binding in all circumstances and for all

purposes on the Debtors, any subsequent trustee, responsible person, examiner with expanded powers, any other estate representative, and all creditors and parties in interest and all of their successors in interest and assigns, including, without limitation, any chapter 7 or chapter 11 trustee or examiner appoint or elected for any of the Debtors and official committee that may be appointed in these cases (each, a “Challenge Party”), unless, and solely to the extent that (a) the Debtors received from a Challenge Party notice of a potential Challenge (defined below) during the Challenge Period (defined below) and (b) the Court rules in favor of the plaintiff in any such timely and properly filed Challenge (as defined herein); *provided, however*, that any releases by the DIP Term Loan Secured Parties and Prepetition Term Loan Secured Parties of the Put Purchasers shall be governed by the Restructuring Support Agreement (as defined in the Plan). For purposes of this paragraph 40: (a) “Challenge” means any claim against any of the Prepetition Secured Parties or the Put Purchasers on behalf of the Debtors or the Debtors’ creditors and interest holders, or to object to or to challenge the stipulations, findings or Debtors’ Stipulations set forth herein, including, but not limited to those in relation to: (i) the validity, extent, priority, or perfection of the mortgage, security interests, and liens of any Prepetition Secured Party; (ii) the validity, allowability, priority, or amount of the Prepetition Secured Obligations (including any fees included therein); (iii) the secured status of the Prepetition Secured Obligations; or (iv) any liability of any of the Prepetition Secured Parties or the Put Purchasers with respect to anything arising from any of the respective Prepetition Documents and the entry into the Put Agreement and Existing Participation Agreement; and (b) “Challenge Period” means (i) if the Creditors’ Committee is not formed, seventy-five (75) calendar days (or such longer period as the Court orders for cause shown before the expiration of such period) from the entry of the Final Order and (ii) if the Creditors’ Committee is formed, sixty (60) days after the entry of the Final Order (or

such longer period as the Court orders for cause shown before the expiration of such period). During the Challenge Period, a Challenge Party shall be entitled to determine whether a basis to assert a Challenge exists. If a Challenge Party identifies a basis to assert a Challenge, it must notify the Debtors during the Challenge Period of its demand that the Debtors initiate an action or adversary proceeding relating thereto and from the date that the Debtors are so notified, the Debtors shall have five (5) days to notify the Challenge Party of whether the Debtors intend to initiate such action (or a settlement in lieu of an adversary) and ten (10) days to initiate such action. If the Debtors notify such Challenge Party that the Debtors do not intend to initiate an action, settlement, or adversary proceeding, the Challenge Party shall have ten (10) days from the receipt of such notice to seek standing to initiate an action or adversary proceeding. Nothing herein shall be deemed to grant standing in favor of any Challenge Party absent further order of this Court. The Debtors, if timely notified of a potential Challenge, shall retain authority to prosecute, settle or compromise such Challenge in the exercise of their business judgment and subject to any applicable further order of court.

(ii) *Binding Effect.* Upon the expiration of the Challenge Period (subject to such ten (10) day periods described above) (the “Challenge Period Termination Date”), without the filing of a Challenge: (A) any and all such Challenges and objections by any party (including, without limitation, the Creditors’ Committee, any Chapter 11 trustee, and/or any examiner or other estate representative appointed in these Cases, and any Chapter 7 trustee and/or examiner or other estate representative appointed in any Successor Case), shall be deemed to be forever waived, released and barred, (B) all matters not subject to the Challenge, findings, Debtors’ Stipulations, waivers, releases, affirmations and other stipulations as to the priority, extent, and validity as to each Prepetition Secured Parties’ claims, liens, interests, and validity of the Prepetition Secured

Obligations shall be of full force and effect and forever binding upon the Debtors, the Debtors' bankruptcy estates and all creditors, interest holders, and other parties in interest in these Cases and any Successor Cases; and (C) any and all claims or causes of action against any of the Prepetition Secured Parties or the Put Purchasers relating in any way to the Debtors or the Prepetition Documents and entry into the Put Agreement and Existing Participation Agreement shall be forever waived and released by the Debtors' estates, all creditors, interest holders and other parties in interest in these Cases and any Successor Cases, provided that the binding effect of the findings, Debtors' Stipulations and release of the Put Purchasers is only effective as to third parties upon the later of the occurrence of the Disinterested Director's Determination and the Challenge Period Termination Date.

43. No Third Party Rights/No Superior Rights of Reclamation. Except as explicitly provided for herein, this Interim Order does not create any rights for the benefit of any third party, creditor, equity holder or any direct, indirect, or incidental beneficiary. Based on the findings and rulings herein concerning the integrated nature of the DIP Agreements and the Prepetition Secured Facilities and the relation back of the DIP Liens, in no event shall any alleged right of reclamation or return (whether asserted under Section 546(c) of the Bankruptcy Code or otherwise) be deemed to have priority over the DIP Liens.

44. Section 506(c) Claims. Subject to entry of a Final Order, no costs or expenses of administration which have been or may be incurred in the Cases at any time shall be charged against the DIP Agents, DIP Lenders, DIP Obligations, the Prepetition Secured Parties, the Prepetition Secured Obligations, or any of their respective claims, the DIP Collateral, or the Prepetition Collateral pursuant to sections 105 or 506(c) of the Bankruptcy Code, or otherwise, without the prior written consent, as applicable, of the DIP Agents, DIP Lenders, and Prepetition

Secured Parties, as applicable, and no such consent shall be implied from any other action, inaction, or acquiescence by any such agents or lenders.

45. No Marshaling/Applications of Proceeds. Subject to entry of a Final Order, the DIP Agents, DIP Lenders, DIP Obligations, and Prepetition Secured Parties and Prepetition Secured Obligations shall not be subject to the equitable doctrine of “marshaling” or any other similar doctrine with respect to any of the DIP Collateral or the Prepetition Collateral, as the case may be, and proceeds shall be received and applied pursuant to this Interim Order, including, for the avoidance of doubt, in accordance with paragraph 24 hereof, and the DIP Documents notwithstanding any other agreement or provision to the contrary.

46. Section 552(b). Subject to entry of a Final Order, the Prepetition Secured Parties and Prepetition Secured Obligations are each entitled to all of the rights and benefits of section 552(h) of the Bankruptcy Code, and the “equities of the case” exception under section 552(b) of the Bankruptcy Code shall not apply to the Prepetition Secured Parties and Prepetition Secured Obligations, with respect to proceeds, product, offspring or profits of any of the Prepetition Collateral.

47. Access to DIP Collateral. Notwithstanding anything contained herein to the contrary and without limiting any other rights or remedies of the DIP Agents, exercisable on behalf of the DIP ABL Lenders and DIP Term Loan Lenders, respectively, contained in this Interim Order, the DIP ABL Documents, the DIP Term Loan Documents, or otherwise available at law or in equity, and subject to the terms of the DIP ABL Documents and DIP Term Loan Documents, upon written notice to the landlord of any leased premises that an Event of Default or a Termination Date has occurred and is continuing, the DIP ABL Agent or DIP Term Loan Agent, as applicable, may, subject to the applicable notice provisions, if any, in this Interim Order and any separate

applicable agreement by and between such landlord and the DIP ABL Agent or DIP Term Loan Agent, enter upon any leased premises of the Debtors or any other party for the purpose of exercising any remedy with respect to DIP Collateral located thereon and shall be entitled to all of the Debtors' rights and privileges as lessee under such lease without interference from the landlords thereunder, *provided* that the DIP ABL Agent and/or DIP Term Loan Agent, as applicable, shall be obligated only to pay rent of the Debtors that first accrues after the written notice referenced above and that is payable during the period of such occupancy by the DIP ABL Agent and/or DIP Term Loan Agent, as applicable, calculated on a daily per diem basis. Nothing herein shall require the DIP ABL Agent or DIP Term Loan Agent to assume any lease as a condition to the rights afforded in this paragraph.

48. Exculpation. Nothing in this Interim Order, the DIP Documents, the existing agreements or any other documents related to the transactions contemplated hereby shall in any way be construed or interpreted to impose or allow the imposition upon any DIP Lender, DIP Agent, or Prepetition Secured Party any liability for any claims arising from the prepetition or postpetition activities of the DIP Parties, including in the operation of their businesses, or in connection with their restructuring efforts and administration of these Cases. In addition, (a) the DIP Lenders and DIP Agents shall not, in any way or manner, be liable or responsible for: (i) the safekeeping of the DIP Collateral, (ii) any loss or damage thereto occurring or arising in any manner or fashion from any cause, (iii) any Diminution in Value thereof, or (iv) any act or default of any carrier, servicer, bailee, custodian, forwarding agency, or other person, and (b) all risk of loss, damage, or destruction of the DIP Collateral shall be borne by the DIP Parties.

49. Limits on Lender Liability. The DIP Agents, the DIP Lenders and the Prepetition Secured Parties shall not be deemed in control of the operations of the Debtors or to be

acting as a “responsible person” or “owner or operator” with respect to the operation or management of the Debtors (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 29 U.S.C. §§ 9601 *et seq.*, as amended, or any similar federal or state statute).

50. Insurance Proceeds and Policies. Upon entry of this Interim Order and to the fullest extent provided by applicable law, the DIP ABL Agent (on behalf of the DIP ABL Parties), the DIP Term Loan Agent (on behalf of the DIP Term Loan Lenders), the Prepetition ABL Agent (on behalf of the Prepetition ABL Lenders), and the Prepetition Term Loan Agents (on behalf of the Prepetition Term Loan Lenders), shall be, and shall be deemed to be, without any further action or notice, named as additional insured and loss payee on each insurance policy maintained by the Debtors that in any way relates to the DIP Collateral.

51. Joint and Several Liability. Nothing in this Interim Order shall be construed to constitute a substantive consolidation of any of the Debtors’ estates, it being understood, however, that the Borrowers and the DIP Guarantors shall be jointly and severally liable for the obligations hereunder and all DIP Obligations in accordance with the terms hereof and of the DIP Facilities and the DIP Documents.

52. Rights Preserved. Notwithstanding anything herein to the contrary, the entry of this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly: (a) the DIP Agents’, DIP Lenders’ and Prepetition Secured Parties’ right to seek any other or supplemental relief in respect of the Debtors; (b) any of the rights of any of the DIP Agents, DIP Lenders and Prepetition Secured Parties under the Bankruptcy Code or under non-bankruptcy law, including, without limitation, the right to (i) request modification of the automatic stay of section 362 of the Bankruptcy Code, (ii) request dismissal of any of the Cases or Successor

Cases, conversion of any of the Cases to cases under Chapter 7, or appointment of a Chapter 11 trustee or examiner with expanded powers, or (iii) propose, subject to the provisions of section 1121 of the Bankruptcy Code, a Chapter 11 plan or plans; or (c) subject to the DIP Intercreditor Agreement, any other rights, claims or privileges (whether legal, equitable or otherwise) of any of the DIP Agents, DIP Lenders, or Prepetition Secured Parties. Notwithstanding anything herein to the contrary, the entry of this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, the Debtors', a Creditors' Committee's (if appointed) or any party in interest's right to oppose any of the relief requested in accordance with the immediately preceding sentence except as expressly set forth in this Interim Order. Entry of this Order is without prejudice to any and all rights of any party in interest with respect to the terms and approval of the Final Order and any other position which any party in interest deems appropriate to raise in the Debtors' Cases.

53. No Waiver by Failure to Seek Relief. The failure of the DIP Agents, DIP Lenders, or Prepetition Secured Parties to seek relief or otherwise exercise their rights and remedies under this Interim Order, the DIP Documents, the Prepetition Documents, or applicable law, as the case may be, shall not constitute a waiver of any of the rights hereunder, thereunder, or otherwise of the DIP Agent, DIP Lenders, Prepetition ABL Secured Parties, Prepetition Term Loan Secured Parties, Creditors' Committee (if appointed) or any party in interest.

54. Binding Effect of Interim Order. Immediately upon execution by this Court, the terms and provisions of this Interim Order shall become valid and binding upon and inure to the benefit of the Debtors, DIP Agents, DIP Lenders, the DIP Obligations, the Prepetition ABL Secured Parties, the Prepetition ABL Obligations, Prepetition Term Loan Secured Parties, all other creditors of any of the Debtors, any Creditors' Committee (or any other court appointed

committee) appointed in the Cases, and all other parties-in-interest and their respective successors and assigns, including any trustee or other fiduciary hereafter appointed in any of the Cases, any Successor Cases, or upon dismissal of any Case or Successor Case.

55. No Modification of Interim Order. Until and unless the DIP Obligations and the Prepetition Secured Obligations have been indefeasibly paid in full in cash, and all letters of credit under the DIP Facilities shall have been cancelled, backed, or cash collateralized in accordance with the terms thereof (such payment being without prejudice to any terms or provisions contained in the DIP Facilities which survive such discharge by their terms), and all commitments to extend credit under the DIP Facilities have been terminated, the Debtors irrevocably waive the right to seek and shall not seek or consent to, directly or indirectly: (a) without the prior written consent of the DIP Agents and the DIP Lenders (or the Prepetition Agents (acting, in the case of the Prepetition Term Loan Credit Agreements, at the direction of the “Required Lenders” (as defined therein)), (i) any material modification, stay, vacatur or amendment to this Interim Order; or (ii) a priority claim for any administrative expense or unsecured claim against the Debtors (now existing or hereafter arising of any kind or nature whatsoever, including, without limitation any administrative expense of the kind specified in sections 503(b), 506(c), 507(a) or 507(b) of the Bankruptcy Code) in any of the Cases or Successor Cases, equal or superior to the DIP Superpriority Claims or Adequate Protection Superpriority Claims, other than the Carve Out; (b) without the prior written consent of the DIP Agents (or the Prepetition Agents (acting, in the case of the Prepetition Term Loan Credit Agreements, at the direction of the “Required Lenders” (as defined therein))) for any order allowing use of Cash Collateral (other than as permitted during the Remedies Notice Period) resulting from DIP Collateral or Prepetition Collateral; (c) without the prior written consent of the applicable DIP

Agents, any lien on any of the DIP Collateral with priority equal or superior to the DIP Liens, except as specifically provided in the DIP Documents; or (d) without the prior written consent of the Prepetition Agents (acting, in the case of the Prepetition Term Loan Credit Agreements, at the direction of the “Required Lenders” (as defined therein)), any lien on any of the DIP Collateral with priority equal or superior to the Prepetition Liens or Adequate Protection Liens. The Debtors irrevocably waive any right to seek any amendment, modification or extension of this Interim Order without the prior written consent, as provided in the foregoing, of the DIP Agents (or the Prepetition Agents (acting, in the case of the Prepetition Term Loan Credit Agreements, at the direction of the “Required Lenders” (as defined therein))), and no such consent shall be implied by any other action, inaction or acquiescence of the DIP Agents or the Prepetition Agents (acting, in the case of the Prepetition Term Loan Credit Agreements, at the direction of the “Required Lenders” (as defined therein)).

56. Continuing Effect of DIP Intercreditor Agreement; Existing Participation Agreement. The Debtors, DIP Agents, DIP Lenders, Prepetition ABL Secured Parties and Prepetition Term Loan Secured Parties each shall be bound by, and in all respects of the DIP Facilities shall be governed by, and be subject to all the terms, provisions and restrictions of the DIP Intercreditor Agreement, except as may be expressly modified by this Interim Order. The parties to the Existing Participation Agreement shall continue to be bound by, and governed by, and be subject to all the terms, provisions and restriction of the Existing Participation Agreement.

57. Interim Order Controls. In the event of any inconsistency between the terms and conditions of the DIP Documents and of this Interim Order, the provisions of this Interim Order shall govern and control.

58. Discharge. The DIP ABL Obligations, the DIP Term Loan Obligations, and the obligations of the Debtors with respect to the adequate protection provided herein shall not be discharged by the entry of an order confirming any plan of reorganization in any of the Cases, notwithstanding the provisions of section 1141(d) of the Bankruptcy Code, unless such obligations have been indefeasibly paid in full in cash (and, in the case of DIP ABL Obligations, “payment in full” as provided by the DIP ABL Credit Agreement), on or before the effective date of such confirmed plan of reorganization, or each of the DIP Agents, DIP Lenders and Prepetition ABL Agent and Prepetition Term Loan Agent, as applicable, has otherwise agreed in writing. None of the Debtors shall propose or support any plan of reorganization or sale of all or substantially all of the Debtors’ assets, or order confirming such plan or approving such sale, that is not conditioned upon the indefeasible payment of the DIP ABL Obligations (in the case of the sale of DIP ABL Priority Collateral) and DIP Term Loan Obligations (in the case of the sale of DIP Term Loan Priority Collateral), and the payment of the Debtors’ obligations with respect to the adequate protection provided for herein, in full in cash within a commercially reasonable period of time (and in no event later than the effective date of such plan of reorganization or sale) (a “Prohibited Plan or Sale”) without the written consent of each of the DIP Agents (at the direction of the applicable Required DIP Lenders) and each of the Prepetition Agents, as applicable. For the avoidance of doubt, the Debtors’ proposal or support of a Prohibited Plan or Sale, or the entry of an order with respect thereto, shall constitute an Event of Default hereunder and under the DIP Documents.

59. Survival. The provisions of this Interim Order and any actions taken pursuant hereto shall survive entry of any order which may be entered: (a) confirming any plan of reorganization in any of the Cases; (b) converting any of the Cases to a case under Chapter 7 of

the Bankruptcy Code; (c) dismissing any of the Cases or any Successor Cases; or (d) pursuant to which this Court abstains from hearing any of the Cases or Successor Cases. The terms and provisions of this Interim Order, including the claims, liens, security interests and other protections granted to the DIP Agents, DIP Lenders, DIP Obligations, the Prepetition Secured Parties and the Prepetition Secured Obligations granted pursuant to this Interim Order and/or the DIP Documents, shall continue in the Cases, in any Successor Cases, or following dismissal of the Cases or any Successor Cases, and shall maintain their priority as provided by this Interim Order until: (i) in respect of the DIP ABL Credit Facility, all the DIP ABL Obligations, pursuant to the DIP ABL Documents and this Interim Order, have been indefeasibly paid in full in cash and all letters of credit under the DIP ABL Credit Facility shall have been cancelled or cash collateralized in accordance with the terms thereof (such payment being without prejudice to any terms or provisions contained in the DIP ABL Credit Facility which survive such discharge by their terms), and all commitments to extend credit under the DIP ABL Credit Facility are terminated; (ii) in respect of the Prepetition ABL Facility, all of the Prepetition ABL Obligations pursuant to the Prepetition ABL Documents and this Interim Order, have been indefeasibly paid in full in cash; (iii) in respect of the DIP Term Loan Credit Facility, all the DIP Term Loan Obligations, pursuant to the DIP Term Loan Documents and this Interim Order, have been indefeasibly paid in full in cash or otherwise satisfied to the satisfaction of the DIP Term Loan Agent and DIP Term Loan Lenders; and (iv) in respect of the Prepetition Term Loan Credit Agreement, all of the Prepetition Term Loan Obligations pursuant to the Prepetition Term Loan Documents and this Interim Order have been indefeasibly paid in full in cash or otherwise satisfied to the satisfaction of the Prepetition Secured Parties. The terms and provisions concerning the indemnification of the DIP Agents and DIP Lenders shall continue in the Cases, in any Successor Cases, following dismissal

of the Cases or any Successor Cases, following termination of the DIP Documents and/or the indefeasible repayment of the DIP Obligations.

In addition, the terms and provisions of this Interim Order shall continue in full force and effect for the benefit of the Prepetition Term Loan Secured Parties notwithstanding the repayment in full or termination of the DIP ABL Obligations or the Prepetition ABL Obligations.

60. Final Hearing. The Final Hearing to consider entry of the Final Order and final, approval of the DIP Facilities is scheduled for _____, 2019, at __: __ .m., prevailing Eastern Time., 2019, before the Honorable United States Bankruptcy Judge _____, in Courtroom _____, at the United States Bankruptcy Court for the Southern District of New York. On or before _____, 2019, the Debtors shall serve, by United States mail, first-class postage prepaid, notice of the entry of this Interim Order and of the Final Hearing (the "Final Hearing Notice"), together with copies of this Interim Order, the proposed Final Order and the DIP Motion, on: (a) the parties having been given notice of the Interim Hearing; (b) any party which has filed prior to such date a request for notices with this Court; (c) counsel for a Creditors' Committee (if appointed); (d) the Securities and Exchange Commission; and (e) the Internal Revenue Service. The Final Hearing Notice shall state that any party in interest objecting to the entry of the proposed Final Order shall file written objections with the Clerk of the Court no later than on _____, 2019, which objections shall be served so as to be received on or before such date by: (i) counsel to the Debtors, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022, Attn: Joshua A. Sussberg, P.C. and Christopher T. Greco, P.C., and Kirkland & Ellis LLP, 300 North LaSalle, Chicago, IL 60654, Attn: Joe Graham and Laura Krucks; (ii) counsel to the DIP ABL Agent and Prepetition ABL Agent, Goldberg Kohn Ltd. 55 East Monroe, Suite 3300, Chicago, Illinois 60603, Attn: Randall Klein and Prisca Kim; and (iii) counsel to the DIP Term Loan Agent

and Prepetition Term Loan Agent, King & Spalding LLP, 1185 Avenue of the Americas, New York, NY 10036, Attn: W. Austin Jowers, Christopher Boies, and Stephen M. Blank.

61. Necessary Action. The Debtors are authorized to take any and all such actions as are necessary or appropriate to implement the terms of this Interim Order.

62. Bankruptcy Rules. The requirements of Bankruptcy Rules 4001, 6003 and 6004, in each case to the extent applicable, are satisfied by the contents of the Motion.

63. Nunc Pro Tunc Effect of this Interim Order. This Interim Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect and be enforceable *nunc pro tunc* to the Petition Date immediately upon execution thereof.

64. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062 or 9014 of the Bankruptcy Rules, or any local bankruptcy rules, or Rule 62(a) of the Federal Rules of Civil Procedure, this Interim order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Interim Order.

65. The Debtors shall within two (2) business days of its entry serve copies of this Interim Order (which shall constitute adequate notice of the Final Hearing, including, without limitation, notice that the Debtors will seek approval at the Final Hearing of a waiver of right under sections 506(c) and 552(b) of the Bankruptcy Code) to the parties having been given notice of the interim Hearing, to any party that has filed a request for notices with this Court.

New York, New York
Dated: _____, 2019

UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Budget

Week #		Week Start Date		Week End Date																			TOTAL	9/16/19																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																							
5/17/19		5/20/19		5/27/19		6/3/19		6/10/19		6/17/19		6/24/19		7/1/19		7/8/19		7/15/19		7/22/19		7/29/19		8/5/19		8/12/19		8/19/19		8/26/19		9/2/19		9/9/19		9/16/19		9/23/19		9/30/19		10/6/19		10/13/19		10/20/19		10/27/19		11/3/19		11/10/19		11/17/19		11/24/19		12/1/19		12/8/19		12/15/19		12/22/19		12/29/19		1/5/20		1/12/20		1/19/20		1/26/20		2/2/20		2/9/20		2/16/20		2/23/20		3/1/20		3/8/20		3/15/20		3/22/20		3/29/20		4/5/20		4/12/20		4/19/20		4/26/20		5/3/20		5/10/20		5/17/20		5/24/20		5/31/20		6/7/20		6/14/20		6/21/20		6/28/20		7/5/20		7/12/20		7/19/20		7/26/20		8/2/20		8/9/20		8/16/20		8/23/20		8/30/20		9/6/20		9/13/20		9/20/20		9/27/20		10/4/20		10/11/20		10/18/20		10/25/20		11/1/20		11/8/20		11/15/20		11/22/20		11/29/20		12/6/20		12/13/20		12/20/20		12/27/20		1/3/21		1/10/21		1/17/21		1/24/21		1/31/21		2/7/21		2/14/21		2/21/21		2/28/21		3/6/21		3/13/21		3/20/21		3/27/21		4/3/21		4/10/21		4/17/21		4/24/21		5/1/21		5/8/21		5/15/21		5/22/21		5/29/21		6/5/21		6/12/21		6/19/21		6/26/21		7/3/21		7/10/21		7/17/21		7/24/21		7/31/21		8/7/21		8/14/21		8/21/21		8/28/21		9/4/21		9/11/21		9/18/21		9/25/21		10/2/21		10/9/21		10/16/21		10/23/21		10/30/21		11/6/21		11/13/21		11/20/21		11/27/21		12/4/21		12/11/21		12/18/21		12/25/21		1/1/22		1/8/22		1/15/22		1/22/22		1/29/22		2/5/22		2/12/22		2/19/22		2/26/22		3/5/22		3/12/22		3/19/22		3/26/22		4/2/22		4/9/22		4/16/22		4/23/22		4/30/22		5/7/22		5/14/22		5/21/22		5/28/22		6/4/22		6/11/22		6/18/22		6/25/22		7/2/22		7/9/22		7/16/22		7/23/22		7/30/22		8/6/22		8/13/22		8/20/22		8/27/22		9/3/22		9/10/22		9/17/22		9/24/22		10/1/22		10/8/22		10/15/22		10/22/22		10/29/22		11/5/22		11/12/22		11/19/22		11/26/22		12/3/22		12/10/22		12/17/22		12/24/22		12/31/22		1/7/23		1/14/23		1/21/23		1/28/23		2/4/23		2/11/23		2/18/23		2/25/23		3/4/23		3/11/23		3/18/23		3/25/23		4/1/23		4/8/23		4/15/23		4/22/23		4/29/23		5/6/23		5/13/23		5/20/23		5/27/23		6/3/23		6/10/23		6/17/23		6/24/23		7/1/23		7/8/23		7/15/23		7/22/23		7/29/23		8/5/23		8/12/23		8/19/23		8/26/23		9/2/23		9/9/23		9/16/23		9/23/23		9/30/23		10/7/23		10/14/23		10/21/23		10/28/23		11/4/23		11/11/23		11/18/23		11/25/23		12/2/23		12/9/23		12/16/23		12/23/23		12/30/23		1/6/24		1/13/24		1/20/24		1/27/24		2/3/24		2/10/24		2/17/24		2/24/24		3/2/24		3/9/24		3/16/24		3/23/24		3/30/24		4/6/24		4/13/24		4/20/24		4/27/24		5/4/24		5/11/24		5/18/24		5/25/24		6/1/24		6/8/24		6/15/24		6/22/24		6/29/24		7/6/24		7/13/24		7/20/24		7/27/24		8/3/24		8/10/24		8/17/24		8/24/24		8/31/24		9/7/24		9/14/24		9/21/24		9/28/24		10/5/24		10/12/24		10/19/24		10/26/24		11/2/24		11/9/24		11/16/24		11/23/24		11/30/24		12/7/24		12/14/24		12/21/24		12/28/24		1/4/25		1/11/25		1/18/25		1/25/25		2/1/25		2/8/25		2/15/25		2/22/25		2/29/25		3/6/25		3/13/25		3/20/25		3/27/25		4/3/25		4/10/25		4/17/25		4/24/25		5/1/25		5/8/25		5/15/25		5/22/25		5/29/25		6/5/25		6/12/25		6/19/25		6/26/25		7/3/25		7/10/25		7/17/25		7/24/25		7/31/25		8/7/25		8/14/25		8/21/25		8/28/25		9/4/25		9/11/25		9/18/25		9/25/25		10/2/25		10/9/25		10/16/25		10/23/25		10/30/25		11/6/25		11/13/25		11/20/25		11/27/25		12/4/25		12/11/25		12/18/25		12/25/25		1/1/26		1/8/26		1/15/26		1/22/26		1/29/26		2/5/26		2/12/26		2/19/26		2/26/26		3/5/26		3/12/26		3/19/26		3/26/26		4/2/26		4/9/26		4/16/26		4/23/26		4/30/26		5/7/26		5/14/26		5/21/26		5/28/26		6/4/26		6/11/26		6/18/26		6/25/26		7/2/26		7/9/26		7/16/26		7/23/26		7/30/26		8/6/26		8/13/26		8/20/26		8/27/26		9/3/26		9/10/26		9/17/26		9/24/26		10/1/26		10/8/26		10/15/26		10/22/26		10/29/26		11/5/26		11/12/26		11/19/26		11/26/26		12/3/26		12/10/26		12/17/26		12/24/26		12/31/26		1/7/27		1/14/27		1/21/27		1/28/27		2/4/27		2/11/27		2/18/27		2/25/27		3/4/27		3/11/27		3/18/27		3/25/27		4/1/27		4/8/27		4/15/27		4/22/27		4/29/27		5/6/27		5/13/27		5/20/27		5/27/27		6/3/27		6/10/27		6/17/27		6/24/27		7/1/27		7/8/27		7/15/27		7/22/27		7/29/27		8/5/27		8/12/27		8/19/27		8/26/27		9/2/27		9/9/27		9/16/27		9/23/27		9/30/27		10/7/27		10/14/27		10/21/27		10/28/27		11/4/27		11/11/27		11/18/27		11/25/27		12/2/27		12/9/27		12/16/27		12/23/27		12/30/27		1/6/28		1/13/28		1/20/28		1/27/28		2/3/28		2/10/28		2/17/28		2/24/28		3/2/28		3/9/28		3/16/28		3/23/28		3/30/28		4/6/28		4/13/28		4/20/28		4/27/28		5/4/28		5/11/28		5/18/28		5/25/28		6/1/28		6/8/28		6/15/28		6/22/28		6/29/28		7/6/28		7/13/28		7/20/28		7/27/28		8/3/28		8/10/28		8/17/28		8/24/28		8/31/28		9/7/28		9/14/28		9/21/28		9/28/28		10/5/28		10/12/28		10/19/28		10/26/28		11/2/28		11/9/28		11/16/28		11/23/28		11/30/28		12/7/28		12/14/28		12/21/28		12/28/28		1/4/29		1/11/29		1/18/29		1/25/29		2/1/29		2/8/29		2/15/29		2/22/29		2/29/29		3/6/29		3/13/29		3/20/29		3/27/29		4/3/29		4/10/29		4/17/29		4/24/29		5/1/29		5/8/29		5/15/29		5/22/29		5/29/29		6/5/29		6/12/29		6/19/29		6/26/29		7/3/29		7/10/29		7/17/29		7/24/29		7/31/29		8/7/29		8/14/29		8/21/29		8/28/29		9/4/29		9/11/29		9/18/29		9/25/29		10/2/29		10/9/29		10/16/29		10/23/29		10/30/29		11/6/29		11/13/29		11/20/29		11/27/29		12/4/29		12/11/29		12/18/29		12/25/29		1/1/30		1/8/30		1/15/30		1/22/30		1/29/30		2/5/30		2/12/30		2/19/30		2/26/30		3/5/30		3/12/30		3/19/30		3/26/30		4/2/30		4/9/30		4/16/30		4/23/30		4/30/30		5/7/30		5/14/30		5/21/30		5/28/30		6/4/30		6/11/30		6/18/30		6/25/30		7/2/30		7/9/30		7/16/30		7/23/30		7/30/30		8/6/30		8/13/30		8/20/30		8/27/30		9/3/30		9/10/30		9/17/30		9/24/30		10/1/30		10/8/30		10/15/30		10/22/30		10/29/30		11/5/30		11/12/30		11/19/30		11/26/30		12/3/30		12/10/30		12/17/30		12/24/30		12/31/30		1/7/31		1/14/31		1/21/31		1/28/31		2/4/31		2/11/31		2/18/31		2/25/31		3/4/31		3/11/31		3/18/31		3/25/31		4/1/31		4/8/31		4/15/31		4/22/31		4/29/31		5/6/31		5/13/31		5/20/31		5/27/31		6/3/31		6/10/31		6/17/31		6/24/31		7/1/31		7/8/31		7/15/31		7/22/31		7/29/31		8/5/31		8/12/31		8/19/31		8/26/31		9/2/31		9/9/31		9/16/31		9/23/31		9/30/31		10/7/31		10/14/31		10/21/31		10/28/31		11/4/31		11/11/31		11/18/31		11/25/31		12/2/31		12/9/31		12/16/31		12/23/31		12/30/31		1/6/32		1/13/32		1/20/32		1/27/32		2/3/32		2/10/32		2/17/32		2/24/32		3/2/32		3/9/32		3/16/32		3/23/32		3/30/32		4/6/32		4/13/32		4/20/32		4/27/32		5/4/32		5/11/32		5/18/32		5/25/32		6/1/32		6/8/32		6/15/32		6/22/32		6/29/32		7/6/32		7/13/32		7/20/32		7/27/32		8/3/32		8/10/32		8/17/32		8/24/32		8/31/32		9/7/32		9/14/32		9/21/32		9/28/32		10/5/32		10/12/32		10/19/32		10/26/32	

Week #	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Week Start Date	5/13/19	5/20/19	5/27/19	6/3/19	6/10/19	6/17/19	6/24/19	7/1/19	7/8/19	7/15/19	7/22/19	7/29/19	8/5/19	8/12/19	8/19/19	8/26/19	9/2/19	9/9/19	9/16/19
Week End Date	5/17/19	5/24/19	5/31/19	6/7/19	6/14/19	6/21/19	6/28/19	7/5/19	7/12/19	7/19/19	7/26/19	8/2/19	8/9/19	8/16/19	8/23/19	8/30/19	9/6/19	9/13/19	9/20/19
CASH BALANCE & AVAILABILITY																			
Operating Cash Balance																			
Beginning Cash Balance	507	507	500	500	500	500	500	500	500	500	500	500	500	500	500	500	500	500	507
Net Operating Cash Flow	A-B	(8,666)	(6,097)	(3,689)	(2,12)	853	2,026	(2,112)	2,188	2,789	1,049	(1,859)	263	859	(1,276)	(1,285)	(2,073)	(13,143)	(30,394)
Restructuring Cost Add-Back	C	-	250	-	-	404	250	1,249	250	1,376	400	1,564	250	-	1,466	1,275	250	5619	14,850
Professional Fee Carve Out Funding	D	(3,232)	(1,643)	(801)	(801)	(801)	(801)	(1,106)	(795)	(795)	(795)	(841)	(841)	(841)	(841)	(841)	(187)	1,113	(14,850)
Term DIP Cash Disbursement	E	8,449	1,246	2,245	382	1,500	-	-	-	-	-	1,467	341	54	724	1,277	2,793	6,634	27,110
ABL Draw/(Repayment)		3,442	6,245	2,245	382	(1,956)	(1,474)	1,969	(1,643)	(3,370)	(654)	(330)	(2)	(73)	(73)	(426)	(782)	(223)	3,277
Net Operating Cash On Hand	507	500	500	500	500	500	500	500	500	500	500	500	500	500	500	500	500	500	500
Term DIP Cash Balance																			
Beginning Balance	-	14,166	5,717	4,472	2,226	8,845	7,345	7,345	7,345	7,345	7,345	7,345	5,878	5,537	5,483	4,759	3,482	690	-
Term DIP Draws	Term DIP Draws	15,000	-	-	7,000	-	-	-	-	-	-	-	-	-	-	-	-	6,000	28,000
Disbursements	E	(834)	(8,449)	(1,246)	(2,245)	(382)	-	-	-	-	-	(1,467)	(341)	(54)	(724)	(1,277)	(2,793)	(6,634)	(27,944)
Term DIP Cash Ending Balance	14,166	5,717	4,472	2,226	8,845	7,345	7,345	7,345	7,345	7,345	7,345	7,345	5,878	5,537	5,483	4,759	3,482	690	56
Professional Fees Carve Out Balance																			
Beginning Balance	-	-	3,232	4,626	5,427	5,979	6,376	6,928	6,785	7,330	6,750	7,145	6,422	7,013	7,854	7,229	6,794	6,732	-
Funding	D	-	3,232	1,643	801	801	801	1,106	795	795	795	841	841	841	841	841	187	(1,113)	14,850
Disbursements	C	-	(250)	-	(250)	(404)	(250)	(1,249)	(250)	(1,376)	(400)	(1,564)	(250)	-	(1,466)	(1,275)	(250)	(5,619)	(14,850)
Professional Fees Carve Out Ending Balance	-	3,232	4,626	5,427	5,979	6,376	6,928	6,785	7,330	6,750	7,145	6,422	7,013	7,854	7,229	6,794	6,732	-	-
Total Cash Balance	14,673	6,217	4,972	2,726	9,345	7,845	7,845	7,845	7,845	7,845	7,845	11,378	11,037	10,983	10,259	8,982	6,190	5,556	556
ABL Availability																			
ABL Total Borrowing Base After Reserves	64,782	60,284	72,479	74,231	74,982	73,661	72,163	69,444	67,667	64,592	63,237	61,697	61,695	61,622	61,549	61,123	60,341	60,118	60,118
Cash Secured L/C Balance	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
ABL Balance	(46,698)	(50,148)	(56,392)	(58,637)	(59,019)	(57,063)	(55,588)	(57,557)	(55,915)	(52,545)	(51,891)	(51,561)	(51,559)	(51,486)	(51,413)	(50,987)	(50,205)	(49,982)	(49,982)
L/C Balance	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)
Total Availability	12,948	5,000	10,951	10,458	10,827	11,462	11,439	6,750	6,616	6,911	6,210	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
Net Cash on Hand + Availability	27,622	11,217	15,922	13,184	20,171	19,307	19,283	14,595	14,461	14,755	14,055	11,378	11,037	10,983	10,259	8,982	6,190	5,556	556
Pre-Petition ABL Balance																			
Pre-Petition ABL Beginning Balance	61,698	46,698	40,446	34,260	26,363	16,659	-	-	-	-	-	-	-	-	-	-	-	-	\$ 61,698
Draws	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Repayments	-	(6,252)	(6,185)	(7,897)	(9,705)	(11,260)	-	-	-	-	-	-	-	-	-	-	-	-	(41,299)
Balance Transfer	(15,000)	-	-	-	-	(5,399)	-	-	-	-	-	-	-	-	-	-	-	-	(20,399)
Pre-Petition ABL Ending Balance	46,698	40,446	34,260	26,363	16,659	-	-	-	-	-	-	-	-	-	-	-	-	-	-
ABL DIP Balance																			
ABL DIP Beginning Balance	-	-	9,702	22,132	32,274	42,360	57,063	55,588	57,557	55,915	52,545	51,891	51,561	51,486	51,413	50,987	50,205	50,205	\$ -
Draws	-	13,152	13,676	12,387	10,468	10,803	9,979	13,934	10,002	8,984	9,817	10,345	9,952	9,248	9,248	9,281	8,894	9,552	179,721
Repayments	-	-	-	-	-	-	(11,453)	(11,965)	(11,644)	(12,354)	(10,471)	(10,675)	(9,954)	(9,321)	(9,321)	(9,707)	(9,675)	(9,776)	(126,316)
Balance Transfer	-	-	-	-	-	5,399	-	-	-	-	-	-	-	-	-	-	-	-	5,399
Term Loan Draw Share	-	(3,450)	(1,246)	(2,245)	(382)	(1,500)	-	-	-	-	-	-	-	-	-	-	-	-	(8,823)
ABL DIP Ending Balance	-	9,702	22,132	32,274	42,360	57,063	55,588	57,557	55,915	52,545	51,891	51,561	51,559	51,486	51,413	50,987	50,205	49,982	49,982
Total Wells ABL/ABL DIP Balance	46,698	50,148	56,392	58,637	59,019	57,063	55,588	57,557	55,915	52,545	51,891	51,561	51,559	51,486	51,413	50,987	50,205	49,982	49,982
Term DIP Balance																			
DIP Beginning Balance	-	15,000	15,000	15,000	15,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	\$ -
Draws	15,000	-	-	-	7,000	-	-	-	-	-	-	-	-	-	-	-	-	6,000	28,000
Repayments	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
DIP Ending Balance	15,000	15,000	15,000	15,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	28,000	28,000
Sentinel ABL																			
Sentinel ABL Beginning Balance	-	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	\$ -
Balance Transfer	15,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	15,000
Sentinel ABL Ending Balance	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000

Exhibit B

DIP ABL Credit Agreement



DEBTOR-IN-POSSESSION CREDIT AGREEMENT

by and among

WELLS FARGO BANK, NATIONAL ASSOCIATION,

as Agent,

WELLS FARGO BANK, NATIONAL ASSOCIATION,

as Sole Lead Arranger,

WELLS FARGO BANK, NATIONAL ASSOCIATION,

as Sole Book Runner,

THE LENDERS THAT ARE PARTIES HERETO

as the Lenders,

DREAM II HOLDINGS, LLC

as Parent

HOLLANDER HOME FASHIONS HOLDINGS, LLC,

HOLLANDER SLEEP PRODUCTS, LLC,

HOLLANDER SLEEP PRODUCTS KENTUCKY, LLC,

HOLLANDER SLEEP PRODUCTS CANADA LIMITED

PACIFIC COAST FEATHER, LLC,

and

PACIFIC COAST FEATHER CUSHION, LLC,

as Borrowers

Dated as of May __, 2019

TABLE OF CONTENTS

	Page
1. DEFINITIONS AND CONSTRUCTION.....	2
1.1. Definitions.....	2
1.2. Accounting Terms.....	2
1.3. Code; PPSA	2
1.4. Construction	3
1.5. Time References	4
1.6. Schedules and Exhibits	4
1.7. Exchange Rates; Currency Equivalents; Applicable Currency.	5
1.8. Divisions	5
2. LOANS AND TERMS OF PAYMENT.	5
2.1. Revolving Loans.....	5
2.2. Last Out Loans.....	7
2.3. Borrowing Procedures and Settlements.....	8
2.4. Payments; Reductions of Commitments; Prepayments.	19
2.5. Promise to Pay; Promissory Notes.	29
2.6. Interest Rates and Letter of Credit Fee: Rates, Payments, and Calculations.	30
2.7. Crediting Payments	33
2.8. Designated Accounts.....	33
2.9. Maintenance of Loan Account; Statements of Obligations.....	33
2.10. Fees.	34
2.12. Non-Base Rate Option.	53
2.13. Capital Requirements.	56
2.14. [Reserved].	57
2.15. Joint and Several Liability of Borrowers.....	57
2.16. Currencies.....	60
2.17. Interest Act (Canada); Criminal Rate of Interest; Nominal Rate of Interest	60
2.18. Existing Hedging Obligations and other Existing Bank Product Obligations.....	61

TABLE OF CONTENTS
(continued)

		Page
	2.19. Superpriority	62
	2.20. Waiver of any Priming Rights	62
3.	CONDITIONS; TERM OF AGREEMENT	62
	3.1. Conditions Precedent to the Effectiveness of this Agreement	62
	3.2. Conditions Precedent to all Extensions of Credit	62
	3.3. Maturity	63
	3.4. Effect of Maturity	63
	3.5. Early Termination by Borrowers	64
4.	REPRESENTATIONS AND WARRANTIES	64
	4.1. Due Organization and Qualification; Subsidiaries	64
	4.2. Due Authorization; No Conflict	65
	4.3. Governmental Consents	66
	4.4. Binding Obligations; Perfected Liens	66
	4.5. Title to Assets; No Encumbrances	67
	4.6. Litigation	67
	4.7. Compliance with Laws	67
	4.8. No Material Adverse Effect	67
	4.9. No Fraudulent Conveyance	67
	4.10. Employee Benefits	68
	4.11. Environmental Condition	68
	4.12. Complete Disclosure	69
	4.13. Patriot Act	70
	4.14. Indebtedness	70
	4.15. Payment of Taxes	70
	4.16. Margin Stock	70
	4.17. Governmental Regulation	71
	4.18. OFAC; Sanctions; Anti-Corruption Laws; Anti-Money Laundering Laws	71
	4.19. Employee and Labor Matters	71
	4.20. [Reserved]	72

TABLE OF CONTENTS
(continued)

		Page
4.21.	Broker Fees	72
4.22.	Eligible Accounts	72
4.23.	Eligible Inventory	72
4.24.	Location of Inventory	72
4.25.	Inventory Records	72
4.26.	Suppliers and Customers	72
4.27.	Term Loan Documents	72
4.28.	Hedge Agreements	72
4.29.	[Reserved]	72
4.30.	Financing Order and DIP Recognition Order	73
4.31.	Exit Financing Commitment Letter	73
4.32.	Restructuring Support Agreement	73
4.33.	Bankruptcy Cases and Recognition Proceedings	73
4.34.	Financing Order and DIP Recognition Order.	73
4.35.	Insurance.	73
5.	AFFIRMATIVE COVENANTS	73
5.1.	Financial Statements, Reports, Certificates	73
5.2.	Reporting	74
5.3.	Existence	75
5.4.	Maintenance of Properties	76
5.5.	Taxes	76
5.6.	Insurance	76
5.7.	Inspection	77
5.8.	Compliance with Laws	78
5.9.	Environmental	78
5.10.	Disclosure Updates	79
5.11.	[Reserved]	79
5.12.	Further Assurances	79
5.13.	[Reserved]	80
5.14.	Location of Inventory	80

TABLE OF CONTENTS
(continued)

		Page
5.15.	[Reserved]	80
5.16.	Compliance with ERISA and the IRC	80
5.17.	Canadian Compliance	81
5.18.	Bank Products	81
5.19.	Canadian Cash Management	81
5.20.	OFAC; Sanctions; Anti-Corruption Laws; Anti-Money Laundering Laws	82
5.21.	Bankruptcy Transaction Milestones	82
5.22.	Investment Banker	82
5.23.	Consultant	83
5.24.	Exit Financing Commitment Letter	84
5.25.	Sale of Collateral	84
5.26.	Bankruptcy Covenants	84
5.27.	Bankruptcy Cases	84
5.28.	Budget Matters	85
6.	NEGATIVE COVENANTS	85
6.1.	Indebtedness	85
6.2.	Liens	85
6.3.	Restrictions on Fundamental Changes	85
6.4.	Disposal of Assets	86
6.5.	Nature of Business	86
6.6.	Prepayments and Amendments	86
6.7.	Restricted Payments	87
6.8.	Accounting Methods	87
6.9.	Investments	87
6.10.	Transactions with Affiliates	87
6.11.	Use of Proceeds	88
6.12.	Limitation on Issuance of Equity Interests	89
6.13.	Parent as Holding Company	89
6.14.	Sale and Leaseback Transactions	89

TABLE OF CONTENTS
(continued)

	Page
6.15. Employee Benefits	90
6.16. Burdensome Agreements.....	90
6.17. Financing Order; Administrative Expense Priority; Payments	91
6.18. Restructuring Support Agreement.....	92
6.19. Applications Under the CCAA and BIA.....	92
6.20. Term Loan Proceeds Account.	92
6.21. Chapter 11 and Other Claims.....	92
7. FINANCIAL COVENANTS.....	93
8. EVENTS OF DEFAULT.....	94
8.1. Payments.....	94
8.2. Covenants.....	94
8.3. Judgments.....	94
8.4. [Reserved]	95
8.5. Material Adverse Effect	95
8.6. Default Under Other Agreements	95
8.7. Representations, etc	95
8.8. Guaranty.....	96
8.9. Security Documents	96
8.10. Loan Documents.....	96
8.11. Invalidity of Subordination Provisions	96
8.12. Change in Control.....	96
8.13. ERISA	96
8.14. Participation Put Agreement	97
8.15. Consultant.....	97
8.16. Bankruptcy Matters.....	97
8.17. Permitted Variance.....	101
9. RIGHTS AND REMEDIES.....	101
9.1. Rights and Remedies.....	101
9.2. Remedies Cumulative	102

TABLE OF CONTENTS
(continued)

	Page
10. WAIVERS; INDEMNIFICATION	102
10.1. Demand; Protest; etc.	102
10.2. The Lender Group's Liability for Collateral	102
10.3. Indemnification	103
11. NOTICES	104
12. CHOICE OF LAW AND VENUE; JURY TRIAL WAIVER; JUDICIAL REFERENCE PROVISION	105
13. ASSIGNMENTS AND PARTICIPATIONS; SUCCESSORS	107
13.1. Assignments and Participations	107
13.2. Successors	111
14. AMENDMENTS; WAIVERS	111
14.1. Amendments and Waivers	111
14.2. Replacement of Certain Lenders	114
14.3. No Waivers; Cumulative Remedies	114
15. AGENT; THE LENDER GROUP	115
15.1. Appointment and Authorization of Agent	115
15.2. Delegation of Duties	116
15.3. Liability of Agent	116
15.4. Reliance by Agent	116
15.5. Notice of Default or Event of Default	117
15.6. Credit Decision	117
15.7. Costs and Expenses; Indemnification	118
15.8. Agents in Individual Capacity	118
15.9. Successor Agent	119
15.10. Lender in Individual Capacity	119
15.11. Collateral Matters	120
15.12. Restrictions on Actions by Lenders; Sharing of Payments	122
15.13. Agency for Perfection	122
15.14. Payments by Agent to the Lenders	122
15.15. Concerning the Collateral and Related Loan Documents	122

TABLE OF CONTENTS
(continued)

	Page
15.16. Field Examination Reports; Confidentiality; Disclaimers by Lenders; Other Reports and Information	123
15.17. Several Obligations; No Liability	124
15.18. Sole Lead Arranger and Sole Book Runners	124
15.19. Appointment for the Province of Quebec	124
16. WITHHOLDING TAXES	125
16.1. Payments	125
16.2. Exemptions	126
16.3. Reductions	128
16.4. Refunds	128
17. GENERAL PROVISIONS	129
17.1. Effectiveness	129
17.2. Section Headings	129
17.3. Interpretation	129
17.4. Severability of Provisions	129
17.5. Bank Product Providers	129
17.6. Debtor-Creditor Relationship	130
17.7. Counterparts; Electronic Execution	130
17.8. Revival and Reinstatement of Obligations; Certain Waivers	130
17.9. Confidentiality	131
17.10. Survival	133
17.11. Patriot Act	133
17.12. Integration	133
17.13. HSP as Agent for Borrowers	134
17.14. Judgment Currency	134
17.15. No Setoff	135
17.16. Quebec Interpretation	135
17.17. English Language Only	135
17.18. Canadian Amalgamations	135
17.19. Acknowledgement and Consent to Bail-In of EEA Financial Institutions	136

TABLE OF CONTENTS
(continued)

Page

EXHIBITS AND SCHEDULES

Exhibit A-1	Form of Assignment and Acceptance
Exhibit B-1	Form of Borrowing Base Certificate
Exhibit B-2	Form of Bank Product Letter Agreement
Exhibit B-3	Form of Initial Approved Budget
Exhibit C-1	Form of Compliance Certificate
Exhibit F-1	Form of Interim Financing Order
Exhibit L-1	Form of Non-Base Notice
Schedule A-1	Agent's Canadian Account
Schedule A-2	Agent's US Account
Schedule A-3	Authorized Persons
Schedule C-1	Commitments
Schedule D-1	Canadian Designated Account
Schedule D-2	US Designated Account
Schedule E-1	Eligible Inventory Locations
Schedule H-1	Existing Hedge Agreements
Schedule P-1	Permitted Investments
Schedule P-2	Permitted Liens
Schedule R-1	Real Property Collateral
Schedule 1.1	Definitions
Schedule 2.11(A)	Existing US Letters of Credit
Schedule 2.11(B)	Existing Canadian Letters of Credit
Schedule 3.1	Conditions Precedent
Schedule 4.1(b)	Subscriptions, Options, Warrants, Calls of Parent
Schedule 4.1(c)	Capitalization of Parent's Subsidiaries
Schedule 4.1(d)	Subscriptions, Options, Warrants, Calls of Parent's Subsidiaries
Schedule 4.10	Benefit Plans
Schedule 4.11	Environmental Matters
Schedule 4.14	Permitted Indebtedness
Schedule 4.24	Location of Inventory
Schedule 4.35	Insurance
Schedule 5.1	Financial Statements, Reports, Certificates
Schedule 5.2	Collateral Reporting
Schedule 5.21	Milestones
Schedule 6.5	Nature of Business
Schedule 6.10	Affiliate Transactions

DEBTOR-IN-POSSESSION CREDIT AGREEMENT

THIS DEBTOR-IN-POSSESSION CREDIT AGREEMENT (this "Agreement"), is entered into as of May __, 2019, by and among the lenders identified on the signature pages hereof (each of such lenders, together with its successors and permitted assigns, is referred to hereinafter as a "Lender", as that term is hereinafter further defined), **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a national banking association, as administrative agent for each member of the Lender Group and the Bank Product Providers (in such capacity, together with its successors and assigns in such capacity, "Agent"), **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a national banking association, as sole lead arranger (in such capacity, together with its successors and assigns in such capacity, the "Sole Lead Arranger"), **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a national banking association, as sole book runner (in such capacity, together with its successors and assigns in such capacity, the "Sole Book Runner"), **DREAM II HOLDINGS, LLC**, a Delaware limited liability company ("Parent"), **HOLLANDER HOME FASHIONS HOLDINGS, LLC**, a Delaware limited liability company ("HHFH"), **HOLLANDER SLEEP PRODUCTS, LLC** (formerly known as Hollander Home Fashions, LLC), a Delaware limited liability company ("HSP"), **HOLLANDER SLEEP PRODUCTS KENTUCKY, LLC**, a Delaware limited liability company ("Hollander Kentucky"), **PACIFIC COAST FEATHER, LLC**, a Delaware limited liability company ("PCF"), and **PACIFIC COAST FEATHER CUSHION, LLC**, a Delaware limited liability company ("Cushion"; HHFH, HSP, Hollander Kentucky, PCF and Cushion, are collectively, the "US Borrowers" and individually a "US Borrower"), and **HOLLANDER SLEEP PRODUCTS CANADA LIMITED** (formerly known as Hollander Canada Home Fashions Limited), a British Columbia corporation ("Canadian Borrower"; US Borrowers and Canadian Borrower are collectively, the "Borrowers" and individually a "Borrower").

WHEREAS, on May __, 2019 (the "Filing Date"), Parent, Borrowers, and their respective Domestic Subsidiaries (each a "Debtor" and collectively, the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court");

WHEREAS, the Canadian Loan Parties will be debtors in the Bankruptcy Cases, and, within 3 Business Days following entry of the Interim Financing Order, HSP, in its capacity as foreign representative on behalf of the Loan Parties (the "Foreign Representative"), will commence a recognition proceeding under Part IV of the CCAA in the Ontario Superior Court of Justice (Commercial List) (the "Canadian Court") to recognize the Bankruptcy Cases as "foreign main proceedings" (the "Recognition Proceedings");

WHEREAS, the Debtors are continuing to operate their businesses and manage their properties as debtors-in-possession under Sections 1107 and 1108 of the Bankruptcy Code and the applicable sections of the CCAA;

WHEREAS, Borrowers have requested that Lenders provide a secured revolving credit facility to Borrowers in order to (i) fund the continued operation of Borrowers' businesses as debtor and debtor-in-possession under the Bankruptcy Code and the CCAA during the

pendency of the Bankruptcy Cases and the Recognition Proceedings and (ii) repay in full the Existing Secured Obligations (as hereinafter defined); and

WHEREAS, the Lenders are willing to make available to Borrowers such postpetition loans, other extensions of credit and financial accommodations upon the terms and subject to the conditions set forth herein.

The parties agree as follows:

1. **DEFINITIONS AND CONSTRUCTION.**

1.1. **Definitions.** Capitalized terms used in this Agreement (including the preamble) shall have the meanings specified therefor on Schedule 1.1.

1.2. **Accounting Terms.** All accounting terms not specifically defined herein shall be construed in accordance with GAAP; provided, that if Borrowers notify Agent that Borrowers request an amendment to any provision hereof to eliminate the effect of any Accounting Change occurring after the Closing Date or in the application thereof on the operation of such provision (or if Agent notifies Borrowers that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such Accounting Change or in the application thereof, then Agent and Borrowers agree that they will negotiate in good faith amendments to the provisions of this Agreement that are directly affected by such Accounting Change with the intent of having the respective positions of the Lenders and Borrowers after such Accounting Change conform as nearly as possible to their respective positions before such Accounting Change and, until any such amendments have been agreed upon and agreed to by the Required Lenders, the provisions in this Agreement shall be calculated as if no such Accounting Change had occurred; provided, further, that notwithstanding any Accounting Change after the Closing Date that would require lease obligations that would be treated as operating leases as of the Closing Date to be classified and accounted for as capital leases or otherwise reflected on Parent and its Subsidiaries' consolidated balance sheet, for the purposes of determining compliance with any covenant contained herein, such obligations shall be treated in the same manner as operating leases are treated as of the Closing Date. When used herein, the term "financial statements" shall include the notes and schedules thereto. Whenever the term "Parent" is used in respect of a financial covenant or a related definition, it shall be understood to mean Parent and its Subsidiaries on a consolidated basis, unless the context clearly requires otherwise. Notwithstanding anything to the contrary contained herein, all financial statements delivered hereunder shall be prepared, and all financial covenants contained herein shall be calculated, without giving effect to any election under the Statement of Financial Accounting Standards No. 159 (or any similar accounting principle) permitting a Person to value its financial liabilities or Indebtedness at the fair value thereof.

1.3. **Code; PPSA.** Any terms used in this Agreement that are defined in (a) the Code shall be construed and defined as set forth in the Code unless otherwise defined herein; provided, however, that to the extent that the Code is used to define any term herein and such term is defined differently in different Articles of the Code, the definition of such term contained in Article 9 of the Code shall govern and (b) the PPSA shall be construed and defined as set forth

in the PPSA. Notwithstanding the foregoing, and where the context so requires, (i) any term defined in this Agreement by reference to the "Code", the "UCC" or the "Uniform Commercial Code" shall also have any extended, alternative or analogous meaning given to such term in applicable Canadian personal property security and other laws (including, without limitation, the *Personal Property Security Act* of each applicable province of Canada, the *Bills of Exchange Act* (Canada) and the *Depository Bills and Notes Act* (Canada)), in all cases for the extension, preservation or betterment of the security and rights of the Collateral, (ii) all references in this Agreement to "Article 8" shall be deemed to refer also to applicable Canadian securities transfer laws (including, without limitation, the *Securities Transfer Act* of each applicable province of Canada (the "STA")), (iii) all references in this Agreement to a financing statement, continuation statement, amendment or termination statement shall be deemed to refer also to the analogous documents used under applicable Canadian personal property security laws, (iv) all references to the United States of America, or to any subdivision, department, agency or instrumentality thereof shall be deemed to refer also to Canada, or to any subdivision, department, agency or instrumentality thereof, and (v) all references to federal or state securities law of the United States shall be deemed to refer also to analogous federal where applicable and provincial securities laws in Canada.

1.4. **Construction.** Unless the context of this Agreement or any other Loan Document clearly requires otherwise, references to the plural include the singular, references to the singular include the plural, the terms "includes" and "including" are not limiting, and the term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or." The words "hereof," "herein," "hereby," "hereunder," and similar terms in this Agreement or any other Loan Document refer to this Agreement or such other Loan Document, as the case may be, as a whole and not to any particular provision of this Agreement or such other Loan Document, as the case may be. Unless the context of this Agreement or any other Loan Document clearly requires otherwise, references to "law" means all international, foreign, federal, state, provincial and local statutes, treaties, rules, guidelines, regulations, by-laws, ordinances, decrees, codes and administrative or judicial or arbitral or administrative or ministerial or departmental or regulatory precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case, whether or not having the force of law. Section, subsection, clause, schedule, and exhibit references herein are to this Agreement unless otherwise specified. Any reference in this Agreement or in any other Loan Document to any agreement, instrument, or document shall include all alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, joinders, and supplements, thereto and thereof, as applicable (subject to any restrictions on such alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, joinders, and supplements set forth herein). The words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties. All references to "province" or like terms shall include "territory" and like terms. Any reference herein or in any other Loan Document to the satisfaction, repayment, or payment in full of the Obligations shall mean (a) the payment or repayment in full in immediately available funds in the Applicable Currency of (i) the principal amount of, and interest accrued and unpaid with respect to, all outstanding Loans and "Loans" (as defined in the Existing Credit Agreement), together with the payment of any

premium applicable to the repayment of the Loans and "Loans" (as defined in the Existing Credit Agreement), (ii) all Lender Group Expenses and "Lender Group Expenses" (as defined in the Existing Credit Agreement) that have accrued and are unpaid regardless of whether demand has been made therefor, (iii) all fees or charges that have accrued hereunder or under any other Loan Document or Existing Loan Document and are unpaid, (b) in the case of contingent reimbursement obligations with respect to Letters of Credit, Existing US Letters of Credit or Existing Canadian Letters of Credit, providing Letter of Credit Collateralization and "Letter of Credit Collateralization" (as defined in the Existing Credit Agreement) in the Applicable Currency, (c) in the case of obligations with respect to Bank Products (other than Hedge Obligations) and "Bank Products" (other than "Hedge Obligations") (each as defined in the Existing Credit Agreement), providing Bank Product Collateralization and "Bank Product Collateralization" (as defined in the Existing Credit Agreement) in the Applicable Currency, (d) the receipt by Agent of cash collateral in the Applicable Currency in order to secure any other contingent Obligations or Existing Secured Obligations for which a claim or demand for payment has been made on or prior to such time or that Agent reasonably expects will be made or in respect of matters or circumstances known to Agent, a Lender, Existing Agent or an Existing Lender at such time that are reasonably expected to result in any loss, cost, damage, or expense (including attorneys' fees and legal expenses), such cash collateral to be in such amount as Agent reasonably determines is appropriate to secure such contingent Obligations, (e) the payment or repayment in full in immediately available funds in the Applicable Currency of all other outstanding Obligations and Existing Secured Obligations (including the payment of any termination amount then applicable (or which would or could become applicable as a result of the repayment of the other Obligations or Existing Secured Obligations) under Hedge Agreements provided by Hedge Providers and "Hedge Agreements" (as defined in the Existing Credit Agreement) provided by "Hedge Providers" (as defined in the Existing Credit Agreement)) other than in each case of clauses (a) to (e) hereof, (i) Unasserted Contingent Indemnification Obligations, (ii) any Bank Product Obligations (other than Hedge Obligations) that, at such time, are allowed by the applicable Bank Product Provider to remain outstanding without being required to be repaid or cash collateralized, and (iii) any Hedge Obligations that, at such time, are allowed by the applicable Hedge Provider to remain outstanding without being required to be repaid, and (f) the termination of all of the Commitments of the Lenders. Any reference herein to any Person shall be construed to include such Person's permitted successors and assigns. Any requirement of a writing contained herein or in any other Loan Document shall be satisfied by the transmission of a Record.

1.5. **Time References.** Unless the context of this Agreement or any other Loan Document clearly requires otherwise, all references to time of day refer to Pacific Standard Time or Pacific daylight saving time, as in effect in Los Angeles, California on such day. For purposes of the computation of a period of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" each means "to and including"; provided that, with respect to a computation of fees or interest payable to Agent or any Lender, such period shall in any event consist of at least one full day.

1.6. **Schedules and Exhibits.** All of the schedules and exhibits attached to this Agreement shall be deemed incorporated herein by reference.

1.7. **Exchange Rates; Currency Equivalents; Applicable Currency.**

(a) For purposes of this Agreement and the other Loan Documents, the Dollar Equivalent of any Revolving Loans, Letters of Credit, other Obligations and other references to amounts denominated in a currency other than Dollars shall be determined in accordance with the terms of this Agreement. Such Dollar Equivalent shall become effective as of such Revaluation Date for such Revolving Loans, Letters of Credit and other Obligations and shall be the Dollar Equivalent employed in converting any amounts between the applicable currencies until the next Revaluation Date to occur for such Revolving Loans, Letters of Credit and other Obligations. Except as otherwise expressly provided herein, the applicable amount of any currency for purposes of the Loan Documents (including for purposes of financial statements and all calculations in connection with the covenants, including the financial covenants) shall be the Dollar Equivalent thereof.

(b) Wherever in this Agreement and the other Loan Documents in connection with a borrowing, conversion, continuation or prepayment of a Revolving Loan or the issuance, amendment or extension of a Letter of Credit, an amount, such as a required minimum or multiple amount, is expressed in Dollars, but such Revolving Loan or Letter of Credit is denominated in Canadian Dollars, such amount shall be the relevant Canadian Dollar Equivalent of such Dollar amount (rounded to the nearest Canadian Dollar, with 0.5 of a unit being rounded upward).

1.8. **Divisions.** For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

2. **LOANS AND TERMS OF PAYMENT.**

2.1. **Revolving Loans.**

(a) Subject to the terms and conditions of this Agreement, and during the term of this Agreement, each Revolving Lender with a US Revolver Commitment agrees (severally, not jointly or jointly and severally) to make revolving loans in Dollars ("US Revolving Loans") to US Borrowers in an amount at any one time outstanding not to exceed the lesser of:

- (i) such Lender's US Revolver Commitment, and
- (ii) such Lender's Pro Rata Share of an amount equal to the lesser of:

(A) the amount equal to (1) the US Maximum Revolver Amount less (2) the sum of (w) the US Letter of Credit Usage at such time, plus (x) the principal amount of US Swing Loans outstanding at such time, and (y) the Dollar Equivalent of the Canadian Revolver Usage at such time less (3) the principal amount of any Reinstated Existing

Secured Obligations less (4) the principal amount of Existing Secured Obligations (including, for the avoidance of doubt, Existing Last Out Obligations) then outstanding, and

(B) the amount equal to (1) the US Borrowing Base as of such date (based upon the US Borrowing Base set forth in the most recent Borrowing Base Certificate delivered by Borrowers to Agent) less (2) the sum of (x) the US Letter of Credit Usage at such time, plus (y) the principal amount of US Swing Loans outstanding at such time less (3) the principal amount of any Reinstated Existing Secured US Obligations less (4) the principal amount of any Existing Secured US Obligations (excluding Existing Last Out Obligations and obligations in respect of guaranties of Existing Secured Canadian Obligations) then outstanding.

(b) Subject to the terms and conditions of this Agreement, and during the term of this Agreement, each Revolving Lender with a Canadian Revolver Commitment agrees (severally, not jointly or jointly and severally) to make revolving loans in Dollars or Canadian Dollars (as selected by Administrative Borrower) ("Canadian Revolving Loans") to Canadian Borrower in an amount at any one time outstanding not to exceed the Dollar Equivalent of the lesser of:

- (i) such Lender's Canadian Revolver Commitment, and
- (ii) such Lender's Pro Rata Share of an amount equal to the lesser of:

(A) the amount equal to (1) the Canadian Maximum Revolver Amount less (2) the sum of (x) the Canadian Letter of Credit Usage at such time, and (y) the principal amount of Canadian Swing Loans outstanding at such time less (3) the principal amount of any Reinstated Existing Secured Canadian Obligations less (4) the principal amount of Existing Secured Canadian Obligations then outstanding, and

(B) the amount equal to (1) the Canadian Borrowing Base as of such date (based upon the Canadian Borrowing Base set forth in the most recent Borrowing Base Certificate delivered by Borrowers to Agent) less (2) the sum of (x) the Canadian Letter of Credit Usage at such time, plus (y) the principal amount of the Canadian Swing Loans outstanding at such time less (3) the principal amount of any Reinstated Existing Secured Canadian Obligations less (4) the principal amount of any Existing Secured Canadian Obligations then outstanding.

(c) Anything to the contrary in this Section 2.1 notwithstanding, Agent shall have the right (but not the obligation), in the exercise of its Permitted Discretion, to establish and increase or decrease (i) Receivable Reserves, (ii) Inventory Reserves, (iii) Bank Product Reserves, (iv) with respect to the US Borrowing Base only (except that in its Permitted Discretion, Agent may establish Reserves with respect to the Carveout against the Canadian Borrowing Base (without duplication) for amounts of the Carveout representing the Administration Charge and professionals providing services to Canadian Borrower), Reserves with respect to the Carveout and Specified Reserves (but, in the case of Specified Reserves, only to the extent provision for payment of any applicable claim under Section 503(b)(9) of the Bankruptcy Code is not (or is no longer) provided for under the Term Loan Credit Agreement and the Final Financing Order), (v) with respect to the Canadian Borrowing Base only, Reserves including with respect to Canadian Priority Payables Reserves and (to the extent not reserved

against the US Borrowing Base pursuant to clause (iv) above), the Administration Charge, (vi) Reserves to address the results of any audit or appraisal performed by or on behalf of Agent from time to time after the Closing Date, and (vii) other Reserves against the US Borrowing Base or the Canadian Borrowing Base. The amount of any such Reserve established by 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 or eligibility criteria established and currently maintained, and any Reserve established by Agent or Lenders that was not in effect prior to the Filing Date under the Existing Credit Agreement or reflected in the Initial Approved Budget, shall only be permitted if established by Agent in its Permitted Discretion, in accordance with its customary practices for financings of this type. Agent shall provide Administrative Borrower with concurrent written notice of the implementation of any reserve. In the event the circumstances, conditions, events or contingencies underlying any such reserve cease to exist or the liability that is the basis for any such reserve has been reduced, in each case as determined by Agent in its Permitted Discretion, such reserve shall be rescinded or reduced by an amount as determined in Agent's Permitted Discretion.

(d) Amounts borrowed pursuant to this Section 2.1 may be repaid and, subject to the terms and conditions of this Agreement, reborrowed at any time during the term of this Agreement. The outstanding principal amount of the Revolving Loans, together with interest accrued and unpaid thereon, shall constitute Obligations and shall be due and payable on the Maturity Date or, if earlier, on the date on which they are declared due and payable pursuant to the terms of this Agreement.

(e) Anything to the contrary in this Section 2.1 notwithstanding, at no time shall the sum of the US Revolver Usage and the Dollar Equivalent of the Canadian Revolver Usage exceed the US Maximum Revolver Amount and at no time shall the Dollar Equivalent of the Canadian Revolver Usage exceed the Canadian Maximum Revolver Amount.

2.2. Last Out Loans.

(a) Last Out Loans shall be deemed to be requested by US Borrowers and deemed to be made hereunder as of the date of the entry of the Final Financing Order in an amount equal to \$15,000,000, and when made shall be deemed to repay in full the Existing Last Out Loans (with such Last Out Loans held by each Lender hereunder in an amount equal to the principal balance of the Existing Last Out Loans held by such Lender immediately prior to such repayment). Such Last Out Loans shall be deemed made on a "first-in-last out" basis. Upon the deemed making of the Last Out Loans hereunder, all interest that has accrued and not been paid in respect of the Existing Last Out Loans shall be deemed to be accrued and unpaid interest on the Last Out Loans hereunder and shall be subject to clauses (b) and (c) below.

(b) Interest on the Last Out Loans shall accrue at the same rate, on a daily basis, as the weighted average interest rate applicable to the then outstanding US Revolving Loans (and, if no such US Revolving Loans are then outstanding, the rate of interest on the Last Out Loans shall be a rate elected by the US Borrowers in the same manner as the Borrowers are permitted to elect the rate of interest applicable to the US Revolving Loans) and shall accrue, but not be paid until all Existing Secured Obligations and Obligations other than Last Out Loans have been paid in full. The Last Out Loans shall be considered US Revolving Loans, Revolving

Loans, Revolver Usage and US Revolver Usage hereunder for purposes of determining the availability of Loans or other extensions of credit under Section 2.1(a)(ii)(A) (but not Section 2.1(a)(ii)(B)), clause (B) (but not clause (A)) of the first sentence of Section 2.4(e)(i) and clause (b)(ii) (but not clause (b)(iii)) of Section 2.11A.

(c) The outstanding principal amount of the Last Out Loans, together with interest accrued and unpaid thereon, shall constitute Obligations and shall be due and payable on the Maturity Date or, if earlier, on the date on which any other Loans are declared due and payable pursuant to the terms of this Agreement; provided that, notwithstanding anything in this Agreement or in the Existing Credit Agreement to the contrary, payments of principal, interest, fees, expenses or any other amounts in respect of the Last Out Loans or the Existing Last Out Loans shall not be paid until all other Obligations (other than the Last Out Obligations) and Existing Secured Obligations (other than the Existing Last Out Obligations) have been paid in full.

(d) Notwithstanding anything to the contrary set forth herein, if on any date Last Out Loans are the only Loans outstanding hereunder, then (i) Agent or Required Lenders may elect in writing to the Borrowers to terminate the Commitments as of such date, and (ii) upon such written election, no Lender shall have any obligation to make additional Revolving Loans hereunder (or to extend any other credit hereunder).

2.3. **Borrowing Procedures and Settlements.**

(a) **Procedure for Borrowing Revolving Loans.** Each Borrowing shall be made by a written request by an Authorized Person delivered to Agent and received by Agent no later than 10:00 a.m. (i) on the Business Day that is the requested Funding Date in the case of a request for a Swing Loan, and (ii) on the Business Day that is one Business Day prior to the requested Funding Date in the case of all other requests, specifying (A) the amount of such Borrowing and whether such Borrowing is for the account of US Borrowers or Canadian Borrower (and if for Canadian Borrower, whether in Dollars or Canadian Dollars), and (B) the requested Funding Date (which shall be a Business Day); provided, that Agent may, in its sole discretion, elect to accept as timely requests that are received later than 10:00 a.m. on the applicable Business Day. At Agent's election, in lieu of delivering the above-described written request, any Authorized Person may give Agent telephonic notice of such request by the required time. In such circumstances, Borrowers agree that any such telephonic notice will be confirmed in writing within 24 hours of the giving of such telephonic notice, but the failure to provide such written confirmation shall not affect the validity of the request. Borrowings for the account of US Borrowers shall be denominated in Dollars and Borrowings for the account of Canadian Borrower shall be denominated in Dollars or Canadian Dollars (as selected by Administrative Borrower). All Borrowing requests which are not made on-line via Agent's electronic platform or portal shall be subject to (and unless Agent elects otherwise in the exercise of its sole discretion, such Borrowings shall not be made until the completion of) Agent's authentication process (with results satisfactory to Agent) prior to the funding of any such requested Revolving Loan. Requests for Non-Base Rate Loans will also be subject to Section 2.12. Notwithstanding anything to the contrary in this Agreement, (a) a request for Borrowings for the account of US Borrowers in respect of the Existing Secured US Obligations (excluding the Existing Last Out Obligations, which shall be subject to Section 2.2, and excluding guaranties of Existing Secured

Canadian Obligations) will be deemed to have been submitted for Borrowings within one Business Day of entry of the Final Financing Order in an amount equal to the Existing Secured US Obligations on such date (excluding the Existing Last Out Obligations and excluding guaranties of Existing Secured Canadian Obligations) and (b) a request for Borrowings for the account of Canadian Borrower in respect of the Existing Secured Canadian Obligations will be deemed to have been submitted for Borrowings within one Business Day of issuance of the Canadian Final DIP Recognition Order in an amount equal to the Existing Secured Canadian Obligations as of such date. The proceeds of the Borrowings referenced in (a) and (b) of the immediately preceding sentence, in each case, will be applied (it being understood that such application shall be settled as a cashless transaction, that such Borrowings shall not be subject to the limitations set forth in Sections 2.1(a)(ii) and 2.1(b)(ii), and the amount of such Borrowings shall not be counted for determining Excess Availability hereunder other than on a pro forma basis immediately after giving effect to the application of the proceeds of such Borrowings to the applicable Existing Secured Obligations) to repay the Existing Secured US Obligations (excluding guaranties of Existing Secured Canadian Obligations, and excluding the Existing Last Out Obligations, which shall be subject to Section 2.2) and, subject to the issuance by the Canadian Court of the Canadian Final DIP Recognition Order, the Existing Secured Canadian Obligations, as applicable.

(b) Making of Swing Loans.

(i) In the case of a request for a US Swing Loan and so long as either (i) the aggregate amount of US Swing Loans made since the last Settlement Date, minus all payments or other amounts applied to US Swing Loans since the last Settlement Date, plus the amount of the requested US Swing Loan does not exceed 12.5% of the US Maximum Revolver Amount or (ii) US Swing Lender, in its sole discretion, agrees to make a US Swing Loan notwithstanding the foregoing limitation, US Swing Lender shall make a US Revolving Loan (any such US Revolving Loan made by US Swing Lender pursuant to this Section 2.3(b) being referred to as a "US Swing Loan" and all such US Revolving Loans being referred to as "US Swing Loans") available to US Borrowers on the Funding Date applicable thereto by transferring immediately available funds in the amount of such requested Borrowing to the US Designated Account. Each US Swing Loan shall be deemed to be a US Revolving Loan hereunder and shall be subject to all the terms and conditions (including Section 3) applicable to other US Revolving Loans, except that all payments (including interest) on any US Swing Loan shall be payable to US Swing Lender solely for its own account. Subject to the provisions of Section 2.3(d)(ii), US Swing Lender shall not make and shall not be obligated to make any US Swing Loan if US Swing Lender has actual knowledge that (i) one or more of the applicable conditions precedent set forth in Section 3 will not be satisfied on the requested Funding Date for the applicable Borrowing, or (ii) the requested Borrowing would exceed the US Availability on such Funding Date. US Swing Lender shall not otherwise be required to determine whether the applicable conditions precedent set forth in Section 3 have been satisfied on the Funding Date applicable thereto prior to making any US Swing Loan. The US Swing Loans shall constitute US Revolving Loans and US Obligations, and bear interest at the rate applicable from time to time to US Revolving Loans that are Base Rate Loans.

(ii) In the case of a request for a Canadian Swing Loan and so long as either (i) the aggregate amount of Canadian Swing Loans made since the last Settlement Date,

minus all payments or other amounts applied to Canadian Swing Loans since the last Settlement Date, plus the amount of the requested Canadian Swing Loan does not exceed 10% of the Canadian Maximum Revolver Amount or (ii) Canadian Swing Lender, in its sole discretion, agrees to make a Canadian Swing Loan notwithstanding the foregoing limitation, Canadian Swing Lender shall make a Canadian Revolving Loan (any such Canadian Revolving Loan made by Canadian Swing Lender pursuant to this Section 2.3(b) being referred to as a "Canadian Swing Loan" and all such Canadian Revolving Loans being referred to as "Canadian Swing Loans") available to Canadian Borrower on the Funding Date applicable thereto by transferring immediately available funds in the amount of such requested Borrowing to the Canadian Designated Account. Each Canadian Swing Loan shall be deemed to be a Canadian Revolving Loan hereunder and shall be subject to all the terms and conditions (including Section 3) applicable to other Canadian Revolving Loans, except that all payments (including interest) on any Canadian Swing Loan shall be payable to Canadian Swing Lender solely for its own account. Subject to the provisions of Section 2.3(d)(ii), Canadian Swing Lender shall not make and shall not be obligated to make any Canadian Swing Loan if Canadian Swing Lender has actual knowledge that (i) one or more of the applicable conditions precedent set forth in Section 3 will not be satisfied on the requested Funding Date for the applicable Borrowing, or (ii) the requested Borrowing would exceed the Canadian Availability on such Funding Date. Canadian Swing Lender shall not otherwise be required to determine whether the applicable conditions precedent set forth in Section 3 have been satisfied on the Funding Date applicable thereto prior to making any Canadian Swing Loan. The Canadian Swing Loans shall constitute Canadian Revolving Loans and Canadian Obligations, and bear interest at the rate applicable from time to time to Canadian Revolving Loans that are Base Rate Loans.

(c) **Making of Revolving Loans.**

(i) In the event that the applicable Swing Lender is not obligated to make a Swing Loan, then after receipt of a request for a Borrowing pursuant to Section 2.3(a), Agent shall notify the applicable Lenders by telecopy, telephone, email, or other electronic form of transmission, of the requested Borrowing (and whether such Borrowing is for the account of US Borrowers or for the account of Canadian Borrower), such notification to be sent on the Business Day that is one Business Day prior to the requested Funding Date. Each Lender with the applicable Revolver Commitment shall make the amount of such Lender's Pro Rata Share of the requested Borrowing available to Agent in immediately available funds in the Applicable Currency, to Agent's Applicable Account, not later than 10:00 a.m. on the Business Day that is the requested Funding Date. After Agent's receipt of the proceeds of such Revolving Loans from the Lenders, Agent shall make the proceeds thereof available to US Borrowers or Canadian Borrower, as applicable, on the applicable Funding Date by transferring immediately available funds in the Applicable Currency equal to such proceeds received by Agent to the US Designated Account or the Canadian Designated Account, as applicable; provided, that, subject to the provisions of Section 2.3(d)(ii), no Lender shall have an obligation to make any Revolving Loan, if (1) one or more of the applicable conditions precedent set forth in Section 3 will not be satisfied on the requested Funding Date for the applicable Borrowing unless such condition has been waived, or (2) the requested Borrowing would exceed the US Availability (in the case of a US Borrowing) or Canadian Availability (in the case of a Canadian Borrowing) on such Funding Date.

(ii) Unless Agent receives notice from a Lender prior to 9:30 a.m. on the Business Day that is the requested Funding Date relative to a requested Borrowing as to which Agent has notified the Lenders of a requested Borrowing that such Lender will not make available as and when required hereunder to Agent for the account of US Borrowers or Canadian Borrower, as applicable, the amount of that Lender's Pro Rata Share of the Borrowing, Agent may assume that each Lender has made or will make such amount available to Agent in immediately available funds in the Applicable Currency on the Funding Date and Agent may (but shall not be so required), in reliance upon such assumption, make available to US Borrowers or Canadian Borrower, as applicable, a corresponding amount. If, on the requested Funding Date, any Lender shall not have remitted the full amount that it is required to make available to Agent in immediately available funds and if Agent has made available to US Borrowers or Canadian Borrower, as applicable, such amount on the requested Funding Date, then such Lender shall make the amount of such Lender's Pro Rata Share of the requested Borrowing available to Agent in immediately available funds, to Agent's Applicable Account, no later than 10:00 a.m. on the Business Day that is the first Business Day after the requested Funding Date (in which case, the interest accrued on such Lender's portion of such Borrowing for the Funding Date shall be for Agent's separate account). If any Lender shall not remit the full amount that it is required to make available to Agent in immediately available funds as and when required hereby and if Agent has made available to US Borrowers or Canadian Borrower, as applicable, such amount, then that Lender shall be obligated to immediately remit such amount to Agent, together with interest at the applicable Defaulting Lender Rate for each day until the date on which such amount is so remitted. A notice submitted by Agent to any Lender with respect to amounts owing under this Section 2.3(c)(ii) shall be conclusive, absent manifest error. If the amount that a Lender is required to remit is made available to Agent, then such payment to Agent shall constitute such Lender's US Revolving Loans (in the case of Revolving Loans for the account of US Borrowers) or Canadian Revolving Loans (in the case of Revolving Loans for the account of Canadian Borrower) for all purposes of this Agreement. If such amount is not made available to Agent on the Business Day following the Funding Date, Agent will notify Administrative Borrower of such failure to fund and, upon demand by Agent, US Borrowers (in the case of US Revolving Loans) and Canadian Borrower (in the case of Canadian Revolving Loans) shall pay such amount to Agent, together with interest thereon for each day elapsed since the date of such Borrowing, for Agent's account, at a rate per annum equal to the interest rate applicable at the time to the applicable Revolving Loans composing such Borrowing.

(d) **Protective Advances and Optional Overadvances.**

(i) Any contrary provision of this Agreement or any other Loan Document notwithstanding, but subject to Section 2.3(d)(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 are not satisfied, Agent hereby is authorized by Borrowers and the Lenders, from time to time, in Agent's sole discretion, to make US Revolving Loans to, or for the benefit of, US Borrowers and/or Canadian Revolving Loans to, or for the benefit of Canadian Borrower, in each case on behalf of the applicable Revolving Lenders, that Agent, in its Permitted Discretion, deems necessary or desirable (1) to preserve or protect the Collateral, or any portion thereof, (2) to enhance the likelihood of repayment of the Obligations, other than the Bank Product Obligations (the US Revolving Loans described in this Section 2.3(d)(i) shall be referred to as "US Protective Advances" and the Canadian Revolving

Loans described in this Section 2.3(d)(i) shall be referred to as the "Canadian Protective Advances") or (3) to pay any other amount chargeable to Borrowers pursuant to the terms of this Agreement, including Lender Group Expenses and the costs, fees and expenses described in Section 9. Notwithstanding the foregoing, without the prior written consent of Required Lenders, the aggregate Dollar Equivalent amount of all Protective Advances outstanding at any one time shall not exceed 10% of the US Maximum Revolver Amount.

(ii) Any contrary provision of this Agreement or any other Loan Document notwithstanding, but subject to Section 2.3(d)(iv), the Lenders hereby authorize Agent or applicable Swing Lender, as applicable, and either Agent or the applicable Swing Lender, as applicable, may, but is not obligated to, knowingly and intentionally, continue to make US Revolving Loans to US Borrowers and Canadian Revolving Loans to Canadian Borrower notwithstanding that an Overadvance exists or would be created thereby, so long as (A) with respect to any such US Revolving Loan, (i) after giving effect to such US Revolving Loans, the outstanding US Revolver Usage does not, unless Required Lenders otherwise consent, exceed the US Borrowing Base by more than 10% of the US Maximum Revolver Amount, and (ii) after giving effect to such US Revolving Loans, the sum of the outstanding US Revolver Usage (except for and excluding amounts charged to the US Loan Account for interest, fees, or Lender Group Expenses) and the Dollar Equivalent of the Canadian Revolver Usage (except for and excluding amounts charged to the Canadian Loan Account for interest, fees, or Lender Group Expenses) does not exceed the US Maximum Revolver Amount, and (B) with respect to any such Canadian Revolving Loans, (i) after giving effect to such Canadian Revolving Loans, the Dollar Equivalent of the outstanding Canadian Revolver Usage does not, unless Required Lenders otherwise consent, exceed the Canadian Borrowing Base by more than 10% of the Canadian Maximum Revolver Amount, and (ii) after giving effect to such Canadian Revolving Loans, the sum of the Dollar Equivalent of the outstanding Canadian Revolver Usage (except for and excluding amounts charged to the Canadian Loan Account for interest, fees, or Lender Group Expenses) does not exceed the Canadian Maximum Revolver Amount; provided, that, unless Required Lenders otherwise agree, Agent shall not have authority to knowingly and intentionally make US Revolving Loans or Canadian Revolving Loans that constitute Overadvances on any day if any Overadvance then existing has been outstanding for at least 60 consecutive days. In the event Agent obtains actual knowledge that the US Revolver Usage or Canadian Revolver Usage exceeds the amounts permitted by the immediately foregoing provisions, regardless of the amount of, or reason for, such excess, Agent shall notify the Lenders as soon as practicable (and prior to making any (or any additional) intentional Overadvances (except for and excluding amounts charged to the applicable Loan Account for interest, fees, or Lender Group Expenses) unless Agent determines that prior notice would result in imminent harm to the Collateral or its value, in which case Agent may make such Overadvances and provide notice as promptly as practicable thereafter), and the Lenders with the Revolver Commitments thereupon shall, together with Agent, jointly determine the terms of arrangements that shall be implemented with the applicable Borrowers intended to reduce, within a reasonable time, the outstanding principal amount of the applicable Revolving Loans to such Borrowers to an amount permitted by the preceding sentence. In such circumstances, if any Lender with a Revolver Commitment objects to the proposed terms of reduction or repayment of any Overadvance, the terms of reduction or repayment thereof shall be implemented according to the determination of the Required Lenders. The foregoing provisions are meant for the benefit of the Lenders and Agent and are not meant for the benefit of Borrowers, which shall continue to be

bound by the provisions of Section 2.4(e). Each Lender with a Revolver Commitment shall be obligated to make Revolving Loans in accordance with Section 2.3(c) in, or settle Overadvances made by Agent with Agent as provided in Section 2.3(e) (or Section 2.3(g), as applicable) for, the amount of such Lender's Pro Rata Share of any unintentional Overadvances by Agent reported to such Lender, any intentional Overadvances made as permitted under this Section 2.3(d)(ii), and any Overadvances resulting from the charging to the applicable Loan Account of interest, fees, or Lender Group Expenses.

(iii) Each US Protective Advance and each US Overadvance (each, a "US Extraordinary Advance") shall be deemed to be a US Revolving Loan hereunder and each Canadian Protective Advance and each Canadian Overadvance (each, a "Canadian Extraordinary Advance") shall be deemed to be a Canadian Revolving Loan hereunder. No Extraordinary Advance shall be eligible to be a Non-Base Rate Loan. Prior to Settlement with respect to any Extraordinary Advances, all payments on the Extraordinary Advances, including interest thereon, shall be payable to Agent solely for its own account. The US Extraordinary Advances shall be repayable on demand, constitute US Obligations hereunder, and bear interest at the rate applicable from time to time to US Revolving Loans that are Base Rate Loans and the Canadian Extraordinary Advances shall be repayable on demand, constitute Canadian Obligations hereunder, and bear interest at the rate applicable from time to time to Canadian Revolving Loans that are Base Rate Loans. The provisions of this Section 2.3(d) are for the exclusive benefit of Agent, the Swing Lenders, and the Lenders and are not intended to benefit Borrowers (or any other Loan Party) in any way.

(iv) Notwithstanding anything contained in this Agreement or any other Loan Document to the contrary, unless Required Lenders otherwise consent, no Extraordinary Advance may be made by Agent if such Extraordinary Advance would cause (A) the aggregate Dollar Equivalent principal amount of Extraordinary Advances outstanding to exceed an amount equal to 10% of the US Maximum Revolver Amount, or (B) the aggregate Dollar Equivalent Revolver Usage to exceed the US Maximum Revolver Amount.

(e) **Settlement.** It is agreed that each Lender's funded portion of the (i) US Revolving Loans is intended by the Lenders to equal, at all times, such Lender's Pro Rata Share of the outstanding US Revolving Loans and (ii) Canadian Revolving Loans is intended by the Lenders to equal, at all times, such Lender's Pro Rata Share of the outstanding Canadian Revolving Loans. Such agreement notwithstanding, Agent, Swing Lenders, and the other Lenders agree (which agreement shall not be for the benefit of Borrowers) that in order to facilitate the administration of this Agreement and the other Loan Documents, settlement among the Lenders as to the Revolving Loans (including the Swing Loans, and the Extraordinary Advances) shall take place on a periodic basis in accordance with the following provisions:

(i) Agent shall request settlement ("Settlement") with the Lenders on a weekly basis, or on a more frequent basis if so determined by Agent in its sole discretion (1) on behalf of US Swing Lender, with respect to the outstanding US Swing Loans, (2) on behalf of Canadian Swing Lender, with respect to the outstanding Canadian Swing Loans, (3) for itself, with respect to the outstanding Extraordinary Advances, and (4) with respect to Loan Parties' payments or other amounts received, as to each by notifying the Lenders by telecopy, telephone, or other similar form of transmission, of such requested Settlement, no later than 2:00 p.m. on

the Business Day immediately prior to the date of such requested Settlement (the date of such requested Settlement being the "Settlement Date"). Such notice of a Settlement Date shall include a summary statement of the amount of outstanding US Swing Loans, US Extraordinary Advances and other US Revolving Loans, and Canadian Swing Loans, Canadian Extraordinary Advances and other Canadian Revolving Loans for the period since the prior Settlement Date. Subject to the terms and conditions contained herein (including Section 2.3(g)): (y) if the amount of the applicable Revolving Loans (including Swing Loans and Extraordinary Advances) made by a Lender that is not a Defaulting Lender exceeds such Lender's Pro Rata Share of the applicable Revolving Loans (including Swing Loans and Extraordinary Advances) as of a Settlement Date, then Agent shall, by no later than 12:00 noon on the Settlement Date, transfer in immediately available funds in the Applicable Currency to a Deposit Account of such Lender (as such Lender may designate), an amount such that each such Lender shall, upon receipt of such amount, have as of the Settlement Date, its Pro Rata Share of the US Revolving Loans (including US Swing Loans and US Extraordinary Advances) and Canadian Revolving Loans (including Canadian Swing Loans and Canadian Extraordinary Advances), and (z) if the amount of the applicable Revolving Loans (including Swing Loans and Extraordinary Advances) made by a Lender is less than such Lender's Pro Rata Share of the applicable Revolving Loans (including Swing Loans and Extraordinary Advances) as of a Settlement Date, such Lender shall no later than 12:00 noon on the Settlement Date transfer in immediately available funds in the Applicable Currency to Agent's Applicable Account, an amount such that each such Lender shall, upon transfer of such amount, have as of the Settlement Date, its Pro Rata Share of the US Revolving Loans (including US Swing Loans and US Extraordinary Advances) and Canadian Revolving Loans (including Canadian Swing Loans and Canadian Extraordinary Advances). Such amounts made available to Agent under clause (z) of the immediately preceding sentence shall be applied against the amounts of the applicable Swing Loans or Extraordinary Advances, as applicable, and shall constitute Revolving Loans of such Lenders. If any such amount is not made available to Agent by any Lender on the Settlement Date applicable thereto to the extent required by the terms hereof, Agent shall be entitled to recover for its account such amount on demand from such Lender together with interest thereon at the Defaulting Lender Rate.

(ii) In determining whether a Lender's balance of the applicable Revolving Loans (including Swing Loans and Extraordinary Advances) is less than, equal to, or greater than such Lender's Pro Rata Share of the applicable Revolving Loans as of a Settlement Date, Agent shall, as part of the relevant Settlement, apply to such balance the portion of payments applicable to such Obligations actually received in good funds by Agent with respect to principal, interest, fees payable by Borrowers and allocable to the Lenders hereunder, and proceeds of Collateral.

(iii) Between Settlement Dates, Agent, to the extent Extraordinary Advances for the account of Agent or Swing Loans for the account of a Swing Lender are outstanding, may pay over to Agent or such Swing Lender, as applicable, any payments or other amounts received by Agent, that in accordance with the terms of this Agreement would be applied to the reduction of the applicable Revolving Loans, for application to the Extraordinary Advances or Swing Loans. Between Settlement Dates, Agent, to the extent no Extraordinary Advances or Swing Loans are outstanding, may pay over to the applicable Swing Lender any payments or other amounts received by Agent, that in accordance with the terms of this Agreement would be applied to the reduction of the applicable Revolving Loans, for application

to the applicable Swing Lender's Pro Rata Share of the applicable Revolving Loans and, to the extent such amounts are not paid to the applicable Swing Lender or exceed such Swing Lender's Pro Rata Share of the applicable Revolving Loans, they shall be paid to the account of each Lender in reduction of the applicable Revolving Loans. If, as of any Settlement Date, payments or other amounts of Loan Parties received since the then immediately preceding Settlement Date have been applied to a Swing Lender's Pro Rata Share of the applicable Revolving Loans other than to its Swing Loans, as provided for in the previous sentence, such Swing Lender shall pay to Agent for the accounts of the Lenders, and Agent shall pay to the Lenders (other than a Defaulting Lender if Agent has implemented the provisions of Section 2.3(g)), to be applied to the outstanding applicable Revolving Loans of such Lenders, an amount such that each such Lender shall, upon receipt of such amount, have, as of such Settlement Date, its Pro Rata Share of the applicable Revolving Loans. During the period between Settlement Dates, a Swing Lender with respect to its Swing Loans, Agent with respect to Extraordinary Advances, and each Lender with respect to the Revolving Loans other than Swing Loans and Extraordinary Advances, shall be entitled to interest at the applicable rate or rates payable under this Agreement on the daily amount of funds employed by such Swing Lender, Agent, or the Lenders, as applicable.

(iv) Anything in this Section 2.3(e) to the contrary notwithstanding, in the event that a Lender is a Defaulting Lender, Agent shall be entitled to refrain from remitting settlement amounts to the Defaulting Lender and, instead, shall be entitled to elect to implement the provisions set forth in Section 2.3(g).

(f) **Notation.** Agent, as a non-fiduciary agent for Borrowers, shall maintain a register showing, in the Applicable Currency, the principal amount and stated interest of the Revolving Loans, owing to each Lender, including Swing Loans owing to the applicable Swing Lender, and Extraordinary Advances owing to Agent, and the interests therein of each Lender, from time to time and such register shall, absent manifest error, conclusively be presumed to be correct and accurate.

(g) **Defaulting Lenders.**

(i) Notwithstanding the provisions of Section 2.4(b)(ii), Agent shall not be obligated to transfer to a Defaulting Lender any payments made by any Borrower to Agent for the Defaulting Lender's benefit or any proceeds of Collateral that would otherwise be remitted hereunder to the Defaulting Lender, and, in the absence of such transfer to the Defaulting Lender, Agent shall transfer any such proceeds of Collateral or payments (A) pertaining to or securing US Obligations, (i) first, to Agent to the extent of any US Extraordinary Advances that were made by Agent and that were required to be, but were not, paid by Defaulting Lender, (ii) second, to US Swing Lender to the extent of any US Swing Loans that were made by US Swing Lender and that were required to be, but were not, paid by the Defaulting Lender, (iii) third, to US Issuing Lender, to the extent of the portion of a US Letter of Credit Disbursement that was required to be, but was not, paid by the Defaulting Lender, (iv) fourth, to each Non-Defaulting Lender ratably in accordance with their US Revolver Commitments (but, in each case, only to the extent that such Defaulting Lender's portion of a US Revolving Loan (or other funding obligation) was funded by such other Non-Defaulting Lender), (v) fifth, in Agent's sole discretion, to a suspense account maintained by Agent, the proceeds of

which may be retained by Agent and may be made available to be re-advanced to or for the benefit of US Borrowers (upon the request of Borrowers and subject to the conditions set forth in Section 3.2) as if such Defaulting Lender had made its portion of US Revolving Loans (or other funding obligations) hereunder, and (vi) sixth, from and after the date on which all other US Obligations have been paid in full, to such Defaulting Lender in accordance with tier (A)(13) of Section 2.4(b)(ii), and (B) pertaining to or securing Canadian Obligations, (i) first, to Agent to the extent of any Canadian Extraordinary Advances that were made by Agent and that were required to be, but were not, paid by Defaulting Lender, (ii) second, to Canadian Swing Lender to the extent of any Canadian Swing Loans that were made by Canadian Swing Lender and that were required to be, but were not, paid by the Defaulting Lender, (iii) third, to Canadian Issuing Lender, to the extent of the portion of a Canadian Letter of Credit Disbursement that was required to be, but was not, paid by the Defaulting Lender, (iv) fourth, to each Non-Defaulting Lender ratably in accordance with their Canadian Revolver Commitments (but, in each case, only to the extent that such Defaulting Lender's portion of a Canadian Revolving Loan (or other funding obligation) was funded by such other Non-Defaulting Lender), (v) fifth, in Agent's sole discretion, to a suspense account maintained by Agent, the proceeds of which may be retained by Agent and may be made available to be re-advanced to or for the benefit of Canadian Borrower (upon the request of Borrowers and subject to the conditions set forth in Section 3.2) as if such Defaulting Lender had made its portion of Canadian Revolving Loans (or other funding obligations) hereunder, and (vi) sixth, from and after the date on which all other Canadian Obligations have been paid in full, to such Defaulting Lender in accordance with tier (B)(12) of Section 2.4(b)(ii). Subject to the foregoing, Agent may hold and, in its discretion, re-lend to the applicable Borrowers for the account of such Defaulting Lender the amount of all such payments received and retained by Agent for the account of such Defaulting Lender. Solely for the purposes of voting or consenting to matters with respect to the Loan Documents (including the calculation of Pro Rata Share in connection therewith) and for the purpose of calculating the fees payable under Section 2.10(b), such Defaulting Lender shall be deemed not to be a "Lender" and such Lender's Commitment shall be deemed to be zero; provided, that the foregoing shall not apply to any of the matters governed by Section 14.1(a)(i) through (iii) that affect such Lender. The provisions of this Section 2.3(g) shall remain effective with respect to such Defaulting Lender until the earlier of (y) the date on which all of the Non-Defaulting Lenders, Agent, Issuing Lenders, and Borrowers shall have waived, in writing, the application of this Section 2.3(g) to such Defaulting Lender, or (z) the date on which such Defaulting Lender makes payment of all amounts that it was obligated to fund hereunder, and, if requested by Agent, provides adequate assurance of its ability to perform its future obligations hereunder (on which earlier date, so long as no Event of Default has occurred and is continuing, any remaining cash collateral held by Agent pursuant to Section 2.3(g)(ii) shall be released to the applicable Borrowers). The operation of this Section 2.3(g) shall not be construed to increase or otherwise affect the Commitment of any Lender, to relieve or excuse the performance by any Defaulting Lender or any other Lender of its duties and obligations hereunder, or to relieve or excuse the performance by Borrowers of their duties and obligations hereunder to Agent, Issuing Lenders, or to the Lenders other than such Defaulting Lender. Any failure by a Defaulting Lender to fund amounts that it was obligated to fund hereunder shall constitute a material breach by such Defaulting Lender of this Agreement and shall entitle Borrowers, at their option, upon written notice to Agent, to arrange for a substitute Lender to assume the Commitments of such Defaulting Lender and the commitments of any Affiliate of such Lender, such substitute Lender

to be reasonably acceptable to Agent. In connection with the arrangement of such a substitute Lender, the Defaulting Lenders shall have no right to refuse to be replaced hereunder, and agree to execute and deliver a completed form of Assignment and Acceptance in favor of the substitute Lender (and agree that they shall be deemed to have executed and delivered such document if they fail to do so) subject only to being paid its share of the outstanding Obligations (other than Bank Product Obligations, but including (1) all interest, fees, and other amounts that may be due and payable in respect thereof, and (2) an assumption of its Pro Rata Share of its participation in the Letters of Credit); provided, that any such assumption of the Commitments of such Defaulting Lenders shall not be deemed to constitute a waiver of any of the Lender Groups' or Borrowers' rights or remedies against any such Defaulting Lender arising out of or in relation to such failure to fund. In the event of a direct conflict between the priority provisions of this Section 2.3(g) and any other provision contained in this Agreement or any other Loan Document, it is the intention of the parties hereto that such provisions be read together and construed, to the fullest extent possible, to be in concert with each other. In the event of any actual, irreconcilable conflict that cannot be resolved as aforesaid, the terms and provisions of this Section 2.3(g) shall control and govern.

(ii) If any Swing Loan or Letter of Credit is outstanding at the time that a Lender becomes a Defaulting Lender then:

(A) such Defaulting Lender's Swing Loan Exposure and Letter of Credit Exposure shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Pro Rata Shares but only to the extent (x) the sum of all Non-Defaulting Lenders' Pro Rata Shares of the US Revolver Usage and Canadian Revolver Usage, plus such Defaulting Lender's US Swing Loan Exposure, US Letter of Credit Exposure, Canadian Swing Loan Exposure and Canadian Letter of Credit Exposure does not exceed the total of all Non-Defaulting Lenders' US Revolver Commitments, (y) the sum of all Non-Defaulting Lenders' Pro Rata Shares of the Canadian Revolver Usage, plus such Defaulting Lender's Canadian Swing Loan Exposure and Canadian Letter of Credit Exposure does not exceed the total of all Non-Defaulting Lenders' Canadian Revolver Commitments, and (z) the conditions set forth in Section 3.2 are satisfied at such time;

(B) if the reallocation described in clause (A) above cannot, or can only partially, be effected, the applicable Borrower shall within one Business Day following notice by Agent (x) first, prepay such Defaulting Lender's applicable Swing Loan Exposure (after giving effect to any partial reallocation pursuant to clause (A) above) and (y) second, cash collateralize such Defaulting Lender's applicable Letter of Credit Exposure (after giving effect to any partial reallocation pursuant to clause (A) above), pursuant to a cash collateral agreement to be entered into in form and substance reasonably satisfactory to Agent, for so long as such Letter of Credit Exposure is outstanding; provided, that Borrowers shall not be obligated to cash collateralize any Defaulting Lender's Letter of Credit Exposure if such Defaulting Lender is also an Issuing Lender;

(C) if the applicable Borrower cash collateralizes any portion of such Defaulting Lender's Letter of Credit Exposure pursuant to this Section 2.3(g)(ii), such Borrower shall not be required to pay any Letter of Credit Fees to Agent for the account of such Defaulting Lender pursuant to Section 2.6(b) with respect to such cash collateralized portion of

such Defaulting Lender's Letter of Credit Exposure during the period such Letter of Credit Exposure is cash collateralized;

(D) to the extent the Letter of Credit Exposure of the Non-Defaulting Lenders is reallocated pursuant to this Section 2.3(g)(ii), then the Letter of Credit Fees payable to the Non-Defaulting Lenders pursuant to Section 2.6(b) shall be adjusted in accordance with such Non-Defaulting Lenders' Letter of Credit Exposure;

(E) to the extent any Defaulting Lender's Letter of Credit Exposure is neither cash collateralized nor reallocated pursuant to this Section 2.3(g)(ii), then, without prejudice to any rights or remedies of any Issuing Lender or any Lender hereunder, all Letter of Credit Fees that would have otherwise been payable to such Defaulting Lender under Section 2.6(b) with respect to such portion of such Letter of Credit Exposure shall instead be payable to the applicable Issuing Lender until such portion of such Defaulting Lender's Letter of Credit Exposure is cash collateralized or reallocated;

(F) so long as any Lender is a Defaulting Lender, no Swing Lender shall be required to make any Swing Loan and no Issuing Lender shall be required to issue, amend, or increase any Letter of Credit, in each case, to the extent (x) the Defaulting Lender's Pro Rata Share of such Swing Loans or Letter of Credit cannot be reallocated pursuant to this Section 2.3(g)(ii) or (y) the applicable Swing Lender or Issuing Lender, as applicable, has not otherwise entered into arrangements reasonably satisfactory to the applicable Swing Lender or Issuing Lender, as applicable, and Borrowers to eliminate such Swing Lender's or Issuing Lender's risk with respect to the Defaulting Lender's participation in such Swing Loans or Letters of Credit; and

(G) Agent may release any cash collateral provided by Borrowers pursuant to this Section 2.3(g)(ii) to the applicable Issuing Lender and such Issuing Lender may apply any such cash collateral to the payment of such Defaulting Lender's Pro Rata Share of any Letter of Credit Disbursement that is not reimbursed by the applicable Borrowers in respect of its Letter of Credit Obligations.

(iii) If any Lender with a US Revolver Commitment is a Defaulting Lender, then any Affiliate of such Lender with a Canadian Revolver Commitment shall be deemed to be a Defaulting Lender and if any Lender with a Canadian Revolver Commitment is a Defaulting Lender, then any Affiliate of such Lender with a US Revolver Commitment shall be deemed to be a Defaulting Lender.

(h) **Independent Obligations.** All Revolving Loans (other than Swing Loans, Protective Advances and, at Agent's election, Overadvances) shall be made by the Lenders contemporaneously and in accordance with their Pro Rata Shares. It is understood that (i) no Lender shall be responsible for any failure by any other Lender to perform its obligation to make any Revolving Loan (or other extension of credit) hereunder, nor shall any Commitment of any Lender be increased or decreased as a result of any failure by any other Lender to perform its obligations hereunder, and (ii) no failure by any Lender to perform its obligations hereunder shall excuse any other Lender from its obligations hereunder.

2.4. **Payments; Reductions of Commitments; Prepayments.**

(a) **Payments by Borrowers.**

(i) Except as otherwise expressly provided herein, all payments by Borrowers shall be made to Agent's Applicable Account for the account of the Lender Group and shall be made in immediately available funds in the Applicable Currency, no later than 1:30 p.m. on the date specified herein. Any payment received by Agent later than 1:30 p.m. shall be deemed to have been received (unless Agent, in its sole discretion, elects to credit it on the date received) on the following Business Day and any applicable interest or fee shall continue to accrue until such following Business Day.

(ii) Unless Agent receives notice from Borrowers prior to the date on which any payment is due to the Lenders that Borrowers will not make such payment in full as and when required, Agent may assume that Borrowers have made (or will make) such payment in full to Agent on such date in immediately available funds and Agent may (but shall not be so required), in reliance upon such assumption, distribute to each Lender on such due date an amount equal to the amount then due such Lender. If and to the extent Borrowers do not make such payment in full to Agent on the date when due, each Lender severally shall repay to Agent on demand such amount distributed to such Lender, together with interest thereon at the Defaulting Lender Rate for each day from the date such amount is distributed to such Lender until the date repaid.

(b) **Apportionment and Application.**

(i) So long as no Application Event has occurred and is continuing and except as otherwise provided herein with respect to Defaulting Lenders, all principal and interest payments received by Agent shall be apportioned ratably among the Lenders (according to the unpaid principal balance of the Obligations to which such payments relate held by each Lender) and all payments of fees and expenses received by Agent (other than fees or expenses that are for Agent's separate account or for the separate account of an Issuing Lender) shall be apportioned ratably among the Lenders having a Pro Rata Share of the type of Commitment or Obligation to which a particular fee or expense relates. Subject to Section 2.4(b)(iv) and Section 2.4(e), all payments in respect of US Obligations to be made hereunder by US Borrowers shall be remitted to Agent and all such payments, and all proceeds of Collateral securing US Obligations received by Agent, shall be applied, so long as no Application Event has occurred and is continuing and except as otherwise provided herein with respect to Defaulting Lenders, first, to reduce the balance of the Existing Secured US Obligations (excluding the Existing Last Out Obligations and excluding guaranties of Existing Secured Canadian Obligations) in the manner set forth in the Existing Credit Agreement, second, to reduce the balance of the Existing Secured Canadian Obligations in the manner set forth in the Existing Credit Agreement, third, to reduce the balance of the US Revolving Loans outstanding, fourth, to reduce the balance of the Canadian Revolving Loans outstanding, and, thereafter, to US Borrowers (to be wired to the US Designated Account) or such other Person entitled thereto under applicable law. Subject to Section 2.4(b)(iv) and Section 2.4(e), all payments in respect of Canadian Obligations to be made hereunder by Canadian Borrower shall be remitted to Agent and all such payments, and all proceeds of Collateral securing Canadian Obligations received by Agent, shall be applied, so

long as no Application Event has occurred and is continuing and except as otherwise provided herein with respect to Defaulting Lenders, first, to reduce the balance of the Existing Secured Canadian Obligations in the manner set forth in the Existing Credit Agreement, second, to reduce the balance of the Canadian Revolving Loans outstanding, third, to reduce the balance of the US Revolving Loans outstanding, and, thereafter, to Canadian Borrower (to be wired to the Canadian Designated Account) or such other Person entitled thereto under applicable law.

(ii) At any time that an Application Event has occurred and is continuing and except as otherwise provided herein with respect to Defaulting Lenders, all payments remitted to Agent and all proceeds of Collateral received by Agent shall be applied as follows:

(A) All payments in respect of US Obligations and all proceeds of Collateral securing the US Obligations received by Agent shall be applied as follows:

(1) first, to reduce the balance of the Existing Secured US Obligations (excluding the Existing Last Out Obligations and excluding guaranties of Existing Secured Canadian Obligations) in the manner set forth in the Existing Credit Agreement,

(2) second, to pay any Lender Group Expenses (including cost or expense reimbursements) or indemnities then due to Agent under the Loan Documents in respect of the US Obligations, until paid in full,

(3) third, to pay any fees or premiums, if any, then due to Agent under the Loan Documents in respect of the US Obligations until paid in full,

(4) fourth, to pay interest due in respect of all US Protective Advances until paid in full,

(5) fifth, to pay the principal of all US Protective Advances until paid in full,

(6) sixth, ratably, to pay any Lender Group Expenses (including cost or expense reimbursements) or indemnities then due to any of the Lenders under the Loan Documents in respect of the US Obligations, until paid in full,

(7) seventh, ratably, to pay any fees or premiums, if any, then due to any of the Lenders under the Loan Documents in respect of the US Obligations until paid in full,

(8) eighth, to pay interest accrued in respect of the US Swing Loans until paid in full,

(9) ninth, to pay the principal of all US Swing Loans until paid in full,

(10) tenth, ratably, to pay interest accrued in respect of the US Revolving Loans until paid in full,

(11) eleventh, ratably

i. to pay the principal of all US Revolving Loans until paid in full,

ii. to Agent, to be held by Agent, for the benefit of US Issuing Lender (and for the ratable benefit of each of the Lenders that have an obligation to pay to Agent, for the account of US Issuing Lender, a share of each US Letter of Credit Disbursement), as cash collateral in an amount up to 105% of the US Letter of Credit Usage (to the extent permitted by applicable law, such cash collateral shall be applied to the reimbursement of any US Letter of Credit Disbursement as and when such disbursement occurs and, if a US Letter of Credit expires undrawn, the cash collateral held by Agent in respect of such Letter of Credit shall, to the extent permitted by applicable law, be reapplied pursuant to this Section 2.4(b)(ii), beginning with tier (A)(1) hereof),

iii. up to the amount (after taking into account any amounts previously paid pursuant to this clause iii. during the continuation of the applicable Application Event) of the most recently established US Bank Product Reserve, which amount was established prior to the occurrence of, and not in contemplation of, the subject Application Event, to (y) ratably (based on the US Bank Product Reserve established for each US Bank Product) to the Bank Product Providers of US Bank Products up to the amounts then certified by the applicable Bank Product Provider to Agent (in form and substance satisfactory to Agent) to be due and payable to such Bank Product Provider on account of US Bank Product Obligations, and (z) with any balance to be paid to Agent, to be held by Agent, for the ratable benefit (based on the US Bank Product Reserve established for each US Bank Product) of the Bank Product Providers on account of Bank Product Obligations, of US Bank Products, as cash collateral (which cash collateral may be released by Agent to the applicable Bank Product Provider and applied by such Bank Product Provider to the payment or reimbursement of any amounts due and payable with respect to US Bank Product Obligations owed to the applicable Bank Product Provider as and when such amounts first become due and payable and, if and at such time as all such US Bank Product Obligations are paid or otherwise satisfied in full, the cash collateral held by Agent in respect of such US Bank Product Obligations shall be reapplied pursuant to this Section 2.4(b)(ii), beginning with tier (A)(1) hereof),

(12) twelfth, to pay any Existing Secured US Obligations arising as a result of any guaranty by a US Loan Party of the Existing Secured Canadian Obligations (and if no amounts are due under any such guaranty, to cash collateralize the obligations under such guaranty unless the Existing Secured Canadian Obligations have been paid in full),

(13) thirteenth, to pay any US Obligations arising as a result of any joint and several liability of the US Borrowers for any Canadian Obligations and any guaranty by a US Loan Party of the Canadian Obligations (and if no amounts are due under any such guaranty, to cash collateralize the obligations under such guaranty unless the Canadian Revolver Commitments of Lenders to make Canadian Revolving Loans have terminated and the Canadian Obligations have been paid in full),

(14) fourteenth, ratably to pay any other US Obligations other than US Obligations owed to Defaulting Lenders (including being paid, ratably, to the Bank Product Providers on account of all amounts then due and payable in respect of US Bank Product Obligations, with any balance to be paid to Agent, to be held by Agent, for the ratable benefit of the Bank Product Providers, as cash collateral (which cash collateral may be released by Agent to the applicable Bank Product Provider and applied by such Bank Product Provider to the payment or reimbursement of any amounts due and payable with respect to US Bank Product Obligations owed to the applicable Bank Product Provider as and when such amounts first become due and payable and, if and at such time as all such US Bank Product Obligations are paid or otherwise satisfied in full, the cash collateral held by Agent in respect of such US Bank Product Obligations shall be reapplied pursuant to this Section 2.4(b)(ii), beginning with tier (A)(1) hereof),

(15) fifteenth, ratably to pay any US Obligations owed to Defaulting Lenders;

(16) sixteenth, ratably to pay the Last Out Obligations (it being understood that notwithstanding anything to the contrary set forth above, no payment in respect of the Last Out Obligations shall be made pursuant to any clause set forth above); and

(17) seventeenth, to US Borrowers (to be wired to the US Designated Account) or such other Person entitled thereto under applicable law.

(B) All payments in respect of Canadian Obligations and all proceeds of Collateral securing the Canadian Obligations received by Agent shall be applied as follows:

(1) first, to reduce the balance of the Existing Secured Canadian Obligations in the manner set forth in the Existing Credit Agreement,

(2) second, to pay any Lender Group Expenses (including cost or expense reimbursements) or indemnities then due to Agent under the Loan Documents in respect of the Canadian Obligations, until paid in full,

(3) third, to pay any fees or premiums then due to Agent under the Loan Documents in respect of the Canadian Obligations until paid in full,

(4) fourth, to pay interest due in respect of all Canadian Protective Advances until paid in full,

(5) fifth, to pay the principal of all Canadian Protective Advances until paid in full,

(6) sixth, ratably, to pay any Lender Group Expenses (including cost or expense reimbursements) or indemnities then due to any of the Lenders under the Loan Documents in respect of the Canadian Obligations, until paid in full,

(7) seventh, ratably, to pay any fees or premiums then due to any of the Lenders under the Loan Documents in respect of the Canadian Obligations until paid in full,

(8) eighth, to pay interest accrued in respect of the Canadian Swing Loans until paid in full,

(9) ninth, to pay principal of all Canadian Swing Loans until paid in full,

(10) tenth, ratably, to pay interest accrued in respect of the Canadian Revolving Loans until paid in full,

(11) eleventh, ratably

i. to pay the principal of all Canadian Revolving Loans until paid in full,

ii. to Agent, to be held by Agent, for the benefit of Canadian Issuing Lender (and for the ratable benefit of each of the Lenders that have an obligation to pay to Agent, for the account of Canadian Issuing Lender, a share of each Canadian Letter of Credit Disbursement), as cash collateral in an amount up to 105% of the Canadian Letter of Credit Usage (to the extent permitted by applicable law, such cash collateral shall be applied to the reimbursement of any Canadian Letter of Credit Disbursement as and when such disbursement occurs and, if a Canadian Letter of Credit expires undrawn, the cash collateral held by Agent in respect of such Letter of Credit shall, to the extent permitted by applicable law, be reapplied pursuant to this Section 2.4(b)(ii), beginning with tier (B)(1) hereof),

iii. up to the amount (after taking into account any amounts previously paid pursuant to this clause iii. during the continuation of the applicable Application Event) of the most recently established Canadian Bank Product Reserve, which amount was established prior to the occurrence of, and not in contemplation of, the subject Application Event, (y) ratably (based on the Canadian Bank Product Reserve established for each Canadian Bank Product) to the Bank Product Providers of Canadian Bank Products up to the amounts then certified by the applicable Bank Product Provider to Agent (in form and substance satisfactory to Agent) to be due and payable to such Bank Product Provider on account of Canadian Bank Product Obligations, and (z) with any balance to be paid to Agent, to be held by Agent, for the ratable

benefit (based on the Canadian Bank Product Reserve established for each Canadian Bank Product) of the Bank Product Providers on account of Bank Product Obligations, of Canadian Bank Products, as cash collateral (which cash collateral may be released by Agent to the applicable Bank Product Provider and applied by such Bank Product Provider to the payment or reimbursement of any amounts due and payable with respect to Canadian Bank Product Obligations owed by any Canadian Loan Party to the applicable Bank Product Provider as and when such amounts first become due and payable and, if and at such time as all such Canadian Bank Product Obligations are paid or otherwise satisfied in full, the cash collateral held by Agent in respect of such Canadian Bank Product Obligations shall be reapplied pursuant to this Section 2.4(b)(ii), beginning with tier (B)(1) hereof),

(12) twelfth, to pay any Canadian Obligations arising as a result of any joint and several liability of the Canadian Borrower for any US Obligations and any guaranty by a Canadian Loan Party of the US Obligations (and if no amounts are due under any such guaranty, to cash collateralize the obligations under such guaranty unless the US Obligations have been paid in full),

(13) thirteenth, ratably to pay any other Canadian Obligations other than Canadian Obligations owed to Defaulting Lenders (including being paid, ratably, to the Bank Product Providers on account of all amounts then due and payable in respect of Canadian Bank Product Obligations, with any balance to be paid to Agent, to be held by Agent, for the ratable benefit of the Bank Product Providers, as cash collateral (which cash collateral may be released by Agent to the applicable Bank Product Provider and applied by such Bank Product Provider to the payment or reimbursement of any amounts due and payable with respect to Canadian Bank Product Obligations owed to the applicable Bank Product Provider as and when such amounts first become due and payable and, if and at such time as all such Canadian Bank Product Obligations are paid or otherwise satisfied in full, the cash collateral held by Agent in respect of such Canadian Bank Product Obligations shall be reapplied pursuant to this Section 2.4(b)(ii), beginning with tier (B)(1) hereof),

(14) fourteenth, ratably to pay any Canadian Obligations owed to Defaulting Lenders;

(15) fifteenth, ratably to pay the Last Out Obligations (it being understood that notwithstanding anything to the contrary set forth above, no payment in respect of the Last Out Obligations shall be made pursuant to any clause set forth above); and

(16) sixteenth, to Canadian Borrower (to be wired to the Canadian Designated Account) or such other Person entitled thereto under applicable law.

(iii) Agent promptly shall distribute to each Lender, pursuant to the applicable wire instructions received from each Lender in writing, such funds as it may be entitled to receive, subject to a Settlement delay as provided in Section 2.3(e).

(iv) In each instance, so long as no Application Event has occurred and is continuing, Section 2.4(b)(i) shall not apply to any payment made by Borrowers to Agent and specified by Borrowers to be for the payment of specific Obligations then due and payable (or prepayable) under any provision of this Agreement or any other Loan Document.

(v) For purposes of Section 2.4(b)(ii), "paid in full" of a type of Obligation means payment in cash or immediately available funds of all amounts owing on account of such type of Obligation, including interest accrued after the commencement of any Insolvency Proceeding, default interest, interest on interest, and expense reimbursements, irrespective of whether any of the foregoing would be or is allowed or disallowed in whole or in part in any Insolvency Proceeding.

(vi) In the event of a direct conflict between the priority provisions of this Section 2.4 and any other provision contained in this Agreement or any other Loan Document (excluding the Intercreditor Agreement, which shall control and govern in any event), it is the intention of the parties hereto that such provisions be read together and construed, to the fullest extent possible, to be in concert with each other. In the event of any actual, irreconcilable conflict that cannot be resolved as aforesaid, if the conflict relates to the provisions of Section 2.3(g) and this Section 2.4, then the provisions of Section 2.3(g) shall control and govern, and if otherwise, then the terms and provisions of this Section 2.4 shall control and govern.

(vii) Payments from US Loan Parties shall be deemed to be in respect of US Obligations and payments from Canadian Loan Parties shall be deemed to be in respect of Canadian Obligations. If payment is from proceeds of Collateral that secures both US Obligations and Canadian Obligations, such payment shall be, so long as no Application Event has occurred and is continuing, as specified by the Borrowers or, if not so specified or if an Application Event has occurred and is continuing, as determined by Agent (and in the absence of such determination, shall be assumed to be a payment in respect of US Obligations until the US Obligations are paid in full).

(c) **Reduction of Revolver Commitments.** The Revolver Commitments shall terminate on the Maturity Date. With not less than five Business Days' written notice to Agent (provided, that such notice may be withdrawn by US Borrowers at any time prior to the date specified in such notice for the reduction of Commitments), US Borrowers may reduce the US Revolver Commitments to an amount (which may be zero) not less than the sum of (A) the US Revolver Usage as of such date, plus (B) the principal amount of all US Revolving Loans not yet made as to which a request has been given by US Borrowers under Section 2.3(a), plus (C) the amount of all US Letters of Credit not yet issued as to which a request has been given by US Borrowers pursuant to Section 2.11A(a), plus (D) the Canadian Revolver Usage as of such date, plus (E) the principal amount of all Canadian Revolving Loans not yet made as to which a request has been given by Canadian Borrower under Section 2.3(a), plus (F) the amount of all Canadian Letters of Credit not yet issued as to which a request has been given by Canadian Borrower pursuant to Section 2.11B(a). Each such reduction shall be in an amount which is not

less than \$1,000,000 (unless the US Revolver Commitments are being reduced to zero and the amount of the US Revolver Commitments in effect immediately prior to such reduction are less than \$1,000,000), and shall be made by providing not less than five Business Days prior written notice to Agent; provided, that US Borrowers may rescind such notices relative to a proposed reduction in the US Revolver Commitments to zero in connection with a payment in full of the Obligations with the proceeds of third party Indebtedness or from a sale if the closing for such issuance, incurrence or sale does not happen on or before the date of the proposed reduction (in which case, a new notice shall be required to be sent in connection with any subsequent reduction to zero), and (b) US Borrowers may extend the date of reduction at any time with the consent of Agent (which consent shall not be unreasonably withheld, conditioned or delayed). With not less than five Business Days written notice to Agent (provided, that such notice may be withdrawn by Canadian Borrower at any time prior to the date specified in such notice for the reduction of Commitments), Canadian Borrower may reduce the Canadian Revolver Commitments to an amount (which may be zero) not less than the sum of (A) the Canadian Revolver Usage as of such date, plus (B) the principal amount of all Canadian Revolving Loans not yet made as to which a request has been given by Canadian Borrower under Section 2.3(a), plus (C) the amount of all Canadian Letters of Credit not yet issued as to which a request has been given by Canadian Borrower pursuant to Section 2.11B(a). Each such reduction shall be in an amount which is not less than \$1,000,000 (unless the Canadian Revolver Commitments are being reduced to zero and the amount of the Canadian Revolver Commitments in effect immediately prior to such reduction are less than \$1,000,000), and shall be made by providing not less than five Business Days prior written notice to Agent; provided, that Canadian Borrower may rescind such notices relative to a proposed reduction in the Canadian Revolver Commitments to zero in connection with a payment in full of the Obligations with the proceeds of third party Indebtedness or from a sale if the closing for such issuance, incurrence or sale does not happen on or before the date of the proposed reduction (in which case, a new notice shall be required to be sent in connection with any subsequent reduction to zero), and (b) Canadian Borrower may extend the date of reduction at any time with the consent of Agent (which consent shall not be unreasonably withheld, conditioned or delayed). Once reduced, the Revolver Commitments may not be increased. The US Maximum Revolver Amount and the Canadian Maximum Revolver Amount shall be adjusted accordingly for such reductions in the Revolver Commitments pursuant to this Section 2.4(c). Each reduction of the Revolver Commitments pursuant to this Section 2.4(c) shall reduce the Revolver Commitments of each Lender proportionately in accordance with its ratable share thereof. In connection with any reduction in the Revolver Commitments prior to the Maturity Date, if any Loan Party or any of its Subsidiaries owns any Margin Stock, Borrowers shall deliver to Agent an updated Form U-1 (with sufficient additional originals thereof for each Lender), duly executed and delivered by the Borrowers, together with such other documentation as Agent shall reasonably request, in order to enable Agent and the Lenders to comply with any of the requirements under Regulations T, U or X of the Federal Reserve Board.

(d) **Optional Prepayments.** Borrowers may prepay the principal of any Revolving Loan at any time in whole or in part, without premium or penalty.

(e) **Mandatory Prepayments.**

(i) **Borrowing Base.** If, at any time, (A)(x) the US Revolver Usage (excluding Last Out Obligations) on such date exceeds (y) the US Borrowing Base reflected in the Borrowing Base Certificate most recently delivered by Borrowers to Agent, or (B)(x) the US Revolver Usage (including Last Out Obligations) on such date exceeds (y) the US Maximum Revolver Amount less the Dollar Equivalent of the Canadian Revolver Usage, then, in each case, US Borrowers shall within one Business Day prepay the US Obligations in accordance with Section 2.4(f)(i) in an aggregate amount equal to the amount of such excess. If, at any time, (A) the Dollar Equivalent of the Canadian Revolver Usage on such date exceeds (B) the lesser of the Canadian Borrowing Base reflected in the Borrowing Base Certificate most recently delivered by Borrowers to Agent and the Canadian Maximum Revolver Amount, then Canadian Borrower shall within one Business Day prepay the Canadian Obligations in accordance with Section 2.4(f)(i) in an aggregate amount equal to the amount of such excess.

(ii) **Disgorgement.** In the event that Existing Agent or any of the Existing Lenders are required to repay or disgorge to Debtors or any representatives of the Debtors' estate (as agents, with derivative standing or otherwise) all or any portion of the Existing Secured Obligations authorized and directed to be repaid pursuant to the Financing Order, or any payment on account of the Existing Secured Obligations made to Existing Agent or any Existing Lender is rescinded for any reason whatsoever, including, but not limited to, as a result of any Avoidance Action, or any other action, suit, proceeding or claim brought under any other provision of any applicable Bankruptcy Code or other applicable Insolvency Laws or any applicable state or provincial law, or any other similar provisions under any other state, federal or provincial statutory or common law (all such amounts being hereafter referred to as the "Avoided Payments"), then, in such event, Borrowers shall prepay the Revolving Loans in an amount equal to 100% of such Avoided Payments immediately upon receipt of the Avoided Payments by Debtors or any representative of the Debtors' estate.

(iii) **Dispositions.** Immediately upon receipt by any Loan Party or any of its Subsidiaries of the Net Cash Proceeds of any disposition of any ABL Priority Collateral outside the ordinary course of business (including Net Cash Proceeds of insurance or arising from casualty losses or condemnations and payments in lieu thereof), Borrowers shall prepay the outstanding principal amount of the Obligations in accordance with Section 2.4(f) in an amount equal to 100% of the Net Cash Proceeds received by such Person in connection with such disposition of such ABL Priority Collateral. Nothing contained in this Section 2.4(e)(iii) shall permit any Loan Party or any of its Subsidiaries to sell or otherwise dispose of any assets other than in accordance with Section 6.4.

(iv) **Extraordinary Receipts.** Immediately upon receipt by any Loan Party or any of its Subsidiaries of any Extraordinary Receipts, Borrowers shall prepay the outstanding principal amount of the Obligations in accordance with Section 2.4(f) in an amount equal to 100% of such Extraordinary Receipts.

(f) **Application of Payments.**

(i) Each prepayment pursuant to the first sentence of Section 2.4(e)(i) shall, (A) so long as no Application Event shall have occurred and be continuing, be applied, *first*, to the outstanding principal amount of the US Revolving Loans until paid in full and *second*, to cash collateralize the US Letters of Credit in an amount equal to 105% of the then outstanding US Letter of Credit Usage, and (B) if an Application Event shall have occurred and be continuing, be applied in the manner set forth in Section 2.4(b)(ii). Each prepayment pursuant to the second sentence of Section 2.4(e)(i) shall, (A) so long as no Application Event shall have occurred and be continuing, be applied, *first*, to the outstanding principal amount of the Canadian Revolving Loans until paid in full and *second*, to cash collateralize the Canadian Letters of Credit in an amount equal to 105% of the then outstanding Canadian Letter of Credit Usage, and (B) if an Application Event shall have occurred and be continuing, be applied in the manner set forth in Section 2.4(b)(ii). Each prepayment pursuant to Section 2.4(e)(ii) shall, (A) if such prepayment is in connection with an Avoided Payment on account of Existing US Secured Obligations, (1) so long as no Application Event shall have occurred and be continuing, be applied, *first*, to the outstanding principal amount of the Revolving Loans (*first*, with application to the US Revolving Loans, *second*, with application to the Canadian Revolving Loans) until paid in full and *second*, to cash collateralize the Letters of Credit (*first*, with application to the US Letters of Credit, *second*, with application to the Canadian Letters of Credit) in an amount equal to 105% of the then outstanding Letter of Credit Usage, and (2) if an Application Event shall have occurred and be continuing, be applied in the manner set forth in Section 2.4(b)(ii)(A) and (B) if such prepayment is in connection with an Avoided Payment on account of Existing Canadian Secured Obligations, (1) so long as no Application Event shall have occurred and be continuing, be applied, *first*, to the outstanding principal amount of the Revolving Loans (*first*, with application to the Canadian Revolving Loans, *second*, with application to the US Revolving Loans) until paid in full and *second*, to cash collateralize the Letters of Credit (*first*, with application to the Canadian Letters of Credit, *second*, with application to the US Letters of Credit) in an amount equal to 105% of the then outstanding Letter of Credit Usage, and (2) if an Application Event shall have occurred and be continuing, be applied in the manner set forth in Section 2.4(b)(ii)(B). Each prepayment pursuant to Section 2.4(e)(iii) and (iv) shall, (A) if such prepayment is in connection with a disposition, casualty or Extraordinary Receipt of a US Loan Party, as applicable (1) so long as no Application Event shall have occurred and be continuing, be applied, *first*, to reduce the balance of the Existing Secured US Obligations (excluding the Existing Last Out Obligations and excluding guaranties of Existing Secured Canadian Obligations) in the manner set forth in the Existing Credit Agreement, *second*, to reduce the balance of the Existing Secured Canadian Obligations in the manner set forth in the Existing Credit Agreement, *third*, to reduce the balance of the US Revolving Loans outstanding, *fourth*, to reduce the balance of the Canadian Revolving Loans outstanding, *fifth*, to cash collateralize the Letters of Credit (*first*, with application to the US Letters of Credit, *second* with application to Canadian Letters of Credit) in an amount equal to 105% of the then outstanding Letter of Credit Usage, and, thereafter, to US Borrowers (to be wired to the US Designated Account) or such other Person entitled thereto under applicable law and (2) if an Application Event shall have occurred and be continuing, be applied in the manner set forth in Section 2.4(b)(ii)(A) and (B) if such prepayment is in connection with a disposition, casualty or Extraordinary Receipt of a Canadian Loan Party, as applicable (1) so long as no Application Event shall have occurred and be continuing, be applied, *first*, to reduce the balance of the Existing Secured Canadian

Obligations in the manner set forth in the Existing Credit Agreement, *second*, to reduce the balance of the Canadian Revolving Loans outstanding, *third*, to reduce the balance of the US Revolving Loans outstanding, *fourth*, to cash collateralize the Letters of Credit (*first*, with application to the Canadian Letters of Credit, *second* with application to US Letters of Credit) in an amount equal to 105% of the then outstanding Letter of Credit Usage, and, thereafter, to Canadian Borrower (to be wired to the Canadian Designated Account) or such other Person entitled thereto under applicable law and (2) if an Application Event shall have occurred and be continuing, be applied in the manner set forth in Section 2.4(b)(ii)(B).

(ii) No prepayment applied to the Revolving Loans or to cash collateralize Letter of Credit Usage under Section 2.4(f)(i) shall result in a reduction in the US Maximum Revolver Amount or Canadian Maximum Revolver Amount.

(g) Notwithstanding anything herein to the contrary, (i) Borrowers may not elect to repay the principal amount of the Existing Last Out Loans or the Last Out Loans or interest accrued thereon until the payment in full of all other outstanding Existing Secured Obligations and Obligations (including the payment of any termination amount then applicable (or which would or could become applicable as a result of the repayment of the other Obligations) under Hedge Agreements provided by Hedge Providers) other than (A) Unasserted Contingent Indemnification Obligations, (B) any Bank Product Obligations (other than Hedge Obligations) that, at such time, are allowed by the applicable Bank Product Provider to remain outstanding without being required to be repaid or cash collateralized, and (C) any Hedge Obligations that, at such time, are allowed by the applicable Hedge Provider to remain outstanding without being required to be repaid, and the cash collateralization in accordance with the terms hereof of all outstanding Letters of Credit and the termination of all of the Commitments of the Lenders, and (ii) all amounts that are otherwise required to be applied to repay the principal amount of Revolving Loans, any other Obligations or any Existing Secured Obligations shall be applied *first*, to repay the Existing Secured Obligations and Obligations that are not Existing Last Out Loans or Last Out Loans in the manner otherwise set forth hereunder, and thereafter, to repay Existing Last Out Loans and Last Out Loans.

(h) **Letter of Credit Obligations.** In the event any Letters of Credit are outstanding at the time that the Revolver Commitments are terminated or Letters of Credit are required to be cash collateralized at any time pursuant to the terms of this Agreement, Borrowers shall deposit with Agent for the benefit of all Lenders cash in an amount equal to 105% of the aggregate outstanding obligations and the applicable US Reimbursement Undertakings or Canadian Reimbursement Undertakings in connection with such Letters of Credit to be available to Agent to reimburse payments of drafts drawn under such Letters of Credit and pay any fees and expenses related thereto.

2.5. **Promise to Pay; Promissory Notes.**

(a) Each Borrower agrees to pay the Lender Group Expenses owing by such Borrower on the earlier of (i) the first day of the month following the date on which the applicable Lender Group Expenses were first incurred or (ii) the date on which demand therefor is made by Agent (it being acknowledged and agreed that any charging of such costs, expenses or Lender Group Expenses to the applicable Loan Account pursuant to the provisions of Section

2.6(d) shall be deemed to constitute a demand for payment thereof for the purposes of this subclause (ii)). Each Borrower promises to pay all of the Obligations (including principal, interest, premiums, if any, fees, costs, and expenses (including Lender Group Expenses)) owing by such Borrower in full on the Maturity Date or, if earlier, on the date on which such Obligations (other than the Bank Product Obligations) become due and payable pursuant to the terms of this Agreement. Borrowers agree that their obligations contained in the first sentence of this Section 2.5 shall survive payment or satisfaction in full of all other Obligations.

(b) Any Lender may request that any portion of its Commitments or the Loans made by it be evidenced by one or more promissory notes. In such event, the applicable Borrower shall execute and deliver to such Lender the requested promissory notes payable to such Lender in a form furnished by Agent and reasonably satisfactory to such Borrower. Thereafter, the portion of the Commitments and Loans evidenced by such promissory notes and interest thereon shall at all times be represented by one or more promissory notes in such form payable to the payee named therein.

2.6. Interest Rates and Letter of Credit Fee: Rates, Payments, and Calculations.

(a) **Interest Rates.** Except as provided in Section 2.6(c),

(i) all US Revolving Loans and all other US Obligations (except for undrawn US Letters of Credit) that have been charged to the US Loan Account pursuant to the terms hereof shall bear interest as follows:

(A) if the relevant US Obligation is a Non-Base Rate Loan, at a per annum rate equal to the US LIBOR Rate plus the Non-Base Rate Margin,

(B) otherwise, at a per annum rate equal to the US Base Rate plus the Base Rate Margin;

(ii) all Canadian Revolving Loans and all other Canadian Obligations (except for undrawn Canadian Letters of Credit) that have been charged to the Canadian Loan Account pursuant to the terms hereof shall bear interest as follows:

(A) if the relevant Canadian Obligation is a Non-Base Rate Loan, at a per annum rate equal to the US LIBOR Rate plus the Non-Base Rate Margin (it being understood that any Canadian Obligation that is a Non-Base Rate Loan shall be denominated in Dollars),

(B) if the relevant Canadian Obligation is a Base Rate Loan denominated in Dollars, at a per annum rate equal to the US Base Rate plus the Base Rate Margin, and

(C) otherwise, at a per annum rate equal to the Canadian Base Rate plus the Non-Base Rate Margin;

(b) **Letter of Credit Fee.** US Borrowers shall pay Agent (for the ratable benefit of the Revolving Lenders with a US Revolver Commitment), a Letter of Credit fee (the "US Letter of Credit Fee") (which fee shall be in addition to the fronting fees and commissions, other fees, charges and expenses set forth in Section 2.11A(k)) that shall accrue at a *per annum* rate equal to the Non-Base Rate Margin times the US Letter of Credit Usage. Canadian Borrower shall pay Agent (for the ratable benefit of the Revolving Lenders with a Canadian Revolver Commitment), a Letter of Credit fee (the "Canadian Letter of Credit Fee") (which fee shall be in addition to the fronting fees and commissions, other fees, charges and expenses set forth in Section 2.11B(k)) that shall accrue at a *per annum* rate equal to the Non-Base Rate Margin times the Canadian Letter of Credit Usage.

(c) **Default Rate.** Upon the occurrence and during the continuation of an Event of Default and at the election of the Agent or Required Lenders,

(i) all Revolving Loans and all other Obligations (except for undrawn Letters of Credit) that have been charged to the Loan Account pursuant to the terms hereof shall bear interest at a per annum rate equal to 2 percentage points above the per annum rate otherwise applicable thereunder, and

(ii) the applicable Letter of Credit Fee shall be increased to 2 percentage points above the per annum rate otherwise applicable hereunder.

(d) **Payment.** Except to the extent provided to the contrary in Section 2.10, Section 2.11A(k), Section 2.11B(k) or Section 2.12(a), (i) all interest (other than interest due on Non-Base Rate Loans) and all other fees payable hereunder or under any of the other Loan Documents (except as otherwise expressly provided) shall be due and payable, in arrears, on the first day of each calendar month, (ii) all Letter of Credit Fees payable hereunder or under any of the other Loan Documents (except as expressly provided) shall be due and payable, in arrears, on the first Business Day of each calendar month, and (iii) all costs and expenses payable hereunder or under any of the other Loan Documents, and all Lender Group Expenses shall be due and payable on the earlier of (x) the first day of the month following the date on which the applicable costs, expenses, or Lender Group Expenses were first incurred or (y) the date on which demand therefor is made by Agent (it being acknowledged and agreed that any charging of such costs, expenses or Lender Group Expenses to the applicable Loan Account pursuant to the provisions of the following sentence shall be deemed to constitute a demand for payment thereof for the purposes of this subclause (y)). All interest in respect of Non-Base Rate Loans shall be due and payable as provided in Section 2.12(a). US Borrowers hereby authorize Agent, from time to time without prior notice to Borrowers, to charge to the US Loan Account (A) on the first day of each calendar month, all interest (other than interest due on Non-Base Rate Loans) accrued during the prior calendar month on the US Revolving Loans hereunder, (B) on the date due pursuant to Section 2.12(a), all interest in respect of US Revolving Loans that are Non-Base Rate Loans, (C) on the first day of each calendar month, all US Letter of Credit Fees accrued or chargeable hereunder during the prior calendar month, (D) as and when due and payable, all fees and costs owing by US Loan Parties provided for in Section 2.10(a) or (c), (E) on the first day of each calendar month, the Unused Line Fee accrued during the prior calendar month pursuant to Section 2.10(b), (F) as and when due and payable, all other fees payable hereunder or under any of the other Loan Documents by US Loan Parties, (G) as and when incurred or accrued, the

fronting fees and all commissions, other fees, charges and expenses provided for in Section 2.11A(k), (H) as and when due and payable, all other Lender Group Expenses owing by US Loan Parties, and (I) as and when due and payable all other payment obligations payable by US Loan Parties under any Loan Document or any Bank Product Agreement (including any amounts due and payable to the Bank Product Providers in respect of US Bank Products). All amounts (including interest, fees, costs, expenses, Lender Group Expenses, or other amounts payable by US Loan Parties hereunder or under any other Loan Document or under any Bank Product Agreement) charged to the US Loan Account shall thereupon constitute US Revolving Loans hereunder, shall constitute US Obligations hereunder, and shall initially accrue interest at the rate then applicable to US Revolving Loans that are Base Rate Loans (unless and until converted into Non-Base Rate Loans in accordance with the terms of this Agreement). Canadian Borrower hereby authorizes Agent, from time to time without prior notice to Borrowers, to charge to the Canadian Loan Account (A) on the first day of each calendar month, all interest (other than interest due on Non-Base Rate Loans) accrued during the prior calendar month on the Canadian Revolving Loans hereunder, (B) on the date due pursuant to Section 2.12(a), all interest in respect of Canadian Revolving Loans that are Non-Base Rate Loans, (C) on the first day of each calendar month, all Canadian Letter of Credit Fees accrued or chargeable hereunder during the prior calendar month, (D) as and when due and payable, all fees and costs owing by Canadian Loan Parties provided for in Section 2.10(a) or (c), (E) as and when due and payable, all other fees payable hereunder or under any of the other Loan Documents by Canadian Loan Parties, (F) as and when incurred or accrued, the fronting fees and all commissions, other fees, charges and expenses provided for in Section 2.11B(k), (G) as and when due and payable, all other Lender Group Expenses owing by Canadian Loan Parties, and (H) as and when due and payable all other payment obligations payable by Canadian Loan Parties under any Loan Document or any Bank Product Agreement (including any amounts due and payable to the Bank Product Providers in respect of Canadian Bank Products). All amounts (including interest, fees, costs, expenses, Lender Group Expenses, or other amounts payable by Canadian Loan Parties hereunder or under any other Loan Document or under any Bank Product Agreement) charged to the Canadian Loan Account shall thereupon constitute Canadian Revolving Loans hereunder, shall constitute Canadian Obligations hereunder, and shall initially accrue interest at the rate then applicable to Canadian Revolving Loans that are Base Rate Loans (unless and until converted into Non-Base Rate Loans in accordance with the terms of this Agreement).

(e) **Computation.** All interest and fees chargeable under the Loan Documents shall be computed on the basis of a 360 day year, in each case, for the actual number of days elapsed in the period during which the interest or fees accrue; provided that Base Rate Loans (including Revolving Loans bearing interest at the Canadian Base Rate), shall, in each case, be calculated on the basis of a 365 day year (or a 366 day year, in the case of a leap year). In the event the Base Rate is changed from time to time hereafter, the rates of interest hereunder based upon the Base Rate automatically and immediately shall be increased or decreased by an amount equal to such change in the Base Rate.

(f) **Intent to Limit Charges to Maximum Lawful Rate.** In no event shall the interest rate or rates payable under this Agreement, plus any other amounts paid in connection herewith, exceed the highest rate permissible under any law that a court of competent jurisdiction shall, in a final determination, deem applicable. Borrowers and the Lender Group, in executing and delivering this Agreement, intend legally to agree upon the rate or rates of interest

and manner of payment stated within it; provided, that, anything contained herein to the contrary notwithstanding, if such rate or rates of interest or manner of payment exceeds the maximum allowable under applicable law, then, ipso facto, as of the date of this Agreement, Borrowers are and shall be liable only for the payment of such maximum amount as is allowed by law, and payment received from Borrowers in excess of such legal maximum, whenever received, shall be applied to reduce the principal balance of the applicable Obligations to the extent of such excess.

2.7. **Crediting Payments.** The receipt of any payment item by Agent shall not be required to be considered a payment on account unless such payment item is a wire transfer of immediately available federal funds in the Applicable Currency made to Agent's Applicable Account or unless and until such payment item is honored when presented for payment. Should any payment item not be honored when presented for payment, then Borrowers shall be deemed not to have made such payment and interest shall be calculated accordingly. Anything to the contrary contained herein notwithstanding, any payment item shall be deemed received by Agent only if it is received into Agent's Applicable Account on a Business Day on or before 1:30 p.m. If any payment item is received into Agent's Applicable Account on a non-Business Day or after 1:30 p.m. on a Business Day (unless Agent, in its sole discretion, elects to credit it on the date received), it shall be deemed to have been received by Agent as of the opening of business on the immediately following Business Day.

2.8. **Designated Accounts.** Agent is authorized to make the Revolving Loans and each Issuing Lender is authorized to issue the Letters of Credit, under this Agreement based upon telephonic or other instructions received from anyone purporting to be an Authorized Person or, without instructions, if pursuant to Section 2.6(d). US Borrowers agree to establish and maintain the US Designated Account with the US Designated Account Bank for the purpose of receiving the proceeds of the US Revolving Loans requested by US Borrower and made by Agent or the Lenders hereunder. Unless otherwise agreed by Agent and Administrative Borrower, any US Revolving Loan requested by US Borrowers and made by Agent or the Lenders hereunder shall be made to the US Designated Account. Canadian Borrower agrees to establish and maintain the Canadian Designated Account with the Canadian Designated Account Bank for the purpose of receiving the proceeds of the Canadian Revolving Loans requested by Canadian Borrower and made by Agent or the Lenders hereunder. Unless otherwise agreed by Agent and Canadian Borrower, any Canadian Revolving Loan requested by Canadian Borrower and made by Agent or the Lenders hereunder shall be made to the Canadian Designated Account.

2.9. **Maintenance of Loan Account; Statements of Obligations.** Agent shall maintain an account on its books in the name of US Borrowers (the "US Loan Account") on which US Borrowers will be charged with all US Revolving Loans (including US Extraordinary Advances and US Swing Loans) made by Agent, US Swing Lender, or the Lenders to US Borrowers or for US Borrowers' account, the US Letters of Credit issued or arranged by US Issuing Lender for US Borrowers' account, and with all other payment US Obligations hereunder or under the other Loan Documents, including, accrued interest, fees and expenses, and Lender Group Expenses with respect thereto. In accordance with Section 2.7, the US Loan Account will be credited with all payments received by Agent from US Borrowers or for US Borrowers' account. Agent shall maintain an account on its books in the name of Canadian Borrower (the "Canadian Loan Account") on which Canadian Borrower will be charged with all Canadian Revolving Loans (including Canadian Extraordinary Advances and Canadian Swing Loans)

made by Agent, Canadian Swing Lender or the Lenders to Canadian Borrower or for Canadian Borrower's account, the Canadian Letters of Credit issued or arranged by Canadian Issuing Lender for Canadian Borrower's account, and with all other Canadian Obligations hereunder or under the other Loan Documents, including, accrued interest, fees and expenses, and Lender Group Expenses with respect thereto. In accordance with Section 2.7, the Canadian Loan Account will be credited with all payments received by Agent from Canadian Borrower or for Canadian Borrower's account. Agent shall make available to Borrowers monthly statements regarding the Loan Accounts, including the principal amount of the Revolving Loans, interest accrued hereunder, fees accrued or charged hereunder or under the other Loan Documents, and a summary itemization of all charges and expenses constituting Lender Group Expenses accrued hereunder or under the other Loan Documents, and each such statement, absent manifest error, shall be conclusively presumed to be correct and accurate and constitute an account stated between Borrowers and the Lender Group unless, within thirty (30) days after Agent first makes such a statement available to Borrowers, Borrowers shall deliver to Agent written objection thereto describing the error or errors contained in such statement.

2.10. **Fees.**

(a) **Agent Fees.** Borrowers shall pay to Agent, as and when due and payable under the terms of the Fee Letter, the agent fee set forth in the Fee Letter.

(b) **Unused Line Fee.** US Borrowers shall pay to Agent, for the ratable account of the Revolving Lenders with a US Revolver Commitment, an unused line fee (the "Unused Line Fee") in an amount equal to the Applicable Unused Line Fee Percentage *per annum* times the result of (i) the aggregate amount of the US Revolver Commitments, less (ii) the average amount of the sum of the US Revolver Usage (which shall be deemed to include for this purpose the principal amount of the Existing Secured Obligations (including Existing Last Out Obligations) and the Last Out Obligations) and Dollar Equivalent of the Canadian Revolver Usage (which shall be deemed to include for this purpose the principal amount of Existing Secured Canadian Obligations) during the immediately preceding calendar month (or portion thereof), which Unused Line Fee shall be due and payable on the first day of each calendar month from and after the Closing Date up to the first day of the calendar month, prior to the date on which the Obligations are paid in full and on the date on which the Obligations are paid in full.

(c) **Field Examination and Other Fees.** Borrowers shall pay to Agent field examination, appraisal, and valuation fees and charges, as and when incurred or chargeable, as follows: (i) a fee of \$1,000 per day, per examiner, plus reasonable out-of-pocket expenses (including travel, meals, and lodging) for each field examination of Parent or its Subsidiaries performed by personnel employed by Agent, (ii) if implemented, a fee of \$1,000 per day, per examiner, plus reasonable out-of-pocket expenses (including travel, meals and lodging) for the establishment of electronic collateral reporting, and (iii) the fees or charges paid or incurred by Agent (including travel, meals, and lodging) if it elects to employ the services of one or more third Persons to perform field examinations of Parent or its Subsidiaries or to appraise the Collateral, or any portion thereof; provided, that so long as no Event of Default shall have occurred and be continuing, Borrowers shall not be obligated to reimburse Agent for more than (A) one field examination during the initial five month period following the Closing Date (and if

the Existing Secured Obligations and the Obligations are not paid in full within one hundred fifty (150) days of the Closing Date, one additional field examination thereafter) or (B) one appraisal of the Inventory during the initial five month period following the Closing Date (and if the Existing Secured Obligations and the Obligations are not paid in full within one hundred fifty (150) days of the Closing Date, one additional appraisal thereafter) (it being understood that the initial field examination of the Accounts of the Loan Parties conducted in connection with the Closing Date of this Agreement and the appraisal of the Inventory of the Loan Parties commenced prior to the Closing Date but not completed as of the Closing Date shall not count toward the limits described above).

(d) **Closing Fee.** Borrowers shall pay to Agent, for the ratable account of the Lenders, as and when due and payable under the terms of the Fee Letter, the closing fee set forth in the Fee Letter (the "Closing Fee").

2.11A **US Letters of Credit.**

(a) Subject to the terms and conditions of this Agreement, upon the request of Administrative Borrower made in accordance herewith, and prior to the Maturity Date, US Issuing Lender agrees to issue a requested US Letter of Credit for the account of US Borrowers. By submitting a request to US Issuing Lender for the issuance of a US Letter of Credit, US Borrowers shall be deemed to have requested that US Issuing Lender issue the requested US Letter of Credit. Each request for the issuance of a US Letter of Credit, or the amendment, renewal, or extension of any outstanding US Letter of Credit, shall be made in writing by an Authorized Person and delivered to US Issuing Lender via telefacsimile or other electronic method of transmission reasonably acceptable to US Issuing Lender and reasonably in advance of the requested date of issuance, amendment, renewal, or extension. Each such request shall be in form and substance reasonably satisfactory to US Issuing Lender and (i) shall specify (A) the amount of such US Letter of Credit, (B) the date of issuance, amendment, renewal, or extension of such US Letter of Credit, (C) the proposed expiration date of such US Letter of Credit, (D) the name and address of the beneficiary of the US Letter of Credit, and (E) such other information (including, the conditions to drawing, and, in the case of an amendment, renewal, or extension, identification of the US Letter of Credit to be so amended, renewed, or extended) as shall be necessary to prepare, amend, renew, or extend such US Letter of Credit, and (ii) shall be accompanied by such Issuer Documents as Agent or US Issuing Lender may request or require, to the extent that such requests or requirements are consistent with the Issuer Documents that US Issuing Lender generally requests for US Letters of Credit in similar circumstances.

(b) US Issuing Lender shall not issue a US Letter of Credit if any of the following would result after giving effect to the requested issuance:

(i) the US Letter of Credit Usage would exceed \$8,000,000 minus the Dollar Equivalent of the Canadian Letter of Credit Usage, or

(ii) the US Letter of Credit Usage would exceed the US Maximum Revolver Amount less the sum of the outstanding amount of US Revolving Loans (including US Swing Loans) and the Dollar Equivalent of the Canadian Revolver Usage less the principal

amount of any Reinstated Existing Secured Obligations less the principal amount of any Existing Secured Obligations (including, for the avoidance of doubt, Existing Last Out Obligations), or

(iii) the US Letter of Credit Usage would exceed the US Borrowing Base at such time less the sum of the outstanding principal balance of the US Revolving Loans (inclusive of US Swing Loans) at such time less the principal amount of any Reinstated Existing Secured Obligations less the principal amount of Existing Secured Obligations (excluding Existing Last Out Obligations)).

(c) In the event there is a Defaulting Lender as of the date of any request for the issuance of a US Letter of Credit, the US Issuing Lender shall not be required to issue or arrange for such US Letter of Credit to the extent (i) the Defaulting Lender's US Letter of Credit Exposure with respect to such US Letter of Credit may not be reallocated pursuant to Section 2.3(g)(ii), or (ii) the US Issuing Lender has not otherwise entered into arrangements reasonably satisfactory to it and Administrative Borrower to eliminate the US Issuing Lender's risk with respect to the participation in such US Letter of Credit of the Defaulting Lender, which arrangements may include US Borrowers cash collateralizing such Defaulting Lender's US Letter of Credit Exposure in accordance with Section 2.3(g)(ii). Additionally, US Issuing Lender shall have no obligation to issue a US Letter of Credit if (A) any order, judgment, or decree of any Governmental Authority or arbitrator shall, by its terms, purport to enjoin or restrain US Issuing Lender from issuing such US Letter of Credit, or any law applicable to US Issuing Lender or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over US Issuing Lender shall prohibit or request that US Issuing Lender refrain from the issuance of letters of credit generally or such US Letter of Credit in particular, or (B) the issuance of such US Letter of Credit would violate one or more policies of US Issuing Lender applicable to letters of credit generally.

(d) Any US Issuing Lender (other than Wells Fargo or any of its Affiliates) shall notify Agent in writing no later than the Business Day immediately following the Business Day on which such US Issuing Lender issued any US Letter of Credit; provided that (i) until Agent advises any such US Issuing Lender that the provisions of Section 3.2 are not satisfied, or (ii) unless the aggregate amount of the US Letters of Credit issued in any such week exceeds such amount as shall be agreed by Agent and such US Issuing Lender, such US Issuing Lender shall be required to so notify Agent in writing only once each week of the US Letters of Credit issued by such US Issuing Lender during the immediately preceding week as well as the daily amounts outstanding for the prior week, such notice to be furnished on such day of the week as Agent and such US Issuing Lender may agree. Each US Letter of Credit shall be in form and substance reasonably acceptable to US Issuing Lender, including the requirement that the amounts payable thereunder must be payable in Dollars. If US Issuing Lender makes a payment under a US Letter of Credit, US Borrowers shall pay to Agent an amount equal to the applicable US Letter of Credit Disbursement on the Business Day such US Letter of Credit Disbursement is made and, in the absence of such payment, the amount of the US Letter of Credit Disbursement immediately and automatically shall be deemed to be a US Revolving Loan hereunder (notwithstanding any failure to satisfy any condition precedent set forth in Section 3) and, initially, shall bear interest at the rate then applicable to US Revolving Loans that are Base Rate Loans. If a US Letter of Credit Disbursement is deemed to be a US Revolving Loan hereunder, US Borrowers' obligation to pay the amount of such US Letter of Credit Disbursement to US

Issuing Lender shall be automatically converted into an obligation to pay the resulting US Revolving Loan. Promptly following receipt by Agent of any payment from US Borrowers pursuant to this paragraph, Agent shall distribute such payment to US Issuing Lender or, to the extent that any Revolving Lender have made payments pursuant to Section 2.11A(e) to reimburse US Issuing Lender, then to such Revolving Lender and US Issuing Lender as their interests may appear.

(e) Promptly following receipt of a notice of a US Letter of Credit Disbursement pursuant to Section 2.11A(d), each Revolving Lender agrees to fund its Pro Rata Share of any US Revolving Loan deemed made pursuant to Section 2.11A(d) on the same terms and conditions as if US Borrowers had requested the amount thereof as a US Revolving Loan and Agent shall promptly pay to US Issuing Lender the amounts so received by it from the Revolving Lenders. By the issuance of a US Letter of Credit (or an amendment, renewal, or extension of a US Letter of Credit) and without any further action on the part of US Issuing Lender or the Revolving Lenders, US Issuing Lender shall be deemed to have granted to each Revolving Lender, and each Revolving Lender shall be deemed to have purchased, a participation in each US Letter of Credit issued by US Issuing Lender, in an amount equal to its Pro Rata Share of such US Letter of Credit, and each such Revolving Lender agrees to pay to Agent, for the account of US Issuing Lender, such Revolving Lender's Pro Rata Share of any US Letter of Credit Disbursement made by US Issuing Lender under the applicable US Letter of Credit. In consideration and in furtherance of the foregoing, each Revolving Lender hereby absolutely and unconditionally agrees to pay to Agent, for the account of US Issuing Lender, such Revolving Lender's Pro Rata Share of each US Letter of Credit Disbursement made by US Issuing Lender and not reimbursed by US Borrowers on the date due as provided in Section 2.11A(d), or of any reimbursement payment that is required to be refunded (or that Agent or US Issuing Lender elects, based upon the advice of counsel, to refund) to US Borrowers for any reason. Each Revolving Lender acknowledges and agrees that its obligation to deliver to Agent, for the account of US Issuing Lender, an amount equal to its respective Pro Rata Share of each US Letter of Credit Disbursement pursuant to this Section 2.11A(e) shall be absolute and unconditional and such remittance shall be made notwithstanding the occurrence or continuation of an Event of Default or Default or the failure to satisfy any condition set forth in Section 3. If any such Revolving Lender fails to make available to Agent the amount of such Revolving Lender's Pro Rata Share of a US Letter of Credit Disbursement as provided in this Section, such Revolving Lender shall be deemed to be a Defaulting Lender and Agent (for the account of US Issuing Lender) shall be entitled to recover such amount on demand from such Revolving Lender together with interest thereon at the Defaulting Lender Rate until paid in full.

(f) US Borrowers agree to indemnify, defend and hold harmless each Letter of Credit Related Person (to the fullest extent permitted by law) from and against any Letter of Credit Indemnified Costs, which arise out of or in connection with, or as a result of:

- (i) any US Letter of Credit or any pre-advice of its issuance;
- (ii) any transfer, sale, delivery, surrender or endorsement of any Drawing Document at any time(s) held by any such Letter of Credit Related Person in connection with any US Letter of Credit;

(iii) any action or proceeding arising out of, or in connection with, any US Letter of Credit (whether administrative, judicial or in connection with arbitration), including any action or proceeding to compel or restrain any presentation or payment under any US Letter of Credit, or for the wrongful dishonor of, or honoring a presentation under, any US Letter of Credit;

(iv) any independent undertakings issued by the beneficiary of any US Letter of Credit;

(v) any unauthorized instruction or request made to US Issuing Lender in connection with any US Letter of Credit or requested US Letter of Credit or error in computer or electronic transmission;

(vi) an adviser, confirmer or other nominated person seeking to be reimbursed, indemnified or compensated in connection with any US Letter of Credit;

(vii) any third party seeking to enforce the rights of an applicant, beneficiary, nominated person, transferee, assignee of US Letter of Credit proceeds or holder of an instrument or document;

(viii) the fraud, forgery or illegal action of parties in connection with a US Letter of Credit other than the Letter of Credit Related Person;

(ix) US Issuing Lender's performance of the obligations of a confirming institution or entity that wrongfully dishonors a confirmation in connection with a US Letter of Credit; or

(x) the acts or omissions, whether rightful or wrongful, of any present or future de jure or de facto governmental or regulatory authority or cause or event beyond the control of the Letter of Credit Related Person related to a US Letter of Credit;

in each case, including that result from the Letter of Credit Related Person's own negligence; provided, however, that such indemnity shall not be available to any Letter of Credit Related Person claiming indemnification under clauses (i) through (x) above to the extent that such Letter of Credit Indemnified Costs may be determined in a final, non-appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of the Letter of Credit Related Person claiming indemnity. US Borrowers hereby agree to pay the Letter of Credit Related Person claiming indemnity on demand from time to time all amounts owing under this Section 2.11A(f). If and to the extent that the obligations of US Borrowers under this Section 2.11A(f) are unenforceable for any reason, US Borrowers agree to make the maximum contribution to the Letter of Credit Indemnified Costs permissible under applicable law. This indemnification provision shall survive termination of this Agreement and all US Letters of Credit.

(g) The liability of US Issuing Lender (or any other Letter of Credit Related Person) under, in connection with or arising out of any US Letter of Credit (or pre-advice), regardless of the form or legal grounds of the action or proceeding, shall be limited to direct damages suffered by Borrowers that are caused directly by US Issuing Lender's gross negligence

or willful misconduct in (i) honoring a presentation under a US Letter of Credit that on its face does not at least substantially comply with the terms and conditions of such US Letter of Credit, (ii) failing to honor a presentation under a US Letter of Credit that strictly complies with the terms and conditions of such US Letter of Credit or (iii) retaining Drawing Documents presented under a US Letter of Credit. US Issuing Lender shall be deemed to have acted with due diligence and reasonable care if US Issuing Lender's conduct is in accordance with Standard Letter of Credit Practice or in accordance with this Agreement. US Borrowers' aggregate remedies against US Issuing Lender and any Letter of Credit Related Person for wrongfully honoring a presentation under any US Letter of Credit or wrongfully retaining honored Drawing Documents shall in no event exceed the aggregate amount paid by US Borrowers to US Issuing Lender in respect of the honored presentation in connection with such US Letter of Credit under Section 2.11A(d), plus interest at the rate then applicable to US Revolving Loans that are Base Rate Loans hereunder. US Borrowers shall take action to avoid and mitigate the amount of any damages claimed against US Issuing Lender or any other Letter of Credit Related Person, including by enforcing its rights against the beneficiaries of the US Letters of Credit. Any claim by US Borrowers under or in connection with any US Letter of Credit shall be reduced by an amount equal to the sum of (x) the amount (if any) saved by US Borrowers as a result of the breach or alleged wrongful conduct complained of; and (y) the amount (if any) of the loss that would have been avoided had US Borrowers taken all reasonable steps to mitigate any loss, and in case of a claim of wrongful dishonor, by specifically and timely authorizing US Issuing Lender to effect a cure.

(h) US Borrowers are responsible for preparing or approving the final text of the US Letter of Credit as issued by US Issuing Lender, irrespective of any assistance US Issuing Lender may provide such as drafting or recommending text or by US Issuing Lender's use or refusal to use text submitted by US Borrowers. US Borrowers are solely responsible for the suitability of the US Letter of Credit for US Borrowers' purposes. With respect to any US Letter of Credit containing an "automatic amendment" to extend the expiration date of such US Letter of Credit, US Issuing Lender, in its sole and absolute discretion, may give notice of nonrenewal of such US Letter of Credit only if such automatic extension would result in any expiry date of such Letter of Credit beyond the Maturity Date, and, if US Borrowers do not at any time want such US Letter of Credit to be renewed, US Borrowers will so notify Agent and US Issuing Lender at least fifteen (15) calendar days before US Issuing Lender is required to notify the beneficiary of such US Letter of Credit or any advising bank of such nonrenewal pursuant to the terms of such US Letter of Credit.

(i) US Borrowers' reimbursement and payment obligations under this Section 2.11A are absolute, unconditional and irrevocable and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever, including:

(i) any lack of validity, enforceability or legal effect of any US Letter of Credit or this Agreement or any term or provision therein or herein;

(ii) payment against presentation of any draft, demand or claim for payment under any Drawing Document that does not comply in whole or in part with the terms of the applicable US Letter of Credit or which proves to be fraudulent, forged or invalid in any

respect or any statement therein being untrue or inaccurate in any respect, or which is signed, issued or presented by a Person or a transferee of such Person purporting to be a successor or transferee of the beneficiary of such US Letter of Credit;

(iii) US Issuing Lender or any of its branches or Affiliates being the beneficiary of any US Letter of Credit;

(iv) US Issuing Lender or any correspondent honoring a drawing against a Drawing Document up to the amount available under any US Letter of Credit even if such Drawing Document claims an amount in excess of the amount available under the US Letter of Credit;

(v) the existence of any claim, set-off, defense or other right that Parent or any of its Subsidiaries may have at any time against any beneficiary, any assignee of proceeds, US Issuing Lender or any other Person;

(vi) any other event, circumstance or conduct whatsoever, whether or not similar to any of the foregoing that might, but for this Section 2.11A(i), constitute a legal or equitable defense to or discharge of, or provide a right of set-off against, any Borrower's or any of its Subsidiaries' reimbursement and other payment obligations and liabilities, arising under, or in connection with, any US Letter of Credit, whether against US Issuing Lender, the beneficiary or any other Person; or

(vii) the fact that any Default or Event of Default shall have occurred and be continuing;

provided, however, that subject to Section 2.11A(g) above, the foregoing shall not release US Issuing Lender from such liability to US Borrowers as may be finally determined in a final, non-appealable judgment of a court of competent jurisdiction against US Issuing Lender following reimbursement or payment of the obligations and liabilities, including reimbursement and other payment obligations, of US Borrowers to US Issuing Lender arising under, or in connection with, this Section 2.11A or any US Letter of Credit.

(j) Without limiting any other provision of this Agreement, and subject to Section 2.11A(g) above and Section 2.11B(g) below, US Issuing Lender and each other Letter of Credit Related Person (if applicable) shall not be responsible to US Borrowers for, and US Issuing Lender's rights and remedies against US Borrowers and the obligation of US Borrowers to reimburse US Issuing Lender for each drawing under each US Letter of Credit shall not be impaired by:

(i) honor of a presentation under any US Letter of Credit that on its face substantially complies with the terms and conditions of such US Letter of Credit, even if the US Letter of Credit requires strict compliance by the beneficiary;

(ii) honor of a presentation of any Drawing Document that appears on its face to have been signed, presented or issued (A) by any purported successor or transferee of any beneficiary or other Person required to sign, present or issue such Drawing Document or (B) under a new name of the beneficiary;

(iii) acceptance as a draft of any written or electronic demand or request for payment under a US Letter of Credit, even if nonnegotiable or not in the form of a draft or notwithstanding any requirement that such draft, demand or request bear any or adequate reference to the US Letter of Credit;

(iv) the identity or authority of any presenter or signer of any Drawing Document or the form, accuracy, genuineness or legal effect of any Drawing Document (other than US Issuing Lender's determination that such Drawing Document appears on its face substantially to comply with the terms and conditions of the US Letter of Credit);

(v) acting upon any instruction or request relative to a US Letter of Credit or requested US Letter of Credit that US Issuing Lender in good faith believes to have been given by a Person authorized to give such instruction or request;

(vi) any errors, omissions, interruptions or delays in transmission or delivery of any message, advice or document (regardless of how sent or transmitted) or for errors in interpretation of technical terms or in translation or any delay in giving or failing to give notice to US Borrowers;

(vii) any acts, omissions or fraud by, or the insolvency of, any beneficiary, any nominated person or entity or any other Person or any breach of contract between any beneficiary and US Borrowers or any of the parties to the underlying transaction to which the US Letter of Credit relates;

(viii) assertion or waiver of any provision of the ISP or UCP that primarily benefits an issuer of a letter of credit, including any requirement that any Drawing Document be presented to it at a particular hour or place;

(ix) payment to any paying or negotiating bank (designated or permitted by the terms of the applicable US Letter of Credit) claiming that it rightfully honored or is entitled to reimbursement or indemnity under Standard Letter of Credit Practice applicable to it;

(x) acting or failing to act as required or permitted under Standard Letter of Credit Practice applicable to where US Issuing Lender has issued, confirmed, advised or negotiated such US Letter of Credit, as the case may be;

(xi) honor of a presentation after the expiration date of any US Letter of Credit notwithstanding that a presentation was made prior to such expiration date and dishonored by US Issuing Lender if subsequently US Issuing Lender or any court or other finder of fact determines such presentation should have been honored;

(xii) dishonor of any presentation that does not strictly comply or that is fraudulent, forged or otherwise not entitled to honor; or

(xiii) honor of a presentation that is subsequently determined by US Issuing Lender to have been made in violation of international, federal, state or local restrictions on the transaction of business with certain prohibited Persons.

(k) US Borrowers shall pay immediately upon demand to Agent for the account of US Issuing Lender as non-refundable fees, commissions, and charges (it being acknowledged and agreed that any charging of such fees, commissions, and charges to the US Loan Account pursuant to the provisions of Section 2.6(d) shall be deemed to constitute a demand for payment thereof for the purposes of this Section 2.11A(k)): (i) a fronting fee which shall be imposed by US Issuing Lender upon the issuance of each US Letter of Credit of 0.125% per annum of the face amount thereof, *plus* (ii) any and all other customary commissions, fees and charges then in effect imposed by, and any and all expenses incurred by, US Issuing Lender, or by any adviser, confirming institution or entity or other nominated person, relating to US Letters of Credit, at the time of issuance of any US Letter of Credit and upon the occurrence of any other activity with respect to any US Letter of Credit (including transfers, assignments of proceeds, amendments, drawings, renewals or cancellations). Notwithstanding the foregoing, if US Issuing Lender is a Person other than Wells Fargo, all fronting fees payable in respect of US Letters of Credit issued by such US Issuing Lender shall be paid by US Borrowers immediately upon demand directly to such US Issuing Lender for its own account.

(l) If by reason of (x) any Change in Law, or (y) compliance by US Issuing Lender or any other member of the Lender Group with any direction, request, or requirement (irrespective of whether having the force of law) of any Governmental Authority or monetary authority including, Regulation D of the Board of Governors as from time to time in effect (and any successor thereto):

(i) any reserve, deposit, or similar requirement is or shall be imposed or modified in respect of any US Letter of Credit issued or caused to be issued hereunder or hereby, or

(ii) there shall be imposed on US Issuing Lender or any other member of the Lender Group any other condition regarding any US Letter of Credit,

and the result of the foregoing is to increase, directly or indirectly, the cost to US Issuing Lender or any other member of the Lender Group of issuing, making, participating in, or maintaining any US Letter of Credit or to reduce the amount receivable in respect thereof, then, and in any such case, Agent may, at any time within a reasonable period after the additional cost is incurred or the amount received is reduced, notify Administrative Borrower, and US Borrowers shall pay on demand, such amounts as Agent may specify to be necessary to compensate US Issuing Lender or any other member of the Lender Group for such additional cost or reduced receipt, together with interest on such amount from the date of such demand until payment in full thereof at the rate then applicable to US Revolving Loans that are Base Rate Loans hereunder. The determination by Agent of any amount due pursuant to this Section 2.11A(l), as set forth in a certificate setting forth the calculation thereof in reasonable detail, shall, in the absence of manifest or demonstrable error, be final and conclusive and binding on all of the parties hereto.

(m) Unless otherwise expressly agreed by US Issuing Lender and US Borrowers when a US Letter of Credit is issued, (i) the rules of the ISP and UCP 600 shall apply to each standby US Letter of Credit, and (ii) the rules of UCP 600 shall apply to each commercial US Letter of Credit.

(n) In the event of a direct conflict between the provisions of this Section 2.11A and any provision contained in any Issuer Document, it is the intention of the parties hereto that such provisions be read together and construed, to the fullest extent possible, to be in concert with each other. In the event of any actual, irreconcilable conflict that cannot be resolved as aforesaid, the terms and provisions of this Section 2.11A shall control and govern.

(o) Schedule 2.11(A) hereto contains a list of all US Letters of Credit outstanding on the Filing Date pursuant to the Existing Credit Agreement. For the period from and after the effective date of the Interim Financing Order, each such US Letter of Credit set forth on Schedule 2.11(A), including any extension or renewal thereof, that remains outstanding on the effective date of the Interim Financing Order (each, as amended from time to time in accordance with the terms thereof and hereof, an "Existing US Letter of Credit") shall be deemed US Letters of Credit re-issued hereunder for the account of Borrowers, for all purposes of this Agreement, including, without limitation, calculations of US Availability, the US Borrowing Base, US Letter of Credit Usage and all other fees and expenses relating to the US Letters of Credit (including any related indemnification obligations). US Issuing Lender hereby assumes and agrees to perform any and all duties, obligations and liabilities to be performed or discharged by the issuers of the Existing US Letters of Credit. Borrowers agree to execute and deliver such documentation, if any, requested by Agent, or a US Issuing Lender to evidence, record, or further the foregoing deemed re-issuance.

(p) The expiration date of each US Letter of Credit, other than the Existing US Letters of Credit, shall be on a date that is not later than fifteen (15) days prior to the Maturity Date unless Borrower provides cash collateral for the obligations and US Reimbursement Undertakings associated with such US Letters of Credit in the manner set forth in Section 2.4(h) hereof; provided, that a US Letter of Credit may provide for automatic extensions of its expiration date for one or more successive periods of up to twelve (12) months for each period; provided, further, that the applicable US Issuing Lender has the right to terminate such US Letter of Credit on each such expiration date and no renewal term may extend the term of the US Letter of Credit to a date that is later than the fifteenth (15th) day prior to the Maturity Date unless Borrowers provide cash collateral for the obligations and US Reimbursement Undertakings associated with such US Letters of Credit in the amount set forth in Section 2.4(h). Upon direction by Agent or Required Lenders, the applicable US Issuing Lender shall not renew any such US Letter of Credit at any time during the continuance of an Event of Default; provided, that in the case of a direction by Agent or Required Lenders, the US Issuing Lender receives such directions prior to the date notice of non-renewal is required to be given by the US Issuing Lender and the US Issuing Lender has had a reasonable period of time to act on such notice.

2.11B Canadian Letters of Credit.

(a) Subject to the terms and conditions of this Agreement, upon the request of Canadian Borrower made in accordance herewith, and prior to the Maturity Date, Canadian Issuing Lender agrees to issue, or to cause a Canadian Underlying Issuer (including as Canadian Issuing Lender's agent) to issue, a requested Canadian Letter of Credit for the account of Canadian Borrower. If Canadian Issuing Lender, at its option, elects to cause a Canadian Underlying Issuer to issue a requested Canadian Letter of Credit, then Canadian Issuing Lender

agrees that it will enter into arrangements relative to the reimbursement of such Canadian Underlying Issuer (which may include, among other means, by becoming an applicant with respect to such Canadian Letter of Credit or entering into undertakings or other arrangements that provide for reimbursement of such Canadian Underlying Issuer with respect to such drawings under Canadian Letter of Credit; each such obligation or undertaking, irrespective of whether in writing, a "Canadian Reimbursement Undertaking") with respect to Canadian Letters of Credit issued by such Canadian Underlying Issuer for the account of Canadian Borrower. By submitting a request to Canadian Issuing Lender for the issuance of a Canadian Letter of Credit, Canadian Borrower shall be deemed to have requested that (x) Canadian Issuing Lender issue the requested Canadian Letter of Credit or (y) a Canadian Underlying Issuer issue the requested Canadian Letter of Credit (and, in such case, to have requested Canadian Issuing Lender to issue a Canadian Reimbursement Undertaking with respect to such requested Canadian Letter of Credit). Each request for the issuance of a Canadian Letter of Credit, or the amendment, renewal, or extension of any outstanding Canadian Letter of Credit, shall be made in writing by an Authorized Person and delivered to Canadian Issuing Lender via telefacsimile or other electronic method of transmission reasonably acceptable to Canadian Issuing Lender and reasonably in advance of the requested date of issuance, amendment, renewal, or extension. Each such request shall be in form and substance reasonably satisfactory to Canadian Issuing Lender and (i) shall specify (A) the amount of such Canadian Letter of Credit and whether to be issued in Dollars or Canadian Dollars, (B) the date of issuance, amendment, renewal, or extension of such Canadian Letter of Credit, (C) the proposed expiration date of such Canadian Letter of Credit, (D) the name and address of the beneficiary of the Canadian Letter of Credit, and (E) such other information (including, the conditions to drawing, and, in the case of an amendment, renewal, or extension, identification of the Canadian Letter of Credit to be so amended, renewed, or extended) as shall be necessary to prepare, amend, renew, or extend such Canadian Letter of Credit, and (ii) shall be accompanied by such Issuer Documents as Agent, Canadian Issuing Lender or Canadian Underlying Issuer may request or require, to the extent that such requests or requirements are consistent with the Issuer Documents that Canadian Issuing Lender or Canadian Underlying Issuer generally requests for Canadian Letters of Credit in similar circumstances.

(b) Canadian Issuing Lender shall not issue a Canadian Letter of Credit or a Canadian Reimbursement Undertaking in respect of a Canadian Letter of Credit, in either case, if any of the following would result after giving effect to the requested issuance:

(i) the Dollar Equivalent of the Canadian Letter of Credit Usage would exceed \$1,000,000, or

(ii) the Dollar Equivalent of the Canadian Letter of Credit Usage would exceed the Canadian Maximum Revolver Amount less the outstanding amount of Canadian Revolving Loans (including Canadian Swing Loans) less Reinstated Existing Secured Canadian Obligations and Existing Secured Canadian Obligations then outstanding,

(iii) the Dollar Equivalent of the Canadian Letter of Credit Usage would exceed the Canadian Borrowing Base at such time less the outstanding principal balance of the Canadian Revolving Loans (inclusive of Canadian Swing Loans) at such time less

Reinstated Existing Secured Canadian Obligations and Existing Secured Canadian Obligations then outstanding, or

(iv) the Dollar Equivalent of US Letter of Credit Usage and Canadian Letter of Credit Usage would exceed \$8,000,000.

(c) In the event there is a Defaulting Lender as of the date of any request for the issuance of a Canadian Letter of Credit, the Canadian Issuing Lender shall not be required to issue or arrange for such Canadian Letter of Credit or any applicable Canadian Reimbursement Undertaking to the extent (i) the Defaulting Lender's Canadian Letter of Credit Exposure with respect to such Canadian Letter of Credit or any applicable Canadian Reimbursement Undertaking may not be reallocated pursuant to Section 2.3(g)(ii), or (ii) the Canadian Issuing Lender has not otherwise entered into arrangements reasonably satisfactory to it and Canadian Borrower to eliminate the Canadian Issuing Lender's risk with respect to the participation in such Canadian Letter of Credit or any applicable Canadian Reimbursement Undertaking of the Defaulting Lender, which arrangements may include Canadian Borrower cash collateralizing such Defaulting Lender's Canadian Letter of Credit Exposure in accordance with Section 2.3(g)(ii). Additionally, Canadian Issuing Lender shall have no obligation to issue a Canadian Letter of Credit or a Canadian Reimbursement Undertaking in respect of a Canadian Letter of Credit if (A) any order, judgment, or decree of any Governmental Authority or arbitrator shall, by its terms, purport to enjoin or restrain Canadian Issuing Lender from issuing such Canadian Letter of Credit or a Canadian Reimbursement Undertaking or Canadian Underlying Issuer from issuing such Canadian Letter of Credit, or any law applicable to Canadian Issuing Lender or Canadian Underlying Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over Canadian Issuing Lender or Canadian Underlying Issuer shall prohibit or request that Canadian Issuing Lender or Canadian Underlying Issuer refrain from the issuance of letters of credit generally or such Canadian Letter of Credit or Canadian Reimbursement Undertaking, as applicable, in particular, or (B) the issuance of such Canadian Letter of Credit or Canadian Reimbursement Undertaking would violate one or more policies of Canadian Issuing Lender or Canadian Underlying Issuer applicable to letters of credit generally.

(d) Any Canadian Issuing Lender (other than WF Canada or any of its Affiliates) shall notify Agent in writing no later than the Business Day immediately following the Business Day on which such Canadian Issuing Lender issued any Canadian Letter of Credit or Canadian Reimbursement Undertaking; provided that (i) until Agent advises any such Canadian Issuing Lender that the provisions of Section 3.2 are not satisfied, or (ii) unless the aggregate amount of the Canadian Letters of Credit issued in any such week exceeds such amount as shall be agreed by Agent and such Canadian Issuing Lender, such Canadian Issuing Lender shall be required to so notify Agent in writing only once each week of the Canadian Letters of Credit or Canadian Reimbursement Undertaking issued by such Canadian Issuing Lender during the immediately preceding week as well as the daily amounts outstanding for the prior week, such notice to be furnished on such day of the week as Agent and such Canadian Issuing Lender may agree. Canadian Borrower and the Lender Group hereby acknowledge and agree that all Existing Canadian Letters of Credit shall constitute Canadian Letters of Credit under this Agreement on and after the Closing Date with the same effect as if such Existing Canadian Letters of Credit were issued by Canadian Issuing Lender at the request of Canadian

Borrower on the Closing Date. Each Canadian Letter of Credit shall be in form and substance reasonably acceptable to Canadian Issuing Lender and Canadian Underlying Issuer, including the requirement that the amounts payable thereunder must be payable in Dollars or Canadian Dollars. If Canadian Issuing Lender makes a payment under a Canadian Letter of Credit or a Canadian Reimbursement Undertaking, Canadian Borrower shall pay to Agent an amount equal to the applicable Canadian Letter of Credit Disbursement on the Business Day such Canadian Letter of Credit Disbursement is made and, in the absence of such payment, the amount of the Canadian Letter of Credit Disbursement immediately and automatically shall be deemed to be a Canadian Revolving Loan hereunder (notwithstanding any failure to satisfy any condition precedent set forth in Section 3) and, initially, shall bear interest at the rate then applicable to Canadian Revolving Loans that are Base Rate Loans. If a Canadian Letter of Credit Disbursement is deemed to be a Canadian Revolving Loan hereunder, Canadian Borrower's obligation to pay the amount of such Canadian Letter of Credit Disbursement to Canadian Issuing Lender shall be automatically converted into an obligation to pay the resulting Canadian Revolving Loan. Promptly following receipt by Agent of any payment from Canadian Borrower pursuant to this paragraph, Agent shall distribute such payment to Canadian Issuing Lender or, to the extent that any Revolving Lender have made payments pursuant to Section 2.11B(e) to reimburse Canadian Issuing Lender, then to such Revolving Lender and Canadian Issuing Lender as their interests may appear.

(e) Promptly following receipt of a notice of a Canadian Letter of Credit Disbursement pursuant to Section 2.11B(d), each Revolving Lender agrees to fund its Pro Rata Share of any Canadian Revolving Loan deemed made pursuant to Section 2.11B(d) on the same terms and conditions as if Canadian Borrower had requested the amount thereof as a Canadian Revolving Loan and Agent shall promptly pay to Canadian Issuing Lender the amounts so received by it from the Revolving Lenders. By the issuance of a Canadian Letter of Credit or Canadian Reimbursement Undertaking (or an amendment, renewal, or extension of a Canadian Letter of Credit Canadian Reimbursement Undertaking) and without any further action on the part of Canadian Issuing Lender or the Revolving Lenders, Canadian Issuing Lender shall be deemed to have granted to each Revolving Lender, and each Revolving Lender shall be deemed to have purchased, a participation in each Canadian Letter of Credit issued by Canadian Issuing Lender and each Canadian Reimbursement Undertaking, in an amount equal to its Pro Rata Share of such Canadian Letter of Credit or Canadian Reimbursement Undertaking, and each such Revolving Lender agrees to pay to Agent, for the account of Canadian Issuing Lender, such Revolving Lender's Pro Rata Share of any Canadian Letter of Credit Disbursement made by Canadian Issuing Lender under the applicable Canadian Letter of Credit or Canadian Reimbursement Undertaking. In consideration and in furtherance of the foregoing, each Revolving Lender hereby absolutely and unconditionally agrees to pay to Agent, for the account of Canadian Issuing Lender, such Revolving Lender's Pro Rata Share of each Canadian Letter of Credit Disbursement made by Canadian Issuing Lender and not reimbursed by Canadian Borrower on the date due as provided in Section 2.11B(d), or of any reimbursement payment that is required to be refunded (or that Agent or Canadian Issuing Lender elects, based upon the advice of counsel, to refund) to Canadian Borrower for any reason. Each Revolving Lender acknowledges and agrees that its obligation to deliver to Agent, for the account of Canadian Issuing Lender, an amount equal to its respective Pro Rata Share of each Canadian Letter of Credit Disbursement pursuant to this Section 2.11B(e) shall be absolute and unconditional and such remittance shall be made notwithstanding the occurrence or continuation of an Event of

Default or Default or the failure to satisfy any condition set forth in Section 3. If any such Revolving Lender fails to make available to Agent the amount of such Revolving Lender's Pro Rata Share of a Canadian Letter of Credit Disbursement as provided in this Section, such Revolving Lender shall be deemed to be a Defaulting Lender and Agent (for the account of Canadian Issuing Lender) shall be entitled to recover such amount on demand from such Revolving Lender together with interest thereon at the Defaulting Lender Rate until paid in full.

(f) Canadian Borrower agrees to indemnify, defend and hold harmless each Letter of Credit Related Person (to the fullest extent permitted by law) from and against any Letter of Credit Indemnified Costs, which arise out of or in connection with, or as a result of:

(i) any Canadian Letter of Credit or any pre-advice of its issuance or Canadian Reimbursement Undertaking;

(ii) any transfer, sale, delivery, surrender or endorsement of any Drawing Document at any time(s) held by any such Letter of Credit Related Person in connection with any Canadian Letter of Credit or Canadian Reimbursement Undertaking;

(iii) any action or proceeding arising out of, or in connection with, any Canadian Letter of Credit or Canadian Reimbursement Undertaking (whether administrative, judicial or in connection with arbitration), including any action or proceeding to compel or restrain any presentation or payment under any Canadian Letter of Credit or Canadian Reimbursement Undertaking, or for the wrongful dishonor of, or honoring a presentation under, any Canadian Letter of Credit;

(iv) any independent undertakings issued by the beneficiary of any Canadian Letter of Credit;

(v) any unauthorized instruction or request made to Canadian Issuing Lender or Canadian Underlying Issuer in connection with any Canadian Letter of Credit or Canadian Reimbursement Undertaking or requested Canadian Letter of Credit or Canadian Reimbursement Undertaking or error in computer or electronic transmission;

(vi) an adviser, confirmer or other nominated person seeking to be reimbursed, indemnified or compensated in connection with any Canadian Letter of Credit or Canadian Reimbursement Undertaking;

(vii) any third party seeking to enforce the rights of an applicant, beneficiary, nominated person, transferee, assignee of Canadian Letter of Credit proceeds or holder of an instrument or document;

(viii) the fraud, forgery or illegal action of parties in connection with a Canadian Letter of Credit or Canadian Reimbursement Undertaking other than the Letter of Credit Related Person;

(ix) Canadian Issuing Lender's or Canadian Underlying Issuer's performance of the obligations of a confirming institution or entity that wrongfully dishonors a confirmation in connection with a Canadian Letter of Credit; or

(x) the acts or omissions, whether rightful or wrongful, of any present or future de jure or de facto governmental or regulatory authority or cause or event beyond the control of the Letter of Credit Related Person related to a Canadian Letter of Credit or Canadian Reimbursement Undertaking;

in each case, including that result from the Letter of Credit Related Person's own negligence; provided, however, that such indemnity shall not be available to any Letter of Credit Related Person claiming indemnification under clauses (i) through (x) above to the extent that such Letter of Credit Indemnified Costs may be determined in a final, non-appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of the Letter of Credit Related Person claiming indemnity. Canadian Borrower hereby agrees to pay the Letter of Credit Related Person claiming indemnity on demand from time to time all amounts owing under this Section 2.11B(f). If and to the extent that the obligations of Canadian Borrower under this Section 2.11B(f) are unenforceable for any reason, Canadian Borrower agrees to make the maximum contribution to the Letter of Credit Indemnified Costs permissible under applicable law. This indemnification provision shall survive termination of this Agreement and all Canadian Letters of Credit and Canadian Reimbursement Undertaking.

(g) The liability of Canadian Issuing Lender (or any other Letter of Credit Related Person) under, in connection with or arising out of any Canadian Letter of Credit (or pre-advice) or Canadian Reimbursement Undertaking, regardless of the form or legal grounds of the action or proceeding, shall be limited to direct damages suffered by Borrowers that are caused directly by Canadian Issuing Lender's gross negligence or willful misconduct in (i) honoring a presentation under a Canadian Letter of Credit that on its face does not at least substantially comply with the terms and conditions of such Canadian Letter of Credit, (ii) failing to honor a presentation under a Canadian Letter of Credit that strictly complies with the terms and conditions of such Canadian Letter of Credit or (iii) retaining Drawing Documents presented under a Canadian Letter of Credit. Each Canadian Issuing Lender and Canadian Underlying Issuer shall be deemed to have acted with due diligence and reasonable care if such Person's conduct is in accordance with Standard Letter of Credit Practice or in accordance with this Agreement. Canadian Borrower's aggregate remedies against Canadian Issuing Lender and any other Letter of Credit Related Person for wrongfully honoring a presentation under any Canadian Letter of Credit or wrongfully retaining honored Drawing Documents shall in no event exceed the aggregate amount paid by Canadian Borrower to Canadian Issuing Lender in respect of the honored presentation in connection with such Canadian Letter of Credit under Section 2.11B(d), plus interest at the rate then applicable to Canadian Revolving Loans that are Base Rate Loans hereunder. Canadian Borrower shall take action to avoid and mitigate the amount of any damages claimed against Canadian Issuing Lender or any other Letter of Credit Related Person, including by enforcing its rights against the beneficiaries of the Canadian Letters of Credit. Any claim by Canadian Borrower under or in connection with any Canadian Letter of Credit shall be reduced by an amount equal to the sum of (x) the amount (if any) saved by Canadian Borrower as a result of the breach or alleged wrongful conduct complained of; and (y) the amount (if any) of the loss that would have been avoided had Canadian Borrower taken all reasonable steps to mitigate any loss, and in case of a claim of wrongful dishonor, by specifically and timely authorizing Canadian Issuing Lender or Canadian Underlying Issuer to effect a cure.

(h) Canadian Borrower is responsible for preparing or approving the final text of the Canadian Letter of Credit as issued by Canadian Issuing Lender or Canadian Underlying Issuer, irrespective of any assistance Canadian Issuing Lender or Canadian Underlying Issuer may provide such as drafting or recommending text or by Canadian Issuing Lender's or Canadian Underlying Issuer's use or refusal to use text submitted by Canadian Borrower. Canadian Borrower is solely responsible for the suitability of the Canadian Letter of Credit for Canadian Borrower's purposes. With respect to any Canadian Letter of Credit containing an "automatic amendment" to extend the expiration date of such Canadian Letter of Credit, each of Canadian Issuing Lender and Canadian Underlying Issuer, in its sole and absolute discretion, may give notice of nonrenewal of such Canadian Letter of Credit only if such automatic extension would result in an expiry date of such Letter of Credit beyond the Maturity Date, and, if Canadian Borrower does not at any time want such Canadian Letter of Credit to be renewed, Canadian Borrower will so notify Agent and Canadian Issuing Lender at least fifteen (15) calendar days before Canadian Issuing Lender or Canadian Underlying Issuer is required to notify the beneficiary of such Canadian Letter of Credit or any advising bank of such nonrenewal pursuant to the terms of such Canadian Letter of Credit.

(i) Canadian Borrower's reimbursement and payment obligations under this Section 2.11B are absolute, unconditional and irrevocable and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever, including:

(i) any lack of validity, enforceability or legal effect of any Canadian Letter of Credit, any Canadian Reimbursement Undertaking or this Agreement or any term or provision therein or herein;

(ii) payment against presentation of any draft, demand or claim for payment under any Drawing Document that does not comply in whole or in part with the terms of the applicable Canadian Letter of Credit or which proves to be fraudulent, forged or invalid in any respect or any statement therein being untrue or inaccurate in any respect, or which is signed, issued or presented by a Person or a transferee of such Person purporting to be a successor or transferee of the beneficiary of such Canadian Letter of Credit;

(iii) Canadian Issuing Lender or any of its branches or Affiliates or Canadian Underlying Issuer or any of its branches or Affiliates being the beneficiary of any Canadian Letter of Credit;

(iv) Canadian Issuing Lender or any correspondent or Canadian Underlying Issuer or any correspondent honoring a drawing against a Drawing Document up to the amount available under any Canadian Letter of Credit even if such Drawing Document claims an amount in excess of the amount available under the Canadian Letter of Credit;

(v) the existence of any claim, set-off, defense or other right that Parent or any of its Subsidiaries may have at any time against any beneficiary, any assignee of proceeds, Canadian Issuing Lender, Canadian Underlying Issuer or any other Person;

(vi) any other event, circumstance or conduct whatsoever, whether or not similar to any of the foregoing that might, but for this Section 2.11B(i), constitute a legal or equitable defense to or discharge of, or provide a right of set-off against, any Borrower's or any of its Subsidiaries' reimbursement and other payment obligations and liabilities, arising under, or in connection with, any Canadian Letter of Credit, whether against Canadian Issuing Lender, Canadian Underlying Issuer, the beneficiary or any other Person; or

(vii) the fact that any Default or Event of Default shall have occurred and be continuing;

provided, however, that subject to Section 2.11B(g) above, the foregoing shall not release Canadian Issuing Lender or Canadian Underlying Issuer from such liability to Canadian Borrower as may be finally determined in a final, non-appealable judgment of a court of competent jurisdiction against Canadian Issuing Lender or Canadian Underlying Issuer following reimbursement or payment of the obligations and liabilities, including reimbursement and other payment obligations, of Canadian Borrower to Canadian Issuing Lender arising under, or in connection with, this Section 2.11B or any Canadian Letter of Credit or Canadian Reimbursement Undertaking or its correspondent.

(j) Without limiting any other provision of this Agreement and subject to Section 2.11A(g) and Section 2.11B(g) above, Canadian Issuing Lender and each other Letter of Credit Related Person (if applicable) shall not be responsible to Canadian Borrower for, and Canadian Issuing Lender's rights and remedies against Canadian Borrower and the obligation of Canadian Borrower to reimburse Canadian Issuing Lender for each drawing under each Canadian Letter of Credit and each Canadian Reimbursement Undertaking shall not be impaired by:

(i) honor of a presentation under any Canadian Letter of Credit that on its face substantially complies with the terms and conditions of such Canadian Letter of Credit, even if the Canadian Letter of Credit requires strict compliance by the beneficiary;

(ii) honor of a presentation of any Drawing Document that appears on its face to have been signed, presented or issued (A) by any purported successor or transferee of any beneficiary or other Person required to sign, present or issue such Drawing Document or (B) under a new name of the beneficiary;

(iii) acceptance as a draft of any written or electronic demand or request for payment under a Canadian Letter of Credit, even if nonnegotiable or not in the form of a draft or notwithstanding any requirement that such draft, demand or request bear any or adequate reference to the Canadian Letter of Credit;

(iv) the identity or authority of any presenter or signer of any Drawing Document or the form, accuracy, genuineness or legal effect of any Drawing Document (other than Canadian Issuing Lender's or Canadian Underlying issuer's determination that such Drawing Document appears on its face substantially to comply with the terms and conditions of the Canadian Letter of Credit);

(v) acting upon any instruction or request relative to a Canadian Letter of Credit or requested Canadian Letter of Credit that each of Canadian Issuing Lender and Canadian Underlying Issuer in good faith believes to have been given by a Person authorized to give such instruction or request;

(vi) any errors, omissions, interruptions or delays in transmission or delivery of any message, advice or document (regardless of how sent or transmitted) or for errors in interpretation of technical terms or in translation or any delay in giving or failing to give notice to Canadian Borrower;

(vii) any acts, omissions or fraud by, or the insolvency of, any beneficiary, any nominated person or entity or any other Person or any breach of contract between any beneficiary and Canadian Borrower or any of the parties to the underlying transaction to which the Canadian Letter of Credit relates;

(viii) assertion or waiver of any provision of the ISP or UCP that primarily benefits an issuer of a letter of credit, including any requirement that any Drawing Document be presented to it at a particular hour or place;

(ix) payment to any paying or negotiating bank (designated or permitted by the terms of the applicable Canadian Letter of Credit) claiming that it rightfully honored or is entitled to reimbursement or indemnity under Standard Letter of Credit Practice applicable to it;

(x) acting or failing to act as required or permitted under Standard Letter of Credit Practice applicable to where Canadian Issuing Lender or Canadian Underlying Issuer has issued, confirmed, advised or negotiated such Canadian Letter of Credit, as the case may be;

(xi) honor of a presentation after the expiration date of any Canadian Letter of Credit notwithstanding that a presentation was made prior to such expiration date and dishonored by Canadian Issuing Lender or Canadian Underlying Issuer, as applicable, if subsequently Canadian Issuing Lender or Canadian Underlying Issuer, as applicable, or any court or other finder of fact determines such presentation should have been honored;

(xii) dishonor of any presentation that does not strictly comply or that is fraudulent, forged or otherwise not entitled to honor; or

(xiii) honor of a presentation that is subsequently determined by Canadian Issuing Lender or Canadian Underlying Issuer, as applicable, to have been made in violation of international, federal, state or local restrictions on the transaction of business with certain prohibited Persons.

(k) Canadian Borrower shall pay immediately upon demand to Agent for the account of Canadian Issuing Lender as non-refundable fees, commissions, and charges (it being acknowledged and agreed that any charging of such fees, commissions, and charges to the Canadian Loan Account pursuant to the provisions of Section 2.6(d) shall be deemed to constitute a demand for payment thereof for the purposes of this Section 2.11B(k)): (i) a fronting

fee which shall be imposed by Canadian Issuing Lender upon the issuance of each Canadian Letter of Credit of 0.125% per annum of the face amount thereof, *plus* (ii) any and all other customary commissions, fees and charges then in effect imposed by, and any and all expenses incurred by, Canadian Issuing Lender or Canadian Underlying Issuer, or by any adviser, confirming institution or entity or other nominated person, relating to Canadian Letters of Credit, at the time of issuance of any Canadian Letter of Credit and upon the occurrence of any other activity with respect to any Canadian Letter of Credit (including transfers, assignments of proceeds, amendments, drawings, renewals or cancellations). Notwithstanding the foregoing, if Canadian Issuing Lender is a Person other than WF Canada, all fronting fees payable in respect of Canadian Letters of Credit issued by such Canadian Issuing Lender shall be paid by Canadian Borrower immediately upon demand directly to such Canadian Issuing Lender for its own account. Canadian Borrower shall also pay directly to Canadian Underlying Issuer all of its fees, commissions and charges.

(l) If by reason of (x) any Change in Law, or (y) compliance by Canadian Issuing Lender or any other member of the Lender Group or Canadian Underlying Issuer with any direction, request, or requirement (irrespective of whether having the force of law) of any Governmental Authority or monetary authority including, Regulation D of the Board of Governors as from time to time in effect (and any successor thereto):

(i) any reserve, deposit, or similar requirement is or shall be imposed or modified in respect of any Canadian Letter of Credit or any Canadian Reimbursement Undertaking issued or caused to be issued hereunder or hereby, or

(ii) there shall be imposed on Canadian Issuing Lender or any other member of the Lender Group or Canadian Underlying Issuer any other condition regarding any Canadian Letter of Credit or any Canadian Reimbursement Undertaking,

and the result of the foregoing is to increase, directly or indirectly, the cost to Canadian Issuing Lender or any other member of the Lender Group or Canadian Underlying Issuer of issuing, making, participating in, or maintaining any Canadian Letter of Credit or to reduce the amount receivable in respect thereof, then, and in any such case, Agent may, at any time within a reasonable period after the additional cost is incurred or the amount received is reduced, notify Canadian Borrower, and Canadian Borrower shall pay on demand, such amounts as Agent may specify to be necessary to compensate Canadian Issuing Lender or any other member of the Lender Group or Canadian Underlying Issuer for such additional cost or reduced receipt, together with interest on such amount from the date of such demand until payment in full thereof at the rate then applicable to Canadian Revolving Loans that are Base Rate Loans hereunder. The determination by Agent of any amount due pursuant to this Section 2.11B(l), as set forth in a certificate setting forth the calculation thereof in reasonable detail, shall, in the absence of manifest or demonstrable error, be final and conclusive and binding on all of the parties hereto.

(m) Unless otherwise expressly agreed by Canadian Issuing Lender and Canadian Borrower when a Canadian Letter of Credit is issued, (i) the rules of the ISP and UCP 600 shall apply to each standby Canadian Letter of Credit, and (ii) the rules of UCP 600 shall apply to each commercial Canadian Letter of Credit.

(n) In the event of a direct conflict between the provisions of this Section 2.11B and any provision contained in any Issuer Document, it is the intention of the parties hereto that such provisions be read together and construed, to the fullest extent possible, to be in concert with each other. In the event of any actual, irreconcilable conflict that cannot be resolved as aforesaid, the terms and provisions of this Section 2.11B shall control and govern.

(q) Schedule 2.11(B) hereto contains a list of all Canadian Letters of Credit outstanding on the Filing Date pursuant to the Existing Credit Agreement. For the period from and after the effective date of the Interim Financing Order, subject to the Canadian Court granting the Canadian Interim DIP Recognition Order, each such Canadian Letter of Credit set forth on Schedule 2.11(B), including any extension or renewal thereof, that remains outstanding on the effective date of the Interim Financing Order, subject to the Canadian Court granting the Canadian Interim DIP Recognition Order (each, as amended from time to time in accordance with the terms thereof and hereof, an "Existing Canadian Letter of Credit") shall be deemed Canadian Letters of Credit re-issued hereunder for the account of Borrowers, for all purposes of this Agreement, including, without limitation, calculations of Canadian Availability, the Canadian Borrowing Base, Canadian Letter of Credit Usage and all other fees and expenses relating to the Canadian Letters of Credit (including any related indemnification obligations). Canadian Issuing Lender hereby assumes and agrees to perform any and all duties, obligations and liabilities to be performed or discharged by the issuers of the Existing Canadian Letters of Credit. Borrowers agree to execute and deliver such documentation, if any, requested by Agent, or a Canadian Issuing Lender to evidence, record, or further the foregoing deemed re-issuance.

(r) The expiration date of each Canadian Letter of Credit, other than the Existing Canadian Letters of Credit, shall be on a date that is not later than fifteen (15) days prior to the Maturity Date unless Borrower provides cash collateral for the obligations and Canadian Reimbursement Undertakings associated with such Canadian Letters of Credit in the manner set forth in Section 2.4(h) hereof; provided, that a Canadian Letter of Credit may provide for automatic extensions of its expiration date for one or more successive periods of up to twelve (12) months for each period; provided, further, that the applicable Canadian Issuing Lender has the right to terminate such Canadian Letter of Credit on each such expiration date and no renewal term may extend the term of the Canadian Letter of Credit to a date that is later than the fifteenth (15th) day prior to the Maturity Date unless Borrowers provide cash collateral for the obligations and Canadian Reimbursement Undertakings associated with such Canadian Letters of Credit in the amount set forth in Section 2.4(h). Upon direction by Agent or Required Lenders, the applicable Canadian Issuing Lender shall not renew any such Canadian Letter of Credit at any time during the continuance of an Event of Default; provided, that in the case of a direction by Agent or Required Lenders, the Canadian Issuing Lender receives such directions prior to the date notice of non-renewal is required to be given by the Canadian Issuing Lender and the Canadian Issuing Lender has had a reasonable period of time to act on such notice.

2.12. Non-Base Rate Option.

(a) **Interest and Interest Payment Dates.** In lieu of having interest charged at the rate based upon the Base Rate, Borrowers shall have the option, subject to Section 2.12(b) below (the "Non-Base Rate Option") to have interest on all or a portion of the Revolving Loans made in Dollars be charged (whether at the time when made (unless otherwise provided herein),

upon conversion from a Base Rate Loan to a Non-Base Rate Loan, or upon continuation of a Non-Base Rate Loan as a Non-Base Rate Loan) at a rate of interest based upon the US LIBOR Rate (provided, that all Revolving Loans for the account of Canadian Borrower in Canadian Dollars shall be Base Rate Loans). Interest on Non-Base Rate Loans shall be payable on the earliest of (i) the last day of the Interest Period applicable thereto; provided, that, subject to the following clauses (ii) and (iii), in the case of any Interest Period greater than 3 months in duration, interest shall be payable at 3 month intervals after the commencement of the applicable Interest Period and on the last day of such Interest Period), (ii) the date on which all or any portion of the Obligations are accelerated pursuant to the terms hereof, or (iii) the date on which this Agreement is terminated pursuant to the terms hereof. With respect to US Revolving Loans, on the last day of each applicable Interest Period, unless US Borrowers have properly exercised the Non-Base Rate Option with respect thereto, the interest rate applicable to such Non-Base Rate Loan automatically shall convert to the rate of interest then applicable to Base Rate Loans of the same type hereunder. With respect to Canadian Revolving Loans, on the last day of each applicable Interest Period, unless Canadian Borrower has properly exercised the Non-Base Rate Option with respect thereto, the interest rate applicable to such Non-Base Rate Loan automatically shall convert to the Base Rate then applicable to Canadian Revolving Loans. At any time that an Event of Default has occurred and is continuing, at the written election of Agent or the Required Lenders, Borrowers no longer shall have the option to request that Revolving Loans bear interest at a rate based upon the Non-Base Rate.

(b) **Non-Base Election.**

(i) Borrowers may, at any time and from time to time, so long as Borrowers have not received a notice from Agent (which notice Agent may elect to give or not give in its discretion unless Agent is directed to give such notice by the Required Lenders, in which case, it shall give the notice to Borrowers), after the occurrence and during the continuance of an Event of Default, exercising Lenders' rights to terminate the right of Borrowers to exercise the Non-Base Rate Option during the continuance of such Event of Default, elect to exercise the Non-Base Rate Option by notifying Agent prior to 11:00 a.m. at least three Business Days prior to the commencement of the proposed Interest Period (the "Non-Base Rate Deadline"). The election of the Non-Base Rate Option by US Borrowers or Canadian Borrower, as applicable, for a permitted portion of its Revolving Loans and an Interest Period pursuant to this Section shall be made by delivery to Agent of a Non-Base Rate Notice received by Agent before the Non-Base Rate Deadline, or by telephonic notice received by Agent before the Non-Base Rate Deadline (to be confirmed by delivery to Agent of a Non-Base Rate Notice received by Agent prior to 5:00 p.m. on the same day). Promptly upon its receipt of each such Non-Base Rate Notice, Agent shall provide a copy thereof to each of the affected Lenders. Notwithstanding the foregoing, no such Non-Base Rate election shall be permitted with respect to Canadian Revolving Loans made in Canadian Dollars.

(ii) Each Non-Base Rate Notice shall be irrevocable and binding on Borrowers. In connection with each Non-Base Rate Loan, US Borrowers, if such Non-Base Rate Loan is a US Revolving Loan, or Canadian Borrower, if such Non-Base Rate Loan is a Canadian Revolving Loan, shall indemnify, defend, and hold Agent and the Lenders harmless against any loss, cost, or expense actually incurred by Agent or any Lender as a result of (A) the payment or required assignment of any principal of such Non-Base Rate Loan other than on the last day of

an Interest Period applicable thereto (including as a result of an Event of Default), (B) the conversion of such Non-Base Rate Loan other than on the last day of the Interest Period applicable thereto, or (C) the failure to borrow, convert, continue or prepay any Non-Base Rate Loan on the date specified in such Non-Base Rate Notice delivered pursuant hereto (such losses, costs, or expenses, "Funding Losses"). A certificate of Agent or a Lender delivered to Borrowers setting forth in reasonable detail any amount or amounts that Agent or such Lender is entitled to receive pursuant to this Section 2.12 shall be conclusive absent manifest error. US Borrowers, if such Non-Base Rate Loan is a US Revolving Loan, or Canadian Borrower, if such Non-Base Rate Loan is a Canadian Revolving Loan, shall pay such amount to Agent or the Lender, as applicable, within thirty (30) days of the date of its receipt of such certificate.

(iii) Unless Agent, in its sole discretion, agrees otherwise, Borrowers shall have not more than eight Non-Base Rate Loans in effect at any given time. Borrowers may only exercise their Non-Base Rate Option for proposed Non-Base Rate Loans of at least \$500,000.

(c) **Conversion.** Borrowers may convert Non-Base Rate Loans to Base Rate Loans at any time; provided, that in the event that Non-Base Rate Loans are converted or prepaid on any date that is not the last day of the Interest Period applicable thereto, including as a result of any prepayment through the required application by Agent of any payments or proceeds of Collateral in accordance with Section 2.4(b) or for any other reason, including early termination of the term of this Agreement or acceleration of all or any portion of the Obligations pursuant to the terms hereof, Borrowers shall indemnify, defend, and hold Agent and the Lenders and their Participants harmless against any and all Funding Losses in accordance with Section 2.12 (b)(ii).

(d) **Special Provisions Applicable to Non-Base Rate.**

(i) The applicable Non-Base Rate may be adjusted by Agent with respect to any Lender on a prospective basis to take into account any additional or increased costs to such Lender of maintaining or obtaining any Eurodollar deposits, Canadian Dollar deposits or increased costs, in each case, due to a Change in Law (other than changes in laws relative to Taxes, which shall be governed by Sections 16) occurring subsequent to the commencement of the then applicable Interest Period, including any changes in the reserve requirements imposed by the Board of Governors, which additional or increased costs would increase the cost of funding or maintaining loans bearing interest at the applicable Non-Base Rate. In any such event, the affected Lender shall give Borrowers and Agent notice of such a determination and adjustment and Agent promptly shall transmit the notice to each other Lender and, upon its receipt of the notice from the affected Lender, Borrowers may, by notice to such affected Lender (A) require such Lender to furnish to Borrowers a statement setting forth in reasonable detail the basis for adjusting such Non-Base Rate and the method for determining the amount of such adjustment, or (B) repay the Non-Base Rate Loans of such Lender with respect to which such adjustment is made (together with any amounts due under Section 2.12(b)(ii)).

(ii) In the event that any change in market conditions or any Change in Law shall at any time after the date hereof in the reasonable opinion of any Lender, make it unlawful or impractical for such Lender to fund or maintain Non-Base Rate Loans or to continue such funding or maintaining, or to determine or charge interest rates at the Non-Base Rate, such

Lender shall give notice of such changed circumstances to Agent and Borrowers and Agent promptly shall transmit the notice to each other Lender and (y) in the case of any Non-Base Rate Loans of such Lender that are outstanding, the date specified in such Lender's notice shall be deemed to be the last day of the Interest Period of such Non-Base Rate Loans, and interest upon the Non-Base Rate Loans of such Lender thereafter shall accrue interest at the rate then applicable to Base Rate Loans, and (z) Borrowers shall not be entitled to elect their Non-Base Rate Option until such Lender determines that it would no longer be unlawful or impractical to do so.

(e) **No Requirement of Matched Funding.** Anything to the contrary contained herein notwithstanding, neither Agent, nor any Lender, nor any of their Participants, is required actually to acquire Eurodollar or Canadian Dollar deposits to fund or otherwise match fund any Obligation as to which interest accrues at the applicable Non-Base Rate.

2.13. **Capital Requirements.**

(a) If, after the date hereof, Issuing Lender or any Lender determines that (i) any Change in Law regarding capital or reserve requirements for banks or bank holding companies, or (ii) compliance by Issuing Lender or such Lender, or their respective parent bank holding companies, with any guideline, request or directive of any Governmental Authority regarding capital adequacy or liquidity (whether or not having the force of law), has the effect of reducing the return on Issuing Lender's, such Lender's, or such holding companies' capital as a consequence of Issuing Lender's or such Lender's commitments hereunder to a level below that which Issuing Lender, such Lender, or such holding companies could have achieved but for such Change in Law or compliance (taking into consideration Issuing Lender's, such Lender's, or such holding companies' then existing policies with respect to capital adequacy or liquidity and assuming the full utilization of such entity's capital) by any amount deemed by Issuing Lender or such Lender to be material, then Issuing Lender or such Lender may notify Borrowers and Agent thereof. Following receipt of such notice, Borrowers agree to pay Issuing Lender or such Lender on demand the amount of such reduction of return of capital as and when such reduction is determined, payable within thirty (30) days after presentation by Issuing Lender or such Lender of a statement in the amount and setting forth in reasonable detail Issuing Lender's or such Lender's calculation thereof and the assumptions upon which such calculation was based (which statement shall be deemed true and correct absent manifest error). In determining such amount, Issuing Lender or such Lender may use any reasonable averaging and attribution methods. Failure or delay on the part of Issuing Lender or any Lender to demand compensation pursuant to this Section shall not constitute a waiver of Issuing Lender's or such Lender's right to demand such compensation; provided that Borrowers shall not be required to compensate Issuing Lender or a Lender pursuant to this Section for any reductions in return incurred more than one hundred eighty (180) days prior to the date that Issuing Lender or such Lender notifies Borrowers of such Change in Law giving rise to such reductions and of such Lender's intention to claim compensation therefor; provided further that if such claim arises by reason of the Change in Law that is retroactive, then the one hundred eighty (180) day period referred to above shall be extended to include the period of retroactive effect thereof.

(b) If Issuing Lender or any Lender requests additional or increased costs referred to in Section 2.11A(l), Section 2.11(B)(1) or Section 2.12(d)(i) or amounts under

Section 2.13(a) or sends a notice under Section 2.12(d)(ii) relative to changed circumstances (such Issuing Lender or Lender, an "Affected Lender"), then such Affected Lender shall use reasonable efforts to promptly designate a different one of its lending offices or to assign its rights and obligations hereunder to another of its offices or branches, if (i) in the reasonable judgment of such Affected Lender, such designation or assignment would eliminate or reduce amounts payable pursuant to Section 2.11A(l), Section 2.11(B)(1), Section 2.12(d)(i) or Section 2.13(a), as applicable, or would eliminate the illegality or impracticality of funding or maintaining Non-Base Rate Loans and (ii) in the reasonable judgment of such Affected Lender, such designation or assignment would not subject it to any material unreimbursed cost or expense and would not otherwise be materially disadvantageous to it. Borrowers agree to pay all reasonable and documented out-of-pocket costs and expenses incurred by such Affected Lender in connection with any such designation or assignment. If, after such reasonable efforts, such Affected Lender does not so designate a different one of its lending offices or assign its rights to another of its offices or branches so as to eliminate Borrowers' obligation to pay any future amounts to such Affected Lender pursuant to Section 2.11A(l), Section 2.11(B)(1), Section 2.12(d)(i) or Section 2.13(a), as applicable, or to enable Borrowers to obtain Non-Base Rate Loans, then Borrowers (without prejudice to any amounts then due to such Affected Lender under Section 2.11A(l), Section 2.11(B)(1), Section 2.12(d)(i) or Section 2.13(a), as applicable) may, unless prior to the effective date of any such assignment the Affected Lender withdraws its request for such additional amounts under Section 2.11A(l), Section 2.11(B)(1), Section 2.12(d)(i) or Section 2.13(a), as applicable, or indicates that it is no longer unlawful or impractical to fund or maintain Non-Base Rate Loans, may designate a different Issuing Lender or substitute a Lender, in each case, reasonably acceptable to Agent to purchase the Obligations owed to such Affected Lender (and its Affiliates) and such Affected Lender's (and its Affiliates') commitments hereunder (a "Replacement Lender"), and if such Replacement Lender agrees to such purchase, such Affected Lender (and its Affiliates) shall assign to the Replacement Lender its Obligations and commitments, and upon such purchase by the Replacement Lender, which such Replacement Lender shall be deemed to be "Issuing Lender" or a "Lender" (as the case may be) for purposes of this Agreement and such Affected Lender (and its Affiliates) shall cease to be "Issuing Lender" or a "Lender" (as the case may be) for purposes of this Agreement.

(c) Notwithstanding anything herein to the contrary, the protection of Sections 2.11A(l), 2.11(B)(1), 2.12(d), and 2.13 shall be available to Issuing Lender and each Lender (as applicable) regardless of any possible contention of the invalidity or inapplicability of the Change in Law which shall have occurred or been imposed, so long as it shall be customary for issuing banks or lenders affected thereby to comply therewith. Notwithstanding any other provision herein, neither Issuing Lender nor any Lender shall demand compensation pursuant to this Section 2.13 if it shall not at the time be the general policy or practice of Issuing Lender or such Lender (as the case may be) to demand such compensation in similar circumstances under comparable provisions of other credit agreements, if any.

2.14. **[Reserved].**

2.15. **Joint and Several Liability of Borrowers.**

(a) Each Borrower is accepting joint and several liability hereunder and under the other Loan Documents in consideration of the financial accommodations to be provided by

the Lender Group under this Agreement, for the mutual benefit, directly and indirectly, of each Borrower and in consideration of the undertakings of the other Borrowers to accept joint and several liability for the Obligations.

(b) Each Borrower, jointly and severally, hereby irrevocably and unconditionally accepts, not merely as a surety but also as a co-debtor, joint and several liability with the other Borrowers, with respect to the payment and performance of all of the Obligations (including any Obligations arising under this Section 2.15), it being the intention of the parties hereto that all the Obligations shall be the joint and several obligations of each Borrower without preferences or distinction among them.

(c) If and to the extent that any Borrower shall fail to make any payment with respect to any of the Obligations as and when due or to perform any of the Obligations in accordance with the terms thereof, then in each such event the other Borrowers will make such payment with respect to, or perform, such Obligation until such time as all of the Obligations are paid in full.

(d) The Obligations of each Borrower under the provisions of this Section 2.15 constitute the absolute and unconditional, full recourse Obligations of each Borrower enforceable against each Borrower to the full extent of its properties and assets, irrespective of the validity, regularity or enforceability of the provisions of this Agreement (other than this Section 2.15(d)) or any other circumstances whatsoever.

(e) Except as otherwise expressly provided in this Agreement, each Borrower hereby waives notice of acceptance of its joint and several liability, notice of any Revolving Loans or Letters of Credit issued under or pursuant to this Agreement, notice of the occurrence of any Default, Event of Default, or of any demand for any payment under this Agreement, notice of any action at any time taken or omitted by Agent or Lenders under or in respect of any of the Obligations, any requirement of diligence or to mitigate damages and, generally, to the extent permitted by applicable law, all demands, notices and other formalities of every kind in connection with this Agreement (except as otherwise provided in this Agreement). Each Borrower hereby assents to, and waives notice of, any extension or postponement of the time for the payment of any of the Obligations, the acceptance of any payment of any of the Obligations, the acceptance of any partial payment thereon, any waiver, consent or other action or acquiescence by Agent or Lenders at any time or times in respect of any default by any Borrower in the performance or satisfaction of any term, covenant, condition or provision of this Agreement, any and all other indulgences whatsoever by Agent or Lenders in respect of any of the Obligations, and the taking, addition, substitution or release, in whole or in part, at any time or times, of any security for any of the Obligations or the addition, substitution or release, in whole or in part, of any Borrower. Without limiting the generality of the foregoing, each Borrower assents to any other action or delay in acting or failure to act on the part of any Agent or Lender with respect to the failure by any Borrower to comply with any of its respective Obligations, including, without limitation, any failure strictly or diligently to assert any right or to pursue any remedy or to comply fully with applicable laws or regulations thereunder, which might, but for the provisions of this Section 2.15 afford grounds for terminating, discharging or relieving any Borrower, in whole or in part, from any of its Obligations under this Section 2.15, it being the intention of each Borrower that, so long as any of the Obligations hereunder remain

unsatisfied, the Obligations of each Borrower under this Section 2.15 shall not be discharged except by performance and then only to the extent of such performance. The Obligations of each Borrower under this Section 2.15 shall not be diminished or rendered unenforceable by any winding up, reorganization, arrangement, liquidation, reconstruction or similar proceeding with respect to any other Borrower or any Agent or Lender.

(f) Each Borrower represents and warrants to Agent and Lenders that such Borrower is currently informed of the financial condition of Borrowers and of all other circumstances which a diligent inquiry would reveal and which bear upon the risk of nonpayment of the Obligations. Each Borrower further represents and warrants to Agent and Lenders that such Borrower has read and understands the terms and conditions of the Loan Documents. Each Borrower hereby covenants that such Borrower will continue to keep informed of Borrowers' financial condition and of all other circumstances which bear upon the risk of nonpayment or nonperformance of the Obligations.

(g) The provisions of this Section 2.15 are made for the benefit of Agent, each member of the Lender Group, each Bank Product Provider, and their respective successors and assigns, and may be enforced by it or them from time to time against any or all Borrowers as often as occasion therefor may arise and without requirement on the part of Agent, any member of the Lender Group, any Bank Product Provider, or any of their successors or assigns first to marshal any of its or their claims or to exercise any of its or their rights against any Borrower or to exhaust any remedies available to it or them against any Borrower or to resort to any other source or means of obtaining payment of any of the Obligations hereunder or to elect any other remedy. The provisions of this Section 2.15 shall remain in effect until all of the Obligations shall have been paid in full or otherwise fully satisfied. If at any time, any payment, or any part thereof, made in respect of any of the Obligations, is rescinded or must otherwise be restored or returned by Agent or any Lender upon the insolvency, bankruptcy or reorganization of any Borrower, or otherwise, the provisions of this Section 2.15 will forthwith be reinstated in effect, as though such payment had not been made.

(h) Each Borrower hereby agrees that it will not enforce any of its rights of contribution or subrogation against any other Borrower with respect to any liability incurred by it hereunder or under any of the other Loan Documents, any payments made by it to Agent or Lenders with respect to any of the Obligations or any collateral security therefor until such time as all of the Obligations have been paid in full in cash. Any claim which any Borrower may have against any other Borrower with respect to any payments to any Agent or any member of the Lender Group hereunder or under any of the Bank Product Agreements are hereby expressly made subordinate and junior in right of payment, without limitation as to any increases in the Obligations arising hereunder or thereunder, to the prior payment in full in cash of the Obligations and, in the event of any insolvency, bankruptcy, receivership, liquidation, reorganization or other similar proceeding under the laws of any jurisdiction relating to any Borrower, its debts or its assets, whether voluntary or involuntary, all such Obligations shall be paid in full in cash before any payment or distribution of any character, whether in cash, securities or other property, shall be made to any other Borrower therefor.

(i) Notwithstanding anything to the contrary in the foregoing, no Borrower that is not a Qualified ECP Guarantor shall be jointly and severally liable for any Excluded Swap Obligations in respect of such Borrower.

(j) Each Borrower that is a 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 Borrower to guaranty and otherwise honor all Obligations in respect of Swap Obligations (provided, however, that each Qualified ECP Guarantor shall only be liable under this Section 2.15(j) for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 2.15(j), or otherwise under the Loan Documents, 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 payment in full of the Obligations. Each Qualified ECP Guarantor intends that this Section 2.15(j) constitute, and this Section 2.15(j) shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Grantor for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

2.16. **Currencies.** The US Revolving Loans and other US Obligations (unless such other US Obligations expressly provide otherwise) shall be made and repaid in Dollars. The Canadian Revolving Loans and other Canadian Obligations (unless such other Canadian Obligations expressly provide otherwise) shall be made in Dollars or Canadian Dollars, as selected by Administrative Borrower as provided herein. All such Canadian Obligations denominated in Dollars shall be repaid in Dollars and all such Canadian Obligations denominated in Canadian Dollars shall be repaid in Canadian Dollars.

2.17. **Interest Act (Canada); Criminal Rate of Interest; Nominal Rate of Interest.** Notwithstanding anything to the contrary contained in this Agreement or in any other Loan Document, solely to the extent that: (i) a court of competent jurisdiction finally determines that the calculation or determination of interest payable by Canadian Borrower in respect of the Obligations pursuant to this Agreement and the other Loan Documents shall be governed by the laws of any province of Canada and the federal laws of Canada; or (ii) the Interest Act (Canada) otherwise applies:

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

(b) in no event shall the aggregate "interest" (as defined in Section 347 of the *Criminal Code*, R.S.C. 1985, c. C-46, as the same shall be amended, replaced or re-enacted from time to time (the "Criminal Code Section")) payable (whether by way of payment, collection or demand) by Canadian Borrower to Agent or any Lender under this Agreement or any other Loan Document exceed the effective annual rate of interest on the "credit advanced" (as defined in that section) under this Agreement or such other Loan Document lawfully permitted under that

section and, if any payment, collection or demand pursuant to this Agreement or any other Loan Document in respect of "interest" (as defined in that section) is determined to be contrary to the provisions of that section and the amount of such payment or collection shall be refunded by Agent and Lenders to Canadian Borrower with such "interest" deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by the Criminal Code Section to result in a receipt by Agent or such Lender of interest at a rate not in contravention of the Criminal Code Section, such adjustment to be effected, to the extent necessary, as follows: firstly, by reducing the amounts or rates of interest required to be paid to Agent or that Lender; and then, by reducing any fees, charges, expenses and other amounts required to be paid to the affected Agent or Lender which would constitute "interest". Notwithstanding the foregoing, and after giving effect to all such adjustments, if Agent or any Lender shall have received an amount in excess of the maximum permitted by the Criminal Code Section, then Canadian Borrower shall be entitled, by notice in writing to Agent or the affected Lender, to obtain reimbursement from Agent or that Lender in an amount equal to such excess. For the purposes of this Agreement and each other Loan Document to which Canadian Borrower is a party, the effective annual rate of interest payable by Canadian Borrower shall be determined in accordance with generally accepted actuarial practices and principles over the term of the loans on the basis of annual compounding for the lawfully permitted rate of interest and, in the event of dispute, a certificate of a Fellow of the Institute of Actuaries appointed by Agent for the account of Canadian Borrower will be conclusive for the purpose of such determination in the absence of evidence to the contrary;

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

(d) any provision of this Agreement that would oblige Canadian Borrower to pay any fine, penalty or rate of interest on any arrears of principal or interest secured by a mortgage on real property or hypothec on immovables that has the effect of increasing the charge on arrears beyond the rate of interest payable on principal money not in arrears shall not apply to Canadian Borrower, which shall be required to pay interest on money in arrears at the same rate of interest payable on principal money not in arrears; and

(e) if there is a conflict, inconsistency, ambiguity or difference between any provision of this Section 2.17 and Section 2.6(f) vis a vis Canadian Borrower then the provisions of this Section 2.17 shall prevail and be paramount.

2.18. Existing Hedging Obligations and other Existing Bank Product Obligations. All Existing Secured Obligations under Existing Hedge Agreements and all other "Bank Product Obligations" (as defined in the Existing Credit Agreement) shall be deemed to have been incurred pursuant hereto, and from and after the Closing Date shall be subject to and governed by the terms and conditions hereof and shall constitute Canadian Bank Product Obligations or US Bank Product Obligations hereunder, as applicable (to constitute Canadian

Bank Product Obligations to the extent constituting "Canadian Bank Product Obligations" under the Existing Credit Agreement, and otherwise to constitute US Bank Product Obligations). Each Hedge Provider and each other Bank Product Provider hereby assumes and agrees to perform any and all duties, obligations and liabilities to be performed or discharged by the "Hedge Provider " (as defined in the Existing Credit Agreement) or other "Bank Product Provider" (as defined in the Existing Credit Agreement) in accordance with and pursuant to the Existing Credit Agreement and this Agreement, as applicable. Borrowers agree to execute and deliver such documentation, if any, requested by Agent, a Hedge Provider or other Bank Product Provider to evidence, record, or further the foregoing deemed re-incurrence.

2.19. **Superpriority.** Except as set forth herein or in the Financing Order or the DIP Recognition Order, no other claim having a priority superior or pari passu to that granted to the Agent and the Lenders by the Financing Order shall be granted or approved while any Obligations under this Agreement remain outstanding. Except for the Carveout and subject to entry of the Final Financing Order and the DIP Recognition Order, no costs or expenses of administration shall be imposed against the Agent, the Lenders or any of the Collateral or any of the Existing Agent, the Existing Lenders or the Collateral (as defined in the Existing Credit Agreement) under Sections 105, 506(c) or 552 of the Bankruptcy Code, or otherwise, and each of the Loan Parties hereby waives for itself and on behalf of its estate in bankruptcy, any and all rights under sections 105, 506(c) or 552, or otherwise, to assert or impose or seek to assert or impose, any such costs or expenses of administration against Agent, Lenders or any of the Collateral or any of the Existing Agent or the Existing Lenders.

2.20. **Waiver of any Priming Rights.** On and after the Closing Date, and on behalf of themselves and their estates, and for so long as any Obligations shall be outstanding, the Borrowers and the Guarantors hereby irrevocably waive any right, pursuant to Sections 364(c) or 364(d) of the Bankruptcy Code or otherwise, to grant any Lien of equal or greater priority than the DIP Liens securing the Obligations, or to approve a claim of equal or greater priority than the Obligations, in each case other than as contemplated herein or by the Term Loan Documents.

3. **CONDITIONS; TERM OF AGREEMENT.**

3.1. **Conditions Precedent to the Effectiveness of this Agreement.** The effectiveness of this Agreement is subject to the fulfillment of each of the conditions precedent set forth on Schedule 3.1 (the making of the initial extension of credit hereunder by Lenders being conclusively deemed to be its satisfaction or waiver of the conditions precedent).

3.2. **Conditions Precedent to all Extensions of Credit.** The obligation of the Lender Group (or any member thereof) to make any Revolving Loans hereunder (or to extend any other credit hereunder) at any time (other than the Closing Date, except with respect to clause (f) below) shall be subject to the following conditions precedent:

(a) the representations and warranties of Parent or its Subsidiaries contained in this Agreement or in the other Loan 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 and as of the date of such extension of credit, as though made on and as of such date (except to the extent

that such representations and warranties relate solely to an earlier date, in which case such representations and warranties 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) as of such earlier date);

(b) no Default or Event of Default shall have occurred and be continuing on the date of such extension of credit, nor shall either result from the making thereof;

(c) no injunction, writ, restraining order, or other order of any nature restricting or prohibiting, directly or indirectly, the extending of such credit shall have been issued and remain in force by any Governmental Authority against any Borrower, Agent, or any Lender;

(d) no Material Adverse Effect shall have occurred since the Closing Date;

(e) with respect to any Loan or Letter of Credit to be made or issued forty (40) days from the entry of the Interim Financing Order, the Bankruptcy Court shall have entered the Final Financing Order and within three Business Days after entry of such Final Financing Order the Canadian Court shall have issued the Canadian Final DIP Recognition Order, which Final Financing Order and Canadian Final DIP Recognition Order shall be in full force and effect and shall not have been reversed, vacated or stayed, and shall not have been amended, supplemented or otherwise modified without the prior written consent of Agent, and

(f) with respect to the making of any Canadian Revolving Loan or other extension of credit to Canadian Borrower hereunder, the Canadian Court shall have entered the Canadian Initial Recognition Order, the Canadian Supplemental Order and the Canadian Interim DIP Recognition Order, which orders (i) shall have been issued by the Canadian Court upon an application or motion of the Foreign Representative satisfactory in form and substance to Agent in its sole discretion and upon prior notice to such parties required to receive such notice and such other parties as may be reasonably requested by Agent; (ii) shall be in full force and effect and shall not have been amended, modified or stayed, or reversed (other than in respect of the Canadian Interim DIP Recognition Order by the Canadian Final DIP Recognition Order); and, if the Canadian Interim DIP Recognition Order is the subject of a pending objection, appeal or motion for reconsideration in any respect (other than in respect of the Canadian Interim DIP Recognition Order by the Canadian Final DIP Recognition Order), neither the Canadian Interim DIP Recognition Order, nor the making of the Loans or the performance by the Loan Parties of any of the Obligations shall be the subject of a presently effective stay, and (iii) shall otherwise be in form and substance satisfactory Agent.

3.3. **Maturity.** Unless otherwise terminated earlier in accordance with Section 3.5 hereof, this Agreement shall continue in full force and effect for a term ending on the Maturity Date.

3.4. **Effect of Maturity.** On the Maturity Date, all commitments of the Lender Group to provide additional credit hereunder shall automatically be terminated and all of the Obligations immediately shall become due and payable without notice or demand and Borrowers shall be required to repay all of the Obligations in full. No termination of the obligations of the

Lender Group (other than payment in full of the Obligations and termination of the Commitments) shall relieve or discharge any Loan Party of its duties, obligations, or covenants hereunder or under any other Loan Document and Agent's Liens in the Collateral shall continue to secure the Obligations and shall remain in effect until all Obligations have been paid in full and the Commitments have been terminated. When all of the Obligations have been paid in full and the Lender Group's obligations to provide additional credit under the Loan Documents have been terminated irrevocably, Agent will promptly, at Borrowers' sole expense and without representation or warranty, execute and deliver any termination statements, lien releases, discharges of security interests, and other similar discharge or release documents (and, if applicable, in recordable form) as are reasonably necessary to release, as of record, Agent's Liens and all notices of security interests and liens previously filed by Agent, and subject to any applicable intercreditor agreement, return any possessory collateral then held in connection therewith.

3.5. **Early Termination by Borrowers.** Borrowers have the option, at any time upon five Business Days prior written notice to Agent (provided, that such notice may be withdrawn by Borrowers at any time prior to the date specified in such notice for such termination of Commitments), to terminate this Agreement and terminate the Commitments hereunder by repaying to Agent all of the Obligations in full. The foregoing notwithstanding, (a) Borrowers may rescind termination notices relative to proposed payments in full of the Obligations with the proceeds of third party Indebtedness or from a sale if the closing for such issuance, incurrence or sale does not happen on or before the date of the proposed termination (in which case, a new notice shall be required to be sent in connection with any subsequent termination), and (b) Borrowers may extend the date of termination at any time with the consent of Agent (which consent shall not be unreasonably withheld, conditioned or delayed).

4. **REPRESENTATIONS AND WARRANTIES.**

In order to induce the Lender Group to enter into this Agreement, each of Parent and each Borrower makes at and as of the Closing Date and at and as of the date of the making of each Revolving Loan (or other extension of credit) made after the Closing Date, each of the following representations and warranties to the Lender Group, which shall be true, correct, and complete, 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), as of the Closing Date and each date thereafter of the making of each Revolving Loan (or other extension of credit), as though made on and as of the date of such Revolving Loan (or other extension of credit) (except to the extent that such representations and warranties relate solely to an earlier date, in which case such representations and warranties 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) as of such earlier date) and such representations and warranties shall survive the execution and delivery of this Agreement:

4.1. **Due Organization and Qualification; Subsidiaries.**

(a) Each Loan Party (i) is duly organized or incorporated and existing and in good standing (or, if such jurisdiction does not provide for good standing status, the equivalent

status provided for in such jurisdiction) under the laws of the jurisdiction of its organization or incorporation, (ii) is qualified or registered to do business in any state, province or territory where the failure to be so qualified could reasonably be expected to result in a Material Adverse Effect, and (iii) has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as proposed to be conducted, to enter into the Loan Documents to which it is a party and to carry out the transactions contemplated thereby.

(b) Other than as described on Schedule 4.1(b), as of the Closing Date, there are no subscriptions, options, warrants, or calls relating to any shares of Parent's Equity Interests, including any right of conversion or exchange under any outstanding security or other instrument. As of the Closing Date, other than pursuant to any equity compensation plan or arrangement benefiting, or pursuant to any agreement with, any current or former employer, officer, director or consultant of any Loan Party, Parent is not subject to any obligation (contingent or otherwise) to repurchase or otherwise acquire or retire any shares of its Equity Interests or any security convertible into or exchangeable for any of its Equity Interests.

(c) As of the Closing Date, set forth on Schedule 4.1(c) is a complete and accurate list of Parent's Subsidiaries, showing: (i) the number of shares of each class of common and preferred Equity Interests authorized for each of such Subsidiaries, and (ii) the number and the percentage of the outstanding shares of each such class owned by Parent or a Subsidiary of Parent. All of the outstanding Equity Interests of each such Subsidiary have been validly issued and are fully paid and non-assessable, to the extent applicable.

(d) As of the Closing Date, except as set forth on Schedule 4.1(d), there are no subscriptions, options, warrants, or calls relating to any shares of Parent's Subsidiaries' Equity Interests, including any right of conversion or exchange under any outstanding security or other instrument.

4.2. **Due Authorization; No Conflict.**

(a) Subject to entry of the Financing Order, as to each Loan Party and, solely with respect to the performance by the Canadian Borrower under the Loan Documents, subject to the entry of the Canadian Interim DIP Recognition Order, the execution, delivery, and performance by such Loan Party of the Loan Documents to which it is a party have been duly authorized by all necessary action on the part of such Loan Party.

(b) Subject to entry of the Financing Order, as to each Loan Party and solely with respect to the performance by the Canadian Borrower under the Loan Documents, subject to the entry of the Canadian Interim DIP Recognition Order, the execution, delivery, and performance by such Loan Party of the Loan Documents to which it is a party do not and will not (i) violate any material provision of federal, state, provincial, foreign or local law or regulation applicable to any Loan Party or its Subsidiaries or any order, judgment, or decree of any court or other Governmental Authority binding on any Loan Party or its Subsidiaries, (ii) violate the Governing Documents of any Loan Party or its Subsidiaries, (iii) conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any agreement of any Loan Party or its Subsidiaries where any such conflict, breach or default could individually or in the aggregate reasonably be expected to have a Material Adverse Effect, (iv) result in or require

the creation or imposition of any Lien of any nature whatsoever upon any assets of any Loan Party, other than Permitted Liens, or (v) require any approval of any holder of Equity Interests of a Loan Party or any approval or consent of any Person under any material agreement of any Loan Party, other than consents or approvals that have been obtained and that are still in force and effect and except, in the case of material agreements, for consents or approvals, the failure to obtain could not individually or in the aggregate reasonably be expected to cause a Material Adverse Effect.

4.3. **Governmental Consents.** Subject to entry of the Financing Order and the DIP Recognition Order, the execution, delivery, and performance by each Loan Party of the Loan Documents to which such Loan Party is a party do not and will not require any registration with, consent, or approval of, or notice to, or other action with or by, any Governmental Authority, other than registrations, consents, approvals, notices or actions (i) that have been obtained and that are in force and effect and except for filings and recordings with respect to the Collateral to be made, or otherwise delivered to Agent for filing or recordation, as of the Closing Date, or (ii) are necessary or advisable in connection with filing Agent's Liens.

4.4. **Binding Obligations; Perfected Liens.**

(a) Subject to entry of the Financing Order, each Loan Document has been duly executed and delivered by each Loan Party and, solely with respect to the performance by the Canadian Borrower under the Loan Documents, subject to the entry of the Canadian Interim DIP Recognition Order, that is a party thereto and is the legally valid and binding obligation of such Loan Party, enforceable against such Loan Party in accordance with its respective terms.

(b) Subject to the approval of the Bankruptcy Court and pursuant to the Financing Order and the DIP Recognition Order, Agent's Liens are validly created and the Lien created by the Security Agreements shall constitute a perfected Lien on, and security interest in, all right, title and interest of the grantors thereunder in the Collateral, in each case subject to no Liens other than Permitted Liens.

(c) The entry of the Financing Order and the issuance of the DIP Recognition Order is effective to create in favor of Agent, for the benefit of the Lenders, as security for the Obligations, (i) a valid first priority (other than with respect to the Permitted Priority Liens and the Carveout) Lien on all of the Collateral pursuant to Sections 364(c)(2), (c)(3) and (d) of the Bankruptcy Code and Section 11.2 of the CCAA, subject to the Intercreditor Agreement and (ii) an allowed administrative expense in each of the Bankruptcy Cases and the Recognition Proceedings having priority under Section 364(c)(1) of the Bankruptcy Code or under the CCAA over all other administrative expenses (including, without limitation, such expenses specified in Sections 105, 326, 328, 330, 331, 365, 503(b), 506(c), 507(a), 507(b), 546(c), 726 and 1114 of the Bankruptcy Code and the applicable sections of the CCAA), subject only to the Permitted Priority Liens and the Carveout (the "Superpriority Claims").

(d) Except for the Financing Order and the DIP Recognition Order, no authorization, approval or other action by, and no notice to or filing with, any Governmental Authority is required for either (x) the pledge or grant by Parent or any of its Subsidiaries of the Liens purported to be created in favor of Agent pursuant to this Agreement or any of the other

Loan Documents or (y) the exercise by Agent of any rights or remedies in respect of any Collateral (whether specifically granted or created pursuant to this Agreement, any of the other Loan Documents or created or provided for by applicable law), except as may be required in connection with the disposition of any pledged Collateral by laws generally affecting the offering and sale of securities.

4.5. **Title to Assets; No Encumbrances.** Each Loan Party has (a) good and sufficient legal title (in the case of any fee interest in Real Property), (b) valid leasehold interest in (in the case of leasehold interests in real or personal property), and (c) good and marketable title to (in the case of all other personal property) all of its material personal property assets, in each case, free and clear of Liens except for Permitted Liens and, in the case of Real Property, minor defects in title that do not materially interfere with such Loan Party's ability to conduct its business or to utilize such assets for their intended purposes.

4.6. **Litigation.** Other than the filing, commencement and continuation of the Bankruptcy Cases and the Recognition Proceedings and any litigation resulting therefrom, there are no actions, suits, or proceedings pending or, to the actual knowledge of Borrowers threatened in writing against a Loan Party or any of its Subsidiaries that either individually or in the aggregate could reasonably be expected to result in a Material Adverse Effect.

4.7. **Compliance with Laws.** Except as otherwise permitted by the Bankruptcy Code, the CCAA or pursuant to any order of the Bankruptcy Court or the Canadian Court, which order shall be in form and substance acceptable to the Agent, no Loan Party nor any of its Subsidiaries (a) is in violation of any applicable laws, rules, regulations, executive orders, or codes that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect or (b) is subject to or in default with respect to any final judgments, writs, injunctions, decrees, rules or regulations of any court or any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

4.8. **No Material Adverse Effect.** All financial statements (other than projections, budgets, other forecasts and comparisons) relating to Loan Parties and their Subsidiaries that have been delivered by any Loan Party to the Lender Group have been prepared in accordance with GAAP (except, in the case of unaudited financial statements, for the lack of footnotes and being subject to year-end audit adjustments) and present fairly in all material respects, Loan Parties' and their Subsidiaries' (taken as a whole) financial condition as of the date thereof and results of operations for the period then ended. Except the filing, commencement and continuation of the Bankruptcy Cases and the Recognition Proceedings and any litigation resulting therefrom, there has not been a Material Adverse Effect with respect to Loan Parties and their Subsidiaries since the Closing Date.

4.9. **No Fraudulent Conveyance.** No transfer of property is being made by any Loan Party and no obligation is being incurred by any Loan Party in connection with the transactions contemplated by this Agreement or the other Loan Documents with the intent to hinder, delay, or defraud either present or future creditors of such Loan Party.

4.10. **Employee Benefits.**

(a) Except as set forth on Schedule 4.10, no Loan Party, nor any of their Subsidiaries, maintains or contributes to any Pension Plan or Multiemployer Plan.

(b) Each Loan Party has complied in all material respects with ERISA, the IRC and all applicable laws regarding each Employee Benefit Plan, except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

(c) Each Employee Benefit Plan is, and has been, maintained in substantial compliance with ERISA, the IRC, all applicable laws and the terms of each such Employee Benefit Plan, except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

(d) Except as could not reasonably be expected to result in a Material Adverse Effect, each Employee Benefit Plan that is intended to qualify under Section 401(a) of the IRC has received a favorable determination letter from the Internal Revenue Service or an application for such letter is currently being processed by the Internal Revenue Service, and nothing has occurred which could reasonably be expected to prevent, or cause the loss of, such qualification.

(e) Except as could not reasonably be expected to result in a Material Adverse Effect, no liability to the PBGC (other than for the payment of current premiums which are not past due) by any Loan Party or ERISA Affiliate has been incurred or is expected by any Loan Party or ERISA Affiliate to be incurred with respect to any Pension Plan.

(f) Except as could not reasonably be expected to result in a Material Adverse Effect, no Notification Event exists or has occurred in the past six (6) years.

(g) Except as could not reasonably be expected to result in a Material Adverse Effect, no Loan Party or ERISA Affiliate has provided any security under Section 436 of the IRC.

(h) Except as set forth on Schedule 4.10, no Loan Party, nor any of their Subsidiaries, maintains or contributes to any Canadian Pension Plan. No Loan Party, nor any of their Subsidiaries, maintains or contributes to any Canadian Defined Benefit Plan. Except as set forth on Schedule 4.10, as of the Closing Date, no Loan Party, nor any of their Subsidiaries, maintains or contributes to any material Canadian Benefits Plan. Each Loan Party has materially complied with the *Income Tax Act* (Canada) and all applicable laws regarding each Canadian Pension Plan or Canadian Benefits Plan. Each Canadian Pension Plan or Canadian Benefits Plan is, and has been maintained in compliance to the *Income Tax Act* (Canada), all applicable laws and the terms of each such Canadian Benefits Plan. No Loan Party, nor any of their Subsidiaries, has any material liability for any Canadian Pension Plan or Canadian Benefits Plan which has been discontinued.

4.11. **Environmental Condition.** Except as set forth on Schedule 4.11, (a) to each Borrower's knowledge, none of Loan Parties' or their Subsidiaries' properties has ever been used by Loan Parties, their Subsidiaries, or, to each Borrower's knowledge, by previous owners or operators in the disposal of, or to produce, store, handle, treat, release, or transport, any

Hazardous Materials, where such use, disposal, production, storage, handling, treatment, release or transport was in violation of any applicable Environmental Law or resulted in an Environmental Action, except as would not reasonably be expected to result in a Material Adverse Effect, (b) to each Borrower's knowledge, none of Loan Parties' nor their Subsidiaries' properties or assets has ever been designated or identified by a Governmental Authority pursuant to RCRA, CERCLA or any analogous statute as a Hazardous Materials disposal site or a site that requires Remedial Action, in either case that could reasonably be expected to result in a Material Adverse Effect, (c) no Environmental Lien (other than a Permitted Lien) has attached to any revenues of the Loan Parties or their Subsidiaries or to Real Property owned by the Loan Parties or their Subsidiaries, or, to each Borrower's knowledge, operated, but not owned, by Loan Parties or their Subsidiaries, (d) none of Loan Parties nor any of their Subsidiaries have received a summons, citation, written notice, or directive from the United States Environmental Protection Agency or any other federal (including the federal government of Canada), state or provincial governmental agency concerning any action or omission by any Loan Party or any Subsidiary of a Loan Party resulting in the releasing or disposing of Hazardous Materials into the environment which could reasonably be expected to result in a Material Adverse Effect, (e) each of the Loan Parties, their Subsidiaries, and their respective operations have at all times been in compliance with Environmental Laws, except as would not reasonably be expected to result in a Material Adverse Effect, (f) each of the Loan Parties and their Subsidiaries have obtained all permits, licenses, authorizations and approvals required under Environmental Law for the conduct of their business and operations (collectively, "Environmental Permits"), and are in compliance with the terms and conditions of such Environmental Permits, except as would not reasonably be expected to result in a Material Adverse Effect, and (g) none of the Loan Parties nor any of their Subsidiaries are subject to any Environmental Action or Environmental Liability, except as would not reasonably be expected to result in a Material Adverse Effect.

4.12. **Complete Disclosure.** All written factual information (other than projections, budgets, estimates, forward-looking statements, information of a general economic nature, general information about Borrowers' industry or general market data) (when taken as a whole) furnished by or on behalf of Loan Parties in writing to Agent or any Lender (including all information contained in the Schedules hereto or in the other Loan Documents) in or pursuant to this Agreement, the other Loan Documents, or in connection with any transaction contemplated herein or therein, is (other than the projections, budgets, estimates, forward-looking statements, information of a general economic nature, general information about Borrowers' industry or general market data) (when taken as a whole) and hereafter furnished by or on behalf of Loan Parties or their Subsidiaries in writing to Agent or any Lender will be, true and accurate in all material respects on the date as of which such information is dated or certified, and not incomplete by omitting to state any fact necessary to make such information (taken as a whole) not misleading in any material respect at such time in light of the circumstances under which such information was provided. The Initial Approved Budget and each Weekly Cash Flow Forecast delivered thereafter are prepared in good faith based upon estimates and assumptions believed by management of the Borrowers to be reasonable and fair in light of current conditions and facts known to the Borrowers at the time delivered (it being understood that such Approved Budget and the Weekly Cash Flow Forecasts and the assumptions on which they were based, may or may not prove to be correct).

4.13. **Patriot Act.**

(a) To the extent applicable, each Loan Party is in compliance, in all material respects, with the (a) Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto, and (b) Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act of 2001) (the "Patriot Act"). No part of the proceeds of the loans made hereunder will be used by any Loan Party or any of their Affiliates, directly or indirectly, 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.

(b) Canadian Anti-Money Laundering & Anti-Terrorism Compliance. The Lenders may be subject to Canadian Anti-Money Laundering & Anti-Terrorism Legislation and "know your customer" rules and regulations, and they hereby notify each Loan Party that in order to comply with such legislations, rules and regulations, they may be, among other things, required to obtain, verify and record information pertaining to such Loan Party, which information may relate to among other things, the names, addresses, corporate directors, corporate registration numbers, corporate tax numbers, corporate shareholders and banking transactions of such Loan Party. Each Loan Party hereby agrees to take such actions and to provide, upon request, such information and access to information regarding such Loan Party is required to enable the Lenders to comply with such Canadian Anti-Money Laundering & Anti-Terrorism Legislation and "know your customer" rules and regulations.

4.14. **Indebtedness.** Set forth on Schedule 4.14 is a true and complete list as of the Closing Date of all secured Indebtedness (including Capital Leases) of each Loan Party and each of its Subsidiaries outstanding immediately prior to the Closing Date that is to remain outstanding immediately after giving effect to the closing hereunder on the Closing Date and such Schedule accurately sets forth in all material respects the aggregate principal amount of such Indebtedness as of the Closing Date.

4.15. **Payment of Taxes.** All material tax returns and reports of each Loan Party and its Subsidiaries required to be filed by any of them have been timely filed, and, except to the extent subject to the automatic stay in connection with the Bankruptcy Cases and the Recognition Proceedings, all material taxes that are due and payable and all material assessments, fees and other governmental charges upon a Loan Party and its Subsidiaries and upon their respective assets, income, businesses and franchises that are due and payable have been paid when due and payable unless subject to a Permitted Protest. Each Loan Party and each of its Subsidiaries have made adequate provision in accordance with GAAP for all taxes not yet due and payable. Borrowers know of no proposed material tax assessment against a Loan Party or any of its Subsidiaries that is not subject to a Permitted Protest.

4.16. **Margin Stock.** Neither any Loan Party nor any of its Subsidiaries owns any Margin Stock or is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any Margin Stock. No part of the

proceeds of the loans made to Borrowers will be used to purchase or carry any Margin Stock or to extend credit to others for the purpose of purchasing or carrying any Margin Stock or for any purpose that violates the provisions of Regulation T, U or X of the Board of Governors. Neither any Loan Party nor any of its Subsidiaries expects to acquire any Margin Stock.

4.17. **Governmental Regulation.** No Loan Party nor any of its Subsidiaries is subject to regulation under the Federal Power Act or the Investment Company Act of 1940 or under any other federal or state statute or regulation which may limit its ability to incur Indebtedness or which may otherwise render all or any portion of the Obligations unenforceable. No Loan Party nor any of its Subsidiaries is a "registered investment company" or a company "controlled" by a "registered investment company" or a "principal underwriter" of a "registered investment company" as such terms are defined in the Investment Company Act of 1940.

4.18. **OFAC; Sanctions; Anti-Corruption Laws; Anti-Money Laundering Laws.** No Loan Party or any of its Subsidiaries is in violation of any Sanctions. No Loan Party nor any of its Subsidiaries nor, to the knowledge of such Loan Party, any director, officer, employee, agent or Affiliate of such Loan Party 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 the Loan Parties and 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 the Loan Parties and its Subsidiaries, and to the knowledge of each such Loan Party, each director, officer, employee, agent and Affiliate of each such Loan Party and each such Subsidiary, is in compliance with all Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws. No proceeds of any Loan 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, Bank Product Provider, or other individual or entity participating in any transaction).

4.19. **Employee and Labor Matters.** (i) There is no unfair labor practice complaint pending or, to the knowledge of Borrowers, threatened against Parent or its Subsidiaries before any Governmental Authority and there is no grievance or arbitration proceeding pending or threatened against Parent or its Subsidiaries which arises out of or under any collective bargaining agreement except as could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (ii) there is no strike, labor dispute, slowdown, stoppage or labor grievance pending or threatened in writing against Parent or its Subsidiaries that could reasonably be expected to result in a material loss or liability, (iii) none of Parent or its Subsidiaries has incurred any liability or obligation under the Worker Adjustment and Retraining Notification Act or similar state law, which remains unpaid or unsatisfied, (iv) the hours worked and payments made to employees of Parent or its Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable legal requirements except to the extent such violations could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, and (v) all payments due from Parent or its Subsidiaries on account of wages and employee health and welfare insurance and other benefits have been paid or accrued as a liability on the books of Parent.

4.20. [Reserved].

4.21. **Broker Fees.** There are no brokerage commissions, finder's fees or investment banking fees payable by Parent or any of its Affiliates in connection with any Transactions.

4.22. **Eligible Accounts.** As to each Account that is identified by Borrowers as an Eligible Account in a Borrowing Base Certificate submitted to Agent, as of the date of such Borrowing Base Certificate, such Account is (a) a bona fide existing payment obligation of the applicable Account Debtors created by the sale and delivery of Inventory or the rendition of services to such Account Debtors in the ordinary course of Loan Parties' business, (b) owed to Loan Parties, and (c) not excluded as ineligible by virtue of one or more of the excluding criteria (other than Agent's discretionary criteria of which Administrative Borrower has not been notified) set forth in the definition of US Eligible Accounts or Canadian Eligible Accounts, as applicable.

4.23. **Eligible Inventory.** As to each item of Inventory that is identified by Borrowers as Eligible Inventory in a Borrowing Base Certificate submitted to Agent, as of the date of such Borrowing Base Certificate, such Inventory is not excluded as ineligible by virtue of one or more of the excluding criteria (other than Agent's discretionary criteria of which Administrative Borrower has not been notified) set forth in the definition of US Eligible Inventory or Canadian Eligible Inventory, as applicable.

4.24. **Location of Inventory.** Other than Inventory in transit in the ordinary course of business and samples of Inventory delivered to customers in the ordinary course of business, the Inventory of Borrowers is not stored with a bailee, warehouseman, or similar party and is located only at, or in-transit between, the locations identified on Schedule 4.24 (as such Schedule may be updated pursuant to Section 5.14).

4.25. **Inventory Records.** Each Loan Party keeps correct and accurate records in all material respects itemizing and describing the type, quality, and quantity of its and its Subsidiaries' Inventory and the book value thereof.

4.26. **Suppliers and Customers.** To the actual knowledge of the Loan Parties, there exists no actual or threatened in writing termination, cancellation, or limitation of or modification to or change to the business relationship between any Loan Party and any supplier or customer except to the extent such termination, cancellation, limitation, modification or change is not reasonably expected to have a Material Adverse Effect.

4.27. **Term Loan Documents.** Borrowers have delivered to Agent a complete and correct copy of all material Term Loan Documents, including all schedules and exhibits thereto.

4.28. **Hedge Agreements.** On each date that any Hedge Agreement is executed by any Hedge Provider, Borrowers and each other Loan Party satisfy all eligibility, suitability and other requirements under the Commodity Exchange Act (7 U.S.C. § 1, et seq., as in effect from time to time) and the Commodity Futures Trading Commission regulations.

4.29. [Reserved].

4.30. **Financing Order and DIP Recognition Order.** Each of the Financing Order and the applicable DIP Recognition Order (from and after the date of the applicable DIP Recognition Order) is in full force and effect, is not subject to a pending appeal or motion for leave to appeal or other proceeding to set aside such order and has not been reversed, modified, amended, stayed or vacated except with Agent's written consent.

4.31. **Exit Financing Commitment Letter.** Following the date that is one hundred twenty (120) days following the Filing Date (or such later date as may be consented to by Agent in its sole discretion), each Exit Financing Commitment Letter duly executed and delivered in accordance with Section 5.24 remains in full force and effect.

4.32. **Restructuring Support Agreement.** The Restructuring Support Agreement is in full force and effect.

4.33. **Bankruptcy Cases and Recognition Proceedings.** The Bankruptcy Cases were commenced on the Filing Date in accordance with applicable law, and the Recognition Proceedings have been or will be commenced within 3 Business Days following entry of the Interim Financing Order and proper notice has been or will be given of (i) the motion seeking approval of the Loan Documents, the Interim Financing Order, the Canadian Initial Recognition Order, the Canadian Supplemental Order, the Canadian Interim DIP Recognition Order, the Final Financing Order and the Canadian Final DIP Financing Order, (ii) the hearing for the entry of the Interim Financing Order, the Canadian Initial Recognition Order, the Canadian Supplemental Order and the Canadian Interim DIP Recognition Order, as applicable and (iii) the hearing for the entry of the Final Financing Order and the Canadian Final DIP Recognition Order, as applicable.

4.34. **Financing Order and DIP Recognition Order.** The Loan Parties are in compliance with the terms and conditions of the Financing Order and, following issuance thereof, the applicable DIP Recognition Order. Each of the Interim Financing Order (with respect to the period prior to the entry of the Final Financing Order) or the Final Financing Order (from after the date the Final Financing Order is entered) and following entry thereof, the applicable DIP Recognition Order as in effect at such time, is in full force and effect and has not been vacated, reversed or rescinded, amended or modified (except as otherwise consented to by Agent in its sole discretion) and no appeal of such order has been timely filed or, if timely filed, a stay pending such appeal is currently effective.

4.35. **Insurance.** All properties of each Loan Party and its Subsidiaries are insured to the extent required by Section 5.6. Schedule 4.35 sets forth a description of such insurance as of the Closing Date.

5. **AFFIRMATIVE COVENANTS.**

Each of Parent and each Borrower covenants and agrees that, until termination of all of the Commitments and payment in full of the Obligations:

5.1. **Financial Statements, Reports, Certificates.** Borrowers (a) will deliver to Agent, for itself and each Lender, each of the financial statements, reports, and other items set forth on Schedule 5.1 no later than the times specified therein, (b) agree that no Subsidiary of a

Loan Party will have a fiscal year different from that of Parent (unless otherwise agreed to by Agent in its reasonable discretion), (c) agree to maintain a system of accounting that enables Borrowers to produce financial statements with respect to material financial transactions and matters involving the assets and business of Parent or any of its Subsidiaries, as the case may be, in accordance with GAAP (it being understood and agreed that certain foreign Subsidiaries, other than any Canadian Loan Party, may maintain individual books and records in conformity with general accepted accounting principles in their respective countries of organization and that such maintenance shall not constitute a breach) and maintain records pertaining to the Collateral that contain information as from time to time that reasonably may be requested by Agent, and (d) agree that they will, and will cause each other Loan Party to, (i) keep a reporting system that shows all additions, sales, claims, returns, and allowances with respect to their and their Subsidiaries' sales, and (ii) maintain their billing systems and practices substantially as in effect as of the Closing Date and shall only make material modifications thereto with notice to, and with the consent of, Agent (such consent not to be unreasonably withheld, conditioned or delayed).

5.2. **Reporting**. Borrowers (a) will deliver to Agent (for itself and the Lenders) each of the reports set forth on Schedule 5.2 at the times specified therein, and (b) agree to cooperate with Agent to facilitate and implement a system of electronic collateral reporting in order to provide electronic reporting of each of the items set forth on such Schedule. Borrowers and Agent hereby agree that the delivery of the Borrowing Base Certificate through the Agent's electronic platform or portal, subject to Agent's authentication process, by such other electronic method as may be approved by Agent from time to time in its sole discretion, or by such other electronic input of information necessary to calculate the Borrowing Bases as may be approved by Agent from time to time in its sole discretion, shall in each case be deemed to satisfy the obligation of Borrowers to deliver such Borrowing Base Certificate, with the same legal effect as if such Borrowing Base Certificate had been manually executed by Borrowers and delivered to Agent. Following the delivery of the Initial Approved Budget on the Closing Date, (i) by 12:00 p.m. New York City time on the third Friday following the Filing Date and by 12:00 p.m. New York City time on the Friday that is every two weeks thereafter through the Life of the Case, the Borrowers shall provide the Agent with an updated cash flow forecast for the Loan Parties and their Subsidiaries, with line item detail of projected sales, disbursements, collections, net cash flows, the outstanding amount of Revolving Loans and the other items set forth in the Initial Approved Budget for the then-upcoming seventeen (17) week period (or such shorter, or longer, period, as applicable, to coincide with the Life of the Case), in each case, in substance reasonably satisfactory (such satisfaction not to be unreasonably withheld, delayed or conditioned) to and approved by the Agent and substantially consistent with the form of the Initial Approved Budget delivered on the Closing Date (the "Weekly Cash Flow Forecast"); (ii) by 12:00 p.m. New York City time beginning on the third Friday following the Filing Date, and by 12:00 p.m. New York City time on the Friday of each two-week period thereafter, a variance report (the "Variance Report") setting forth, on a consolidated basis, actual cumulative aggregate cash receipts, disbursements and cash flows of the Loan Parties for the most recent three- or two-week period (as applicable) covered by such Variance Report and setting forth all the variances, on a line-item and aggregate basis, from the amount set forth for such period as compared to the Initial Approved Budget or the most recently Approved Budget delivered prior to such Variance Report on a weekly and cumulative basis for the period from the first week commencing after the Filing Date through the end of the week in regard to which such variance report is being delivered

(which shall not exceed what is permitted by the Permitted Variance), and each such Variance Report shall include explanations for all material variances for the most recent three- or two-week period in regard to which such variance report is being delivered and shall be certified by a Financial Officer of the Loan Parties, and (iii) deliver to Agent and Lenders, on at least a bi-weekly (i.e., once every two weeks) basis, a written narrative report of the key performance metrics monitored by management of the Loan Parties regarding the business of the Borrowers and their Subsidiaries. Notwithstanding the foregoing, nothing in the Approved Budget shall limit the payment of allowed professional fees and expenses and restructuring expenses to the Case Professionals, and the amounts thereof shall be excluded from the cumulative amount of projected and actual cash disbursements of the Loan Parties and their Subsidiaries on a consolidated basis for any period.

In addition to the foregoing, upon the reasonable request of Agent, Borrowers will participate in conference calls with Agent and Lenders and their representatives, consultants (including, without limitation, any Agent Consultant), and agents, at such mutually convenient dates and times (with frequency not to be unreasonable) to be proposed by Agent upon reasonable notice, and will cause available senior members of management, Consultant, and any investment bankers (including the Investment Banker) and other advisors of Parent and its Subsidiaries, as applicable or as requested by Agent or such Lenders, and solely to the extent reasonably requested by Agent, one or more members of the board of directors of Parent and its Subsidiaries, to participate in such calls for the purpose of discussing the status of the financial, collateral, and operational condition, businesses, liabilities, assets, and prospects of the Borrower and their Subsidiaries and any sale, refinance or other strategic transaction efforts; provided, that the Borrowers acknowledge that such calls scheduled as frequently as once per week shall not be unreasonable. Upon Agent's reasonable request, and subject to any confidentiality restrictions, the Parent and its Subsidiaries shall promptly provide copies of all non-privileged material written materials and reports (in each case, excluding drafts) produced by Parent and its Subsidiaries and shared with third parties in connection with any sale, refinance, or other strategic transaction efforts, and any written indications of interest, letters of intent, draft purchase documents, and commitment letters received by Parent and its Subsidiaries relating to such sale, refinance, or other strategic transaction efforts of the Parent and its Subsidiaries or any other non-privileged written materials as Agent and the Lenders may request from time to time; provided, that such materials may be redacted to the extent information contained therein would adversely affect any attorney-client privilege; provided, further, that only final versions of such documents, or versions of such documents shared with third parties, shall be provided. Without limiting the foregoing, Borrowers agree to notify Agent promptly upon any Borrower becoming aware of any material change or development relating to any sale or refinance efforts or to the financial, collateral, or operational condition, businesses, assets, liabilities, or prospects of such Borrower, any of its Affiliates, or any of their respective Subsidiaries.

5.3. Existence.

(a) Except as otherwise permitted by Section 6.4, Parent will, and will cause each of its Subsidiaries to, at all times preserve and keep in full force and effect each Loan Party's and each Loan Party's Subsidiaries' valid existence and good standing (or, if such jurisdiction does not provide for good standing status, the equivalent status provided for in such jurisdiction) and governmental and similar rights, permits, licenses, authorizations or other

approvals and franchises, in each case (except with respect to existence and good standing in any jurisdiction of organization), if the failure to do so could reasonably be expected to result in a Material Adverse Effect.

(b) Parent will, and will cause each of its Subsidiaries to, (i) take all reasonable actions to maintain all rights, privileges and franchises necessary or desirable in the normal conduct of the business of the Parent and its Subsidiaries, taken as a whole, including all licenses, patents, copyrights, design rights, tradenames, trade secrets and trademarks and take all actions necessary to enforce and protect the validity of any intellectual property right or other right included in the Collateral to the extent that failure to comply therewith, in the aggregate, would reasonably be expected to be adverse to the Lenders or any Loan Party in any material respect; (ii) maintain a cash management system substantially as in effect on the Filing Date, and (iii) in accordance with the Bankruptcy Code and subject to any required approval by any applicable order of the Bankruptcy Court, comply with all post-petition Contractual Obligations and Contractual Obligations entered into prior to the Filing Date and assumed except to the extent that failure to comply therewith, in the aggregate, would not reasonably be expected to be adverse to the Lenders or any Loan Party in any material respect.

5.4. **Maintenance of Properties.** Parent will, and will cause each of its Subsidiaries to, maintain and preserve all of their properties which are necessary in the proper conduct of their business in working order and condition in the ordinary course of business, ordinary wear, tear, and damage by casualty and condemnation and Permitted Dispositions excepted.

5.5. **Taxes.** Parent will, and will cause each of its Subsidiaries to, timely file all material tax returns and pay in full before delinquency or before the expiration of any extension period (including any extension by virtue of the Bankruptcy Cases and the Recognition Proceedings) relating to the payment of all material governmental assessments and taxes with respect to periods after the Filing Date whether real, personal or otherwise, due and payable by, or imposed, levied, or assessed against it, or any of its assets, including all amounts reflected on its material tax returns, except to the extent that the validity of such governmental assessment or tax is the subject of a Permitted Protest.

5.6. **Insurance.** Parent will, and will cause each of its Subsidiaries to, at Borrowers' expense, (a) maintain insurance respecting each of Parent's and its Subsidiaries' assets wherever located, covering liabilities, losses or damages, in each case, as are customarily insured against by other Persons engaged in the same or similar businesses and similarly situated and located. All such policies of insurance shall be with financially sound and reputable insurance companies reasonably acceptable to Agent and in such amounts as is carried generally in accordance with sound business practice by companies in similar businesses similarly situated and located and, in any event, in amount, adequacy, and scope reasonably satisfactory to Agent (it being agreed that the amount, adequacy, and scope of the policies of insurance of Borrowers in effect as of the Closing Date are acceptable to Agent). All property insurance policies covering the Collateral are to be made payable to Agent for the benefit of Agent and the Lenders, as their interests may appear, in case of loss, pursuant to a standard loss payable endorsement with a standard non-contributory "lender" or "secured party" clause and are to contain such other provisions as Agent may reasonably require to fully protect the Lenders' interest in the Collateral

and to any payments to be made under such policies. All certificates of property and general liability insurance are to be delivered to Agent, with the loss payable (but only in respect of Collateral) and additional insured endorsements in favor of Agent and shall provide for not less than thirty (30) days (ten (10) days in the case of non-payment) prior written notice to Agent of the exercise of any right of cancellation. If Parent or its Subsidiaries fail to maintain such insurance, Agent may arrange for such insurance, but at Borrowers' expense and without any responsibility on Agent's part for obtaining the insurance, the solvency of the insurance companies, the adequacy of the coverage, or the collection of claims. Administrative Borrower shall give Agent prompt notice of any loss exceeding \$500,000 covered by its or its Subsidiaries' casualty or business interruption insurance. Upon the occurrence and during the continuance of an Event of Default, Agent shall have the right to file claims under any property and general liability insurance policies in respect of the Collateral, to receive, receipt and give acquittance for any payments that may be payable thereunder, and to execute any and all endorsements, receipts, releases, assignments, reassignments or other documents that may be necessary to effect the collection, compromise or settlement of any claims under any such insurance policies. In addition, if at any time the area in which any improvement on any Real Property constituting Collateral is located in an area identified as a special flood hazard area in any Flood Insurance Rate Map published by the Federal Emergency Management Agency (or any successor agency), Parent will, and will cause each of its Subsidiaries to, at their expense, obtain flood insurance in such amount and with such deductible as is required to ensure compliance with the Flood Laws and deliver to the Agent evidence of such insurance.

5.7. **Inspection.** Parent will, and will cause each of its Subsidiaries to, permit Agent, any Lender (so long as such Lender accompanies Agent), and each of their respective duly authorized representatives or agents to visit any of its properties and inspect any of its assets or books and records, to conduct appraisals and valuations, to examine and make copies of its books and records, and to discuss its affairs, finances, and accounts with, and to be advised as to the same by, its officers and employees (provided an authorized representative of Administrative Borrower shall be allowed to be present) at such reasonable times and intervals as Agent, as applicable, may designate and, so long as no Default or Event of Default has occurred and is continuing, with reasonable prior notice to Administrative Borrower and during regular business hours; provided, that Borrowers' obligations to reimburse Agent for the foregoing shall be subject to the limitations set forth in Section 2.10(c). Borrowers agree to cooperate in connection with any field exams, audits, appraisals, or valuations that Agent may conduct or cause to be conducted at any time, including, without limitation, those performed by any Agent Consultant, and will provide any Agent Consultant with reasonable access at all times to all documentation, places of business, officers, Consultant, any Investment Banker, consultants, and employees of Borrowers and Borrowers' other advisors. Borrowers will promptly provide to any Agent Consultant such financial information concerning the Borrowers' financial, collateral, and operational condition, businesses, assets, liabilities, and prospects as Agent Consultant may request from time to time. Borrowers will reimburse Agent in cash, upon demand, for any and all reasonable fees, costs, expenses, and other charges incurred by Agent relating to the engagement of any Agent Consultant from time to time (in each case, whether or not included in the Approved Budget). Notwithstanding anything to the contrary in this Section 5.7, none of Parent or any of its Subsidiaries will be required to disclose any such information to the extent that (i) such disclosure would in the good faith determination of Borrowers (based on the advice of counsel) violate attorney-client privilege or is otherwise prohibited by law or fiduciary duty,

(ii) such information constitutes attorney work product, or (iii) such information is subject to confidentiality obligations to a third party (not entered into in contemplation thereof and for which any Borrower is using commercially reasonable efforts to lift such confidentiality restrictions) and Agent or the Lenders (as applicable) have not executed any necessary confidentiality agreements or non-reliance letters with respect thereto.

5.8. **Compliance with Laws.** Parent will, and will cause each of its Subsidiaries to, comply with the requirements of all applicable laws, rules, regulations, and orders of any Governmental Authority, other than laws, rules, regulations, and orders the non-compliance with which, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

5.9. **Environmental.** Parent will, and will cause each of its Subsidiaries to,

(a) keep (i) any real property that any Loan Party owns free of any Environmental Liens, other than Permitted Liens, and (ii) any real property that any Loan Party leases or operates free of any Environmental Liens, other than Permitted Liens, except in the case of each of clauses (i) and (ii) above with respect to any such Environmental Lien that could not reasonably be expected to result in a Material Adverse Effect, or where the Loan Party has posted bonds or other financial assurances sufficient to satisfy the obligations or liability evidenced by any such Environmental Liens,

(b) comply, in all respects, with Environmental Laws, obtain and maintain in full force and effect all Environmental Permits and provide to Agent documentation of any compliance or non-compliance with Environmental Laws which Agent reasonably requests, except, in each case, for any such compliance or non-compliance or failure to comply, obtain or maintain that could not reasonably be expected to result in a Material Adverse Effect,

(c) promptly notify Agent of any release of a Hazardous Material in any reportable quantity from or onto real property owned, leased or operated by any Loan Party and take any Remedial Actions with respect to such releases required to come into compliance with applicable Environmental Law, except with respect to any such releases that would not reasonably be expected to result in a Material Adverse Effect, and

(d) promptly, but in any event within fifteen (15) Business Days of its receipt thereof, provide Agent with written notice of any of the following: (i) written notice that an Environmental Lien (other than a Permitted Lien) has been filed against any of the real or personal property of any Loan Party, (ii) written notice of commencement of any Environmental Action or written notice that an Environmental Action will be filed against any Loan Party which Environmental Action could reasonably be expected to result in a Material Adverse Effect, and (iii) written notice of a violation, citation, or other administrative order arising under Environmental Laws with respect to a Loan Party, its operations or any of the real property owned, leased or operated by a Loan Party or for which a Loan Party may be liable, which could reasonably be expected to result in a Material Adverse Effect, and, in each case, to the extent failure to do so could reasonably be expected to cause a Material Adverse Effect promptly take all action required to address and resolve such Environmental Lien, Environmental Action, violation, citation or other administrative order.

5.10. **Disclosure Updates.** Borrowers will, promptly and in no event later than ten (10) Business Days after obtaining knowledge thereof, notify Agent if any written information, exhibit, or report furnished to the Lender Group (other than the projections, budgets, estimates, forward-looking statements, information of a general economic nature, general information about the Borrowers' industry or general market data), at the time it was furnished (and when taken as a whole), contained any untrue statement of a material fact or omitted to state any material fact necessary to make the statements contained therein (when taken as a whole) not materially misleading in light of the circumstances in which made. The foregoing notwithstanding, any notification pursuant to the foregoing provision will not cure or remedy the effect of the prior untrue statement of a material fact or omission of any material fact nor shall any such notification have the effect of amending or modifying this Agreement or any of the Schedules hereto (except that Schedule 4.24 may be amended as expressly provided in Section 5.14).

5.11. **[Reserved]**.

5.12. **Further Assurances.** Subject to the limitations and exceptions on creation and perfection set forth herein and in the other Loan Documents, Parent will, and will cause each of the other Loan Parties to, at any time upon the reasonable request of Agent, execute or deliver to Agent any and all financing statements, fixture filings, security agreements, pledges, assignments, mortgages, deeds of trust, opinions of counsel, and all other documents (the "Additional Documents") that Agent may reasonably request in form and substance reasonably satisfactory to Agent, to create, perfect (unless perfection is not required by the Loan Documents), and continue perfected (unless perfection is not required by the Loan Documents) or to better perfect (unless perfection is not required by the Loan Documents) Agent's Liens in all of the assets of Parent and its Subsidiaries, other than Excluded Collateral (whether now owned or hereafter arising or acquired, tangible or intangible, real or personal), to create and perfect Liens (subject to Permitted Liens) in favor of Agent in any Real Property acquired in fee by any Loan Party that is also subject to perfected Liens securing Term Loan Debt (or, if the Term Loan Debt has been paid in full, to the extent such Real Property has a fair market value greater than \$1,000,000), and in order to fully consummate all of the transactions contemplated hereby and under the other Loan Documents; provided that (i) the foregoing shall not apply to any Excluded Subsidiary, (ii) no action in any jurisdiction outside of the United States and Canada or required by the laws of any jurisdiction outside of the United States and Canada shall be required in order to create any security interests in assets located or titled outside of the United States or Canada or to perfect any security interests therein (it being understood that there shall be no security agreements or pledge agreements governed under the laws of any jurisdiction outside of the United States and Canada), (iii) no action shall be required to perfect security interests in aircraft, railcars and other assets perfected under a federal filing system (other than intellectual property), and (iv) no action shall be required to perfect any Collateral as to which Agent agrees that the costs of taking such actions are excessive in relation to the benefit to the Lenders of the security to be afforded thereby (the foregoing clauses (i) through (iv) collectively, the "Excluded Actions"). Notwithstanding anything herein or in any other Loan Document to the contrary, the US Borrowers shall not be required to obtain or deliver any consents or approvals from any applicable Chinese Governmental Authority in connection with its 65% pledge of the Equity Interests of Hollander China or PCF (Shanghai) Quality Management Consulting Co., Ltd. To the maximum extent permitted by applicable law, if any Loan Party

refuses or fails to execute or deliver any reasonably requested Additional Documents within a reasonable period of time following the request to do so and receipt of execution versions of such Additional Documents, each Loan Party hereby authorizes Agent to execute any such Additional Documents in the applicable Loan Party's name and authorizes Agent to file such executed Additional Documents in any appropriate filing office. In furtherance of, and not in limitation of, the foregoing, each Loan Party shall take such actions as Agent may reasonably request from time to time to ensure that the Obligations are guaranteed by the Guarantors and are secured by substantially all of the assets of Parent and its Subsidiaries, including all of the outstanding capital Equity Interests of Borrowers and Borrowers' Subsidiaries (subject to exceptions and limitations contained herein and in the other Loan Documents on creation and perfection, including, in so far as the US Obligations are concerned, with respect to any Subsidiary described in clause (d) of the definition of Excluded Subsidiary). In addition, to the extent a security interest in and mortgage lien on any owned Real Property is required by this Section 5.12, at least ten (10) Business Days prior to the execution of a Mortgage over such Real Property, the Agent shall have received (and shall have further provided to each Lender), in order to comply with the Flood Laws, the following documents: (A) a completed Life-of-Loan Federal Emergency Management Agency Standard Flood Hazard Determination with respect to such Real Property Collateral (together with a notice about special flood hazard area status and flood disaster assistance duly executed by the Administrative Borrower), together with any other documents Agent (or any Lender through Agent) may reasonably request to enable it or any Lender to complete its flood insurance due diligence; and (B) if any improvements on such Real Property are located within an area designated as a special flood hazard area, evidence of such flood insurance as may be required under Section 5.6.

5.13. **[Reserved]**.

5.14. **Location of Inventory**. Parent will, and will cause each of its Subsidiaries to, keep its Inventory (other than Inventory in transit in the ordinary course of business and samples of Inventory delivered to customers in the ordinary course of business) only at the locations identified, or in transit between locations identified, on Schedule 4.24 and their chief executive offices only at the locations identified on Schedule 4.24 as their chief executive offices; provided, that Borrowers may amend Schedule 4.24 and Schedule E-1 so long as such amendment occurs by written notice to Agent not less than ten (10) days prior to the date on which such Inventory is moved to such new location or such chief executive office is relocated and so long as such new location is within the continental United States (in the case of a US Loan Party) and Canada (in the case of a Canadian Loan Party).

5.15. **[Reserved]**.

5.16. **Compliance with ERISA and the IRC**. In addition to and without limiting the generality of Section 5.8, Parent will and will cause each of its Subsidiaries to, (a) comply with applicable provisions of ERISA and the IRC with respect to all Employee Benefit Plans except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect, (b) without the prior written consent of Agent and the Required Lenders, not take any action or fail to take action which could reasonably be expected to result in a Loan Party or ERISA Affiliate incurring a liability to the PBGC or to a Multiemployer Plan (other than to pay contributions or premiums payable in the ordinary course) that could reasonably be expected

to result in a Material Adverse Effect, (c) not allow any facts or circumstances to exist with respect to one or more Employee Benefit Plans that, in the aggregate, reasonably could be expected to result in a Material Adverse Effect, (d) not participate in any prohibited transaction that could result in a civil penalty excise tax, fiduciary liability or correction obligation under ERISA or the IRC that could reasonably be expected to result in a Material Adverse Effect, (e) operate each Employee Benefit Plan in such a manner that will not incur any tax liability under the IRC (including Section 4980B of the IRC) except where failure to do so could not reasonably be expected to result in a Material Adverse Effect, and (f) furnish to Agent upon Agent's written request such additional information about any Employee Benefit Plan for which any Loan Party or ERISA Affiliate could reasonably expect to incur any liability that could reasonably be expected to result in a Material Adverse Effect. With respect to each Pension Plan (other than a Multiemployer Plan) except as could not reasonably be expected to result in a Material Adverse Effect, the Loan Parties shall (i) satisfy in full and in a timely manner, without incurring any late payment or underpayment charge or penalty and without giving rise to any Lien, all of the material contribution and funding requirements of the IRC and of ERISA, and (ii) pay, or cause to be paid, to the PBGC in a timely manner, without incurring any material late payment or underpayment charge or penalty, all premiums required pursuant to ERISA.

5.17. **Canadian Compliance.** In addition to and without limiting the generality of Section 5.8, Parent will and will cause each of its Subsidiaries to (a) comply in all material respects with applicable provisions of the *Income Tax Act* (Canada) and applicable federal or provincial pension benefits legislation with respect to all Canadian Benefit Plans and Canadian Pension Plans, (b) not allow any facts or circumstances to exist with respect to one or more Canadian Benefit Plans or Canadian Pension Plans that, in the aggregate, reasonably could be expected to result in a Material Adverse Effect, (c) operate each Canadian Benefit Plan and Canadian Pension Plan in such a manner that will not incur any material tax liability under the *Income Tax Act* (Canada), and (d) furnish to Agent notice of any Canadian Pension Termination Event promptly after the occurrence thereof and upon Agent's written request such additional information about any Canadian Benefit Plan or Canadian Pension Plan for which any Loan Party or any other Subsidiaries could reasonably expect to incur any material liability. With respect to each Canadian Pension Plan and Canadian Benefit Plan except as could not reasonably be expected to result in material liability to the Loan Parties, the Loan Parties shall (i) satisfy in full and in a timely manner, without incurring any late payment or underpayment charge or penalty and without giving rise to any Lien, all of the material contribution and funding requirements of the *Income Tax Act* (Canada) and applicable federal or provincial pension benefits legislation, and (ii) pay, or cause to be paid, to a timely manner, without incurring any material late payment or underpayment charge or penalty, all required premiums.

5.18. **Bank Products.** The US Loan Parties shall maintain all of their depository and treasury management relationships with Wells Fargo at all times during the term of the Agreement (other than the Term Loan Proceeds Account, which may or may not be maintained at Wells Fargo).

5.19. **Canadian Cash Management.** At all times (unless an alternative instruction is delivered to Borrowers by Agent or unless Agent has directed the applicable Controlled Account Bank (as defined in the Canadian Security Agreement) to cease following the instructions of the Loan Parties with respect Controlled Accounts maintained at such Controlled

Account Bank), Borrowers shall and shall cause all other Loan Parties, in each case to the extent such Person is a "Grantor" under the Canadian Security Agreement, to transfer at the end of each Business Day all amounts in the applicable Controlled Account to the Agent's Account to be applied to the Canadian Obligations, and to make no other disbursements from such Controlled Accounts without Agent's prior consent.

5.20. **OFAC; Sanctions; Anti-Corruption Laws; Anti-Money Laundering Laws.** Each Loan Party will, and will cause each of its Subsidiaries to comply with all applicable Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws. Each of the Loan Parties and its Subsidiaries shall implement and maintain in effect policies and procedures designed to ensure compliance by the Loan Parties and their Subsidiaries and their respective directors, officers, employees, agents and Affiliates with all Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws. Each of the Loan Parties shall and shall cause their respective Subsidiaries to comply with all Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws.

5.21. **Bankruptcy Transaction Milestones.** Parent will, and will cause each of its Subsidiaries to, cause the performance and delivery of the items set forth on Schedule 5.21 on or before the dates specified therein with respect to such items (the "Milestones").

5.22. **Investment Banker.**

(a) Borrowers shall continue to engage an investment banker (the "Investment Banker") pursuant to a Qualified Investment Banker Engagement and cause the Investment Banker to promptly provide Agent and Lenders, and their respective agents, advisors, and consultants, with such reasonably requested information, drafts, and reports (including, without limitation, relating to any potential strategic alternatives or transactions) regarding the process for which the Investment Banker was engaged, and, upon reasonable prior notice to the Borrowers and the Investment Banker, schedule conference calls (with a frequency which shall not be unreasonable, provided, that the Borrowers acknowledge that such calls scheduled as frequently as once per week shall not be unreasonable) with the Investment Banker and the Agent and (to the extent available) Lenders, and their respective agents, advisors, and consultants (with each such call to be scheduled at a mutually convenient time during normal business hours), regarding the process for which the Investment Banker was engaged, all as Agent and Lenders may reasonably request from time to time. Borrowers may participate in such discussions at the times scheduled pursuant to the immediately preceding sentence, provided, that any Borrower's failure to elect to do so will not prevent Agent or any Lender (or their respective agents, advisors, or consultants) from proceeding with such discussions. Borrowers shall, as a component of any Qualified Investment Banker Engagement, cause the applicable Investment Banker to maintain an appropriate data room to which Agent and any consultant, financial advisor or counsel engaged by Agent or its counsel at any time will have reasonable access and review rights at all times. In addition to the foregoing, Agent, each Lender, and any consultant, financial advisor, or counsel engaged by Agent or any Lender, or their counsel, at any and all times, will have reasonable access and review rights with respect to any data room (and the information contained therein) maintained by any Investment Banker or Borrowers with respect to any actual or contemplated sale of any of the equity interests or assets of any

Borrower, any refinancing relating to the Obligations, or any other process for which the Investment Banker was engaged.

(b) Except as otherwise agreed to in writing by Agent, all fees, costs and expenses of the Investment Banker shall be solely the responsibility of Borrowers, and in no event will Agent or any Lender have any liability or responsibility of any kind with respect to the Investment Banker (including, without limitation, as to the payment of any of the Investment Banker's fees, costs or expenses), and Agent and Lenders will not have any obligation or liability of any kind or nature to Borrowers, the Investment Banker or any other Person by reason of any acts or omissions of the Investment Banker.

(c) No Borrower shall amend or otherwise modify in any manner that could reasonably be expected to be materially adverse to the Agent or Lenders the terms of the Investment Banker's engagement with the Borrowers in each case without the prior written consent of the Agent. In the event that any Investment Banker resigns, is suspended, or has its services modified in any manner that could reasonably be expected to be materially adverse to the Agent or Lenders, or is terminated at any time prior to the consummation of the transaction contemplated by the applicable Qualified Investment Banker Engagement, the Borrowers shall consummate a new Qualified Investment Banker Engagement within ten (10) Business Days after the date on which such Investment Banker resigns, is suspended, or has its services modified, or is terminated.

5.23. **Consultant.** Borrowers will continue to engage a Consultant on terms and conditions acceptable to the Agent (it being understood that the terms of the Carl Marks Engagement Agreement are acceptable to Agent) and on the terms and conditions set forth in, or consistent with, the retention order authorizing the continued engagement of the Consultant. Borrowers hereby do, and will continue to, authorize and instruct the Consultant acting through the interim management team furnished to Borrowers, to (a) share with the Agent and Lenders all budgets, records, projections, financial information, reports and other information relating to the Collateral, the financial condition, operations and prospects of Borrowers and their Affiliates prepared by Consultant with respect to Borrowers and their Affiliates after the Closing Date, and (b) make such persons acting as interim officers of Borrowers available for discussions with the Agent and the Lenders as requested by Agent and the Lenders from time to time. Borrowers will at all times reasonably cooperate with the Consultant and provide Consultant reasonably complete access to all of the Borrowers' books and records, all of Borrowers' premises and to Borrowers' management. Notwithstanding anything to the contrary in this Section 5.23, none of Parent or any of its Subsidiaries or Consultant will be required to disclose any such information to the extent that (i) such disclosure would in the good faith determination of Borrowers (based on the advice of counsel) violate attorney-client privilege or is otherwise prohibited by law or fiduciary duty, (ii) such information constitutes attorney work product, or (iii) such information is subject to confidentiality obligations to a third party (not entered into in contemplation thereof and for which any Borrower is using commercially reasonable efforts to lift such confidentiality restrictions) and Agent or the Lenders (as applicable) have not executed any necessary confidentiality agreements or non-reliance letters with respect thereto. All fees and expenses of the Consultant shall be solely the responsibility of Borrowers and in no event shall Agent or any Lender have any obligation, liability or responsibility of any kind or nature whatsoever for the payment of any such fees, expenses or other obligations, nor shall Agent or any Lender have any

obligation or liability to Borrowers, their Affiliates, or any other Person by reason of any acts or omissions whatsoever of the Consultant at any time.

5.24. **Exit Financing Commitment Letter.** Parent and Borrowers will deliver to Agent, no later than one hundred twenty (120) days after the Closing Date, a fully executed Exit Financing Commitment Letter.

5.25. **Sale of Collateral.** In the event the Loan Parties sell (or engage in offers or discussions to sell or otherwise seek to sell) any material portion of the Term Loan Priority Collateral (or a sale of Equity Interests that effectively results in a transfer of a material portion of the Term Loan Priority Collateral), in each case, as a going concern (any such sale, a "Term Loan Priority Collateral Sale"), Parent will, and will cause each of its Subsidiaries to, unless otherwise agreed in writing by Agent, cause any such Term Loan Priority Collateral Sale (or offers or discussions related thereto) to also include all or substantially all of the ABL Priority Collateral. For the avoidance of doubt, this Section 5.25 shall not be construed to permit the sale of any Collateral or other assets of the Loan Parties that is not permitted under this Agreement.

5.26. **Bankruptcy Covenants.** Notwithstanding anything in the Loan Documents to the contrary, the Loan Parties shall comply with all material covenants, terms and conditions and otherwise perform all obligations set forth in the Financing Order and the applicable DIP Recognition Order.

5.27. **Bankruptcy Cases.**

(a) **Bankruptcy Cases Documents and Notices.** Each Loan Party shall deliver or cause to be delivered for review and comment, as soon as commercially reasonable, all material pleadings, motions and other documents (provided that any of the foregoing relating to the Loans shall be deemed material) to be filed on behalf of the Loan Parties with the Bankruptcy Court or the Canadian Court to the Agent and its counsel. If not otherwise provided by the Bankruptcy Court's electronic docketing system, Borrowers shall provide (x) copies to the Agent of all pleadings, motions, applications, judicial information, financial information and other documents filed by or on behalf of the Loan Parties with the Bankruptcy Court and the Canadian Court, distributed by or on behalf of the Loan Parties to any Committee, filed with respect to the Bankruptcy Cases or the Recognition Proceedings or filed with respect to any Loan Document and (y) such other reports and information as the Agent may, from time to time, reasonably request. In connection with the Bankruptcy Cases and the Recognition Proceedings, the Loan Parties shall give the proper notice for (x) the motions seeking approval of the Loan Documents, the Financing Order and the DIP Recognition Orders and (y) the hearings for the approval of the Financing Order and the DIP Recognition Orders. The Borrower and the other Loan Parties shall give, on a timely basis as specified in the Financing Order and, if applicable, the applicable DIP Recognition Order, all notices required to be given to all parties specified in the Financing Order. The Borrowers and the other Loan Parties shall use reasonable best efforts to obtain the Final Financing Order and the Canadian Final DIP Recognition Order.

(b) **Restructuring Proposals.** Each Loan Party shall promptly deliver or cause to be delivered to the Agent and the Lenders copies of any term sheets, proposals, or

presentations from any party, related to (i) the restructuring of the Loan Parties, or (ii) the sale of assets of one or all of the Loan Parties.

(c) Repayment of Indebtedness. Except to the extent permitted hereunder, under the Financing Order or under the Approved Budget, no Loan Party shall, without the express prior written consent of the Agent or pursuant to an order of the Bankruptcy Court after notice and a hearing, make any Pre-Petition Payment.

5.28. Budget Matters. Borrowers hereby acknowledge and agree that any Weekly Cash Flow Forecast provided to the Agent and the Lenders shall not amend or supplement the applicable Approved Budget until the Agent delivers a notice (which may be delivered by electronic mail) to the Borrowers stating that the Agent has approved of such Weekly Cash Flow Forecast (such approval not to be unreasonably withheld or delayed); provided, that if the Agent does not deliver a notice of approval to Borrowers, then the existing Approved Budget shall continue to constitute the applicable Approved Budget until such time as the subject Weekly Cash Flow Forecast is agreed to among Borrowers and the Agent in accordance with this Section 5.28. Once such Weekly Cash Flow Forecast is so approved in writing by the Agent, it shall supplement or replace the prior Approved Budget, and shall thereafter constitute the Approved Budget.

6. **NEGATIVE COVENANTS.**

Each of Parent and each Borrower covenants and agrees that, until termination of all of the Commitments and payment in full of the Obligations:

6.1. Indebtedness. Parent will not, and will not permit any of its Subsidiaries to create, incur, assume, suffer to exist, guarantee, or otherwise become or remain, directly or indirectly, liable with respect to any Indebtedness, except for Permitted Indebtedness.

6.2. Liens. Parent will not, and will not permit any of its Subsidiaries to create, incur, assume, or suffer to exist, directly or indirectly, any Lien on or with respect to any of its assets, of any kind, whether now owned or hereafter acquired, or any income or profits therefrom, except for Permitted Liens. Notwithstanding anything to the contrary in this Agreement or other Loan Documents, Parent will not, and will not permit any of its Subsidiaries to, create, incur, assume, or suffer to exist, directly or indirectly, any Lien with priority over the Liens created by the Loan Documents and the Term Loan Documents (other than the Permitted Priority Liens and the Carveout).

6.3. Restrictions on Fundamental Changes. Parent will not, and will not permit any of its Subsidiaries to,

(a) enter into any merger, consolidation, amalgamation, statutory division, reorganization, or recapitalization, or reclassify its Equity Interests,

(b) liquidate, wind up, or dissolve itself (or suffer any liquidation or dissolution),

(c) suspend or cease operating a material portion of its or their business except in connection with a transaction permitted under Section 6.4,

(d) take any action to change or have the effect of changing (i) the tax classification of Parent or any of its Subsidiaries from the classification as of the Closing Date or (ii) the legal form of Parent or Holdings, or

(e) form any new Subsidiary without Agent's prior written consent; provided, that, to the extent the Agent consents to the formation of any new Subsidiary, such new Subsidiary shall guaranty all of the Obligations and any Existing Secured Obligations and grant Liens on substantially all of its assets to secure the Obligations and any Existing Secured Obligations pursuant to documentation in form and substance acceptable to Agent.

6.4. **Disposal of Assets.** Other than Permitted Dispositions, or transactions expressly permitted by Sections 6.2, 6.3 or 6.9, Parent will not, and will not permit any of its Subsidiaries to convey, sell, lease, license, assign, transfer, or otherwise dispose of any of its or their assets (including by an allocation of assets among newly divided limited liability companies pursuant to a "plan of division").

6.5. **Nature of Business.** Parent will not, and will not permit any of its Subsidiaries to make any change in the nature of its or their business as described in Schedule 6.5 or acquire any properties or assets that are not reasonably related to the conduct of such business activities; provided, that the foregoing shall not prevent Parent and its Subsidiaries from engaging in any business that is reasonably related or ancillary to its or their business.

6.6. **Prepayments and Amendments.** Parent will not, and will not permit any of its Subsidiaries to,

(a) optionally prepay, redeem, defease, purchase, or otherwise acquire any Indebtedness of Parent or its Subsidiaries, other than (A) the Existing Secured Obligations and the Reinstated Existing Secured Obligations in accordance with the Existing Credit Agreement and this Agreement, (B) Obligations in accordance with this Agreement, (B) Permitted Intercompany Advances owing to a Loan Party, and (C) the termination of Hedge Agreements,

(b) make any payment on account of Indebtedness that has been contractually subordinated in right of payment to the Obligations if such payment is not permitted at such time under the subordination terms and conditions applicable thereto, or

(c) directly or indirectly, amend, modify, or change any of the terms or provisions of

(i) the Governing Documents of any Loan Party or any of its Subsidiaries if the effect thereof, either individually or in the aggregate, could reasonably be expected to be materially adverse to the interests of the Lenders,

(ii) the Management Services Agreement, or

(iii) the Term Loan Documents except in accordance with the Intercreditor Agreement.

6.7. **Restricted Payments.** Parent will not make any Restricted Payment.

6.8. **Accounting Methods.** Parent will not, and will not permit any of its Subsidiaries to modify or change its fiscal year, fiscal quarter, or its method of accounting (other than (i) as may be required to conform to GAAP or (ii) to the extent consented to by Agent (such consent not to be unreasonably withheld, conditioned or delayed)).

6.9. **Investments.** Parent will not, and will not permit any of its Subsidiaries to, directly or indirectly, make or acquire any Investment except for Permitted Investments.

6.10. **Transactions with Affiliates.** Parent will not, and will not permit any of its Subsidiaries to, directly or indirectly, enter into or permit to exist any transaction with any Affiliate of Parent or any of its Subsidiaries except for

(a) any existing transactions between Parent or its Subsidiaries, on the one hand, and any Affiliate of Parent or Parent's Subsidiaries, on the other hand, entered into prior to the Closing Date and any payments made pursuant thereto (other than to direct or indirect holders of Equity Interests in the Parent) to the extent permitted hereunder and made in accordance with the Approved Budget, provided (i) that the terms of such Affiliate Transaction are not less favorable, taken as a whole, to Parent or the applicable Subsidiary, as the case may be, than those that could be obtained at the time in a transaction with a Person who is not such an Affiliate, and (ii) no payments shall be permitted under the Management Services Agreement,

(b) so long as it has been approved by Parent's or its applicable Subsidiary's Board of Directors in accordance with applicable law, any indemnity provided for the benefit of directors (or comparable managers) of Parent, any direct or indirect parent of Parent or the applicable Subsidiary of Parent,

(c) so long as it has been approved by Parent's or its applicable Subsidiary's Board of Directors in accordance with applicable law, to the extent set forth in the Approved Budget, the payment of reasonable compensation, insurance, expense reimbursement, indemnity (other than with respect to directors (or other comparable managers)), severance, and employee benefit arrangements to employees, individual contractors, officers, and directors (or comparable managers) of Parent, any direct or indirect parent of Parent or the applicable Subsidiaries of Parent in the ordinary course of business and consistent with industry practice,

(d) transactions permitted by Section 6.3, Section 6.4, or any Permitted Intercompany Advance,

(e) [reserved],

(f) the Related Transactions or any amendments or modifications thereto permitted hereby, and any payments made pursuant thereto to the extent permitted hereunder and made in accordance with the Approved Budget;

(g) any Loan Party may enter into transactions with any other Loan Party to the extent not otherwise prohibited hereunder,

(h) [reserved],

(i) any Subsidiary that is not a Loan Party may enter into transactions with any other Subsidiary that is not a Loan Party to the extent not otherwise prohibited hereunder,

(j) [reserved],

(k) [reserved],

(l) transactions in existence on the Closing Date set forth on Schedule 6.10,
and

(m) the transactions contemplated by the Existing Participation Agreement, the Participation Agreement, the Participation Put Agreement, and the acquisition of a participation interest in the Loans pursuant to the terms of the Participation Agreement.

Except for Permitted Intercompany Advances, as otherwise permitted under this Agreement, and as set forth on Schedule 6.10, no Loan Party shall enter into any transaction with, make any loan, advance or other Investment in, or otherwise transfer any property to any Subsidiary of Parent that is not a Loan Party. Notwithstanding anything to the contrary on this Section 6.10, no payments shall be permitted under the Management Services Agreement.

6.11. **Use of Proceeds.** Parent will not, and will not permit any of its Subsidiaries to use the proceeds of any loan made hereunder for any purpose other than, (i) in accordance with and subject to the Approved Budget (subject to Permitted Variances) and the Financing Order, to pay the fees, costs, and expenses incurred in connection with this Agreement, the other Loan Documents, the commencement of the Bankruptcy Cases and the Recognition Proceedings and the transactions contemplated hereby and thereby, as and when such expenses are due and payable, (ii) to the extent not otherwise prohibited by the Loan Documents or the Final Financing Order, to fund working capital needs and general corporate purposes of Borrowers, at such times and in such amounts as are in compliance with Section 7, (iii) to provide cash "adequate protection" (as set forth in Section 361 of the Bankruptcy Code and the relevant sections of other applicable Insolvency Laws) in favor of the Existing Agent and the Existing Lenders (other than in respect of the Existing Last Out Obligations) and (iv) to repay upon the entry of the Final Financing Order and the issuance of the Canadian Final DIP Recognition Order, in full, the Existing Secured Obligations, including outstanding principal, accrued interest, and accrued fees and expenses owing under or in connection with the Existing Credit Agreement and other Existing Loan Documents; provided, that no part of the proceeds of any Loan or Letter of Credit will be used, directly or indirectly, (u) in connection with the investigation (including discovery proceedings), initiation or prosecution of any claims, causes of action, adversary proceedings or other litigation against the Existing Agent, Existing Lenders, Agent or Lenders, or in connection with the Obligations or Existing Secured Obligations, except for an amount up to the limit set forth in the Financing Order for such purpose, for investigation costs of any official statutory committee appointed pursuant to Bankruptcy Code § 1102, (v) toward repayment of the Existing Term Loan Debt or the Term Loan Debt (including any "adequate protection" payments with

respect thereto), (w) [reserved], (x) to purchase or carry any such Margin Stock or to extend credit to others for the purpose of purchasing or carrying any such Margin Stock or for any purpose that violates the provisions of Regulation T, U or X of the Board of Governors, (y) 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, and (z) 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.

6.12. **Limitation on Issuance of Equity Interests.** No Loan Party will issue or sell or enter into any agreement or arrangement for the issuance or sale of any of its Equity Interests.

6.13. **Parent as Holding Company.** Parent will not (a) incur any material liabilities (other than (i) liabilities arising under the Loan Documents, the Term Loan Documents (or any agreement otherwise permitted hereunder and under the Intercreditor Agreement refinancing any of the facilities made pursuant to the Term Loan Documents in whole or in part), and the Equity Documents, in each case to which it is a party, (ii) guarantees of leases and trade contracts in the ordinary course of business, (iii) liabilities arising under agreements with respect to Investments expressly permitted hereunder, (iv) indemnification obligations under the PCF Acquisition Agreement, (v) other Indebtedness permitted to be incurred by Parent pursuant to Section 6.1, (vi) tax liabilities, (vii) obligations under or in connection with the Transaction, (viii) liabilities under the Management Services Agreement, and (ix) liabilities under employment or engagement agreements or agreements with employees, officers and directors)), (b) own or acquire any assets (other than (i) the Equity Interests of its Subsidiaries, (ii) immaterial assets which in the aggregate have de minimis value, (iii) contractual rights incidental or related to maintenance of its organizational existence and the issuance of its Equity Interests, (iv) Investments expressly permitted by Section 6.9 and contractual rights with respect thereto, (v) rights under or incidental to the PCF Acquisition Agreement, and (vi) rights under insurance policies) or (c) engage itself in any operations or business, except (i) in connection with its ownership of its Subsidiaries and its rights and obligations under the Loan Documents, the Term Loan Documents (or any agreement otherwise permitted hereunder and under the Intercreditor Agreement refinancing any of the facilities made pursuant to the Term Loan Documents in whole or in part) and the Equity Documents, in each case to which it is a party (and activities incidental or related thereto), and (ii) activities incidental or related to holding the assets or incurring the liabilities permitted by this Section 6.13 and the maintenance of its organizational existence and the issuance of its Equity Interests.

6.14. **Sale and Leaseback Transactions.** Parent will not, and will not permit any of its Subsidiaries to, enter into any arrangement, directly or indirectly, whereby it shall sell or transfer any property, real or personal, used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property sold or transferred.

6.15. **Employee Benefits.**

Parent will not, and will not permit any of its Subsidiaries to:

(a) terminate, or permit any ERISA Affiliate to terminate, any Pension Plan in a manner, or take any other action with respect to any Pension Plan, which could reasonably be expected to result in any material liability of any Loan Party to the PBGC,

(b) fail to make, or permit any ERISA Affiliate to fail to make, full payment when due of all amounts which, under the provisions of any Benefit Plan, agreement relating thereto or applicable Law, any Loan Party or ERISA Affiliate is required to pay if such failure could reasonably be expected to result in material liability,

(c) permit to exist, or allow any ERISA Affiliate to permit to exist, any accumulated funding deficiency within the meaning of section 302 of ERISA or section 412 of the Code, whether or not waived, with respect to any Pension Plan which exceeds \$500,000 with respect to all Pension Plans in the aggregate which could reasonably be expected to result in liability which exceeds \$500,000 to any Loan Party,

(d) maintain, sponsor, administer, contribute to, participate in or assume or incur any liability in respect of any Canadian Defined Benefit Plan,

(e) terminate, or permit any Loan Party or Subsidiary thereof to terminate any Canadian Pension Plan in a manner, or take any other action with respect to any Canadian Pension Plan, which could reasonably be expected to result in any liability of any Loan Party or a Subsidiary thereof, or

(f) fail to make, or permit any Subsidiary to fail to make, full payment when due of all amounts which, under the provisions of any Canadian Benefit Plan, agreement relating thereto or applicable Law, any Loan Party or Subsidiary thereof is required to pay if such failure could reasonably be expected to result in material liability.

6.16. **Burdensome Agreements.**

Parent will not, and will not permit any of its Subsidiaries to, enter into any contractual obligation that: limits the ability (a) of any Subsidiary to make loans, advances, or Restricted Payments to any Loan Party; (b) of any Subsidiary to guarantee the Indebtedness of the Borrowers under the Loan Documents or (c) of Parent or any of its Subsidiaries to create, incur, assume or suffer to exist Liens on property of such Person to secure the obligations of the Loan Parties under the Loan Documents, other than, in each case limitations and restrictions:

(a) set forth in this Agreement and any other Loan Document,

(b) set forth in Term Loan Documents as in effect on the date hereof or as modified in accordance with the Intercreditor Agreement (or in any agreement otherwise permitted hereunder and under the Intercreditor Agreement which refinances any of the facilities made pursuant to the Term Loan Documents in whole or in part),

(c) on subletting or assignment of any leases or licenses of Parent or any Subsidiary or on the assignment of a contractual obligation or any rights thereunder or any other customary non-assignment provisions, in each case entered into in the ordinary course of business,

(d) set forth in contractual obligations for the disposition of assets (including any Equity Interests in any Subsidiary and including pursuant to any sale and leaseback transactions permitted hereunder) of Parent or any Subsidiary of Parent; provided, such restrictions and conditions apply only to the assets or Subsidiary that is to be sold and cease to apply upon the consummation of such sale,

(e) [reserved], or

(f) (i) set forth in any contractual obligation governing Indebtedness permitted under clauses (a), (e), (m) and (y) of the definition of Permitted Indebtedness and (ii) with respect to cash or other deposits (including escrowed funds) received by Parent or any Subsidiary in the ordinary course of business and assets subject to Liens permitted under clauses (m), (n), (s), (x) and (y) of the definition of "Permitted Lien".

6.17. **Financing Order; Administrative Expense Priority; Payments.** Parent will not, and will not permit any of its Subsidiaries to:

(a) seek, consent to or suffer to exist at any time any modification, stay, vacation or amendment of the Financing Order or any DIP Recognition Order, except for modifications and amendments joined in or agreed to in writing by Agent in its sole discretion,

(b) seek the use of "Cash Collateral" (as defined in the Financing Order) in a manner inconsistent with the terms of the Financing Order or any DIP Recognition Order without the prior written consent of Agent,

(c) suffer to exist at any time a priority for any administrative expense or unsecured claim against any Loan Party (now existing or hereafter arising of any kind or nature whatsoever, including, without limitation, any administrative expenses of the kind specified in Sections 105, 326, 328, 365, 503(b), 506(c), 507(a), 507(b), 546(c), 726, 1113 and 1114 of the Bankruptcy Code) or any other superpriority claim which is equal or superior to the priority of the Lender Group or "Lender Group" (as defined in the Existing Credit Agreement) in respect of the Obligations or Existing Secured Obligations, except for the amounts having a priority over the Obligations to the extent set forth in the definition of Carveout (including with respect to Canadian Borrower and Collateral located in Canada of the other Loan Parties, the Administration Charge) and as otherwise set forth in the Loan Documents and reasonably acceptable to Agent,

(d) directly or indirectly seek, consent or suffer to exist at any time any Lien with priority over the Liens created by the Loan Documents or the Existing Loan Documents on any properties, assets or rights except (x) for Permitted Priority Liens and (y) to the extent set forth in the Financing Order and the Intercreditor Agreement, in respect of the Existing Term Loan Debt and the Term Loan Debt, and

(e) prior to the date on which the Obligations and Existing Secured Obligations have been indefeasibly paid in full in cash, all Letters of Credit have been cash collateralized or returned for cancellation pursuant to this Agreement, and this Agreement has been terminated, pay any administrative expenses, except administrative expenses incurred in the ordinary course of the business of the Loan Parties and in amounts substantially consistent with (and in no event, in excess of what is permitted by the Permitted Variance) the Approved Budget, subject to and in accordance with the Financing Order and any applicable DIP Recognition Order; provided, however notwithstanding the foregoing, the Loan Parties shall be permitted to pay as the same may become due and payable (i) to the extent substantially consistent with the Approved Budget (and in no event, in excess of what is permitted by the Permitted Variance), administrative expenses of the kind specified in Section 503(b) of the Bankruptcy Code incurred in the ordinary course of business and to the extent otherwise authorized under the Financing Order and this Agreement and (ii) compensation and reimbursement of expenses to professionals allowed and payable under Sections 330 and 331 of the Bankruptcy Code to the extent permitted by the Financing Order and, if applicable, the applicable DIP Recognition Order.

6.18. **Restructuring Support Agreement.** Parent will not, and will not permit any of its Subsidiaries to amend, modify or change in any manner that could reasonably be expected to be adverse to the interests of the Agent or Lenders, any term, condition or provision of the Restructuring Support Agreement, or terminate the Restructuring Support Agreement.

6.19. **Applications Under the CCAA and BIA.** Each Loan Party and its Subsidiaries acknowledges that its business and financial relationships with the Lenders are unique from its relationship with any other of its creditors. Each Loan Party and its Subsidiaries agrees that it shall not file any plan of compromise and arrangement under the CCAA or proposal under the *Bankruptcy and Insolvency Act (Canada)* (the "BIA"), or any plan of arrangement under any corporate statute, which provides for, or would permit, directly or indirectly, the Lenders to be classified with any other creditors of such Loan Party and its Subsidiaries for purposes of such plan of compromise and arrangement, proposal, plan or arrangement or otherwise.

6.20. **Term Loan Proceeds Account.** Parent will not, and will not permit any of its Subsidiaries to deposit funds in the Term Loan Proceeds Account unless such funds are direct proceeds of Term Loan Debt funded on or after the Closing Date.

6.21. **Chapter 11 and Other Claims.** Except for the Carveout (including, with respect to the Canadian Borrower and Collateral located in Canada of the other Loan Parties, the Administration Charge) and Permitted Priority Liens and as provided in the Financing Order and (with respect to the Administration Charge, as provided for in the applicable DIP Recognition Order), Parent will not, and will not permit any of its Subsidiaries to, directly or indirectly, incur, create, assume, suffer to exist or permit any administrative expense claim or Lien that is *pari passu* with or senior to the claims or DIP Liens, as the case may be, of the Agent, the Lenders and the Bank Product Providers against the Loan Parties hereunder or under the Financing Order, any DIP Recognition Order, or apply to the Bankruptcy Court or the Canadian Court for authority to do so. Parent will not, and will not permit any of its Subsidiaries to, directly or indirectly, (a) seek, support, consent to or suffer to exist any modification, stay, vacation or

amendment of any Financing Order or DIP Recognition Order except for any modifications and amendments agreed to in writing by the Agent, in its sole discretion, or (b) apply to the Bankruptcy Court or the Canadian Court, as applicable, for authority to take any action prohibited by this Section 6 (except to the extent such application and the taking of such action is conditioned upon receiving the written consent of the Agent, in its sole discretion).

7. FINANCIAL COVENANTS.

Each of Parent and each Borrower covenants and agrees that, after the Closing Date until termination of all of the Commitments and payment in full of the Obligations, Parent and Borrowers will:

(a) Budget Compliance. Except as otherwise provided herein or approved by the Agent (in its sole discretion), the Loan Parties will not, and will not permit any Subsidiary thereof to, directly or indirectly, (i) use any cash, including the proceeds of any Loans, in a manner or for a purpose other than those permitted under this Agreement or contemplated by the Financing Order or the Approved Budget, (ii) permit a disbursement causing any variance from the Approved Budget other than Permitted Variances without the prior written consent of the Agent (in its sole discretion), (iii) make any Pre-Petition Payment or application for authority to make any Pre-Petition Payment, other than those permitted by this Agreement, the Financing Order or the Approved Budget, (iv) make or commit to make payments to critical vendors (other than those critical vendors set forth in the Financing Order or in the Approved Budget, in each case as approved in writing by the Agent in respect of any pre-petition amount in excess of the amount included in the Approved Budget, (v) measured as of the end of each Testing Period, permit the aggregate cumulative amount of actual cash disbursements (in any event excluding disbursements for professional fees and expenses and restructuring expenses) as reported in the Variance Reports delivered with respect to periods ending after the Filing Date through the end of such Testing Period to exceed, by more than the applicable Permitted Variance, the aggregate cumulative corresponding amount forecast in the Approved Budget for the same such period, (vi) measured as of the end of each Testing Period, permit the aggregate cumulative amount of actual cash receipts (which shall exclude, for the avoidance of doubt, proceeds from borrowings hereunder and under the Term Loan Credit Agreement) as reported in the Variance Reports delivered with respect to periods ending after the Closing Date through the end of such Testing Period to be less than, by more than the applicable Permitted Variance, the aggregate cumulative corresponding amount (which shall exclude, for the avoidance of doubt, proceeds from borrowings hereunder and under the Term Loan Credit Agreement) forecast in the Approved Budget for the same such period, and (vii) measured as of the end of each Testing Period, permit the aggregate cumulative amount of actual net cash flow (in any event excluding from the calculation thereof disbursements for professional fees and expenses and restructuring expenses) as reported in the Variance Reports delivered with respect to periods ending after the Filing Date through the end of such Testing Period to exceed, by more than the applicable Permitted Variance, the aggregate cumulative corresponding amount forecast in the Approved Budget for the same such period.

(b) Minimum Excess Availability. Maintain, at all times, Excess Availability of not less than \$5,000,000 (such amount, "Minimum Excess Availability").

8. EVENTS OF DEFAULT.

Any one or more of the following events shall constitute an event of default (each, an “Event of Default”:

8.1. **Payments.** If any Borrower fails to pay when due and payable, or when declared due and payable in accordance with the terms hereof, (a) all or any portion of the Obligations consisting of interest and such failure continues for a period of two Business Days, (b) all or any portion of the Obligations consisting of fees, or charges due the Lender Group, reimbursement of Lender Group Expenses, or other amounts (other than any portion thereof constituting principal) constituting Obligations (including any portion thereof that accrues after the commencement of the Bankruptcy Cases), and such failure continues for a period of three Business Days, (c) all or any portion of the principal of the Loans, or (d) any amount payable to an Issuing Lender in reimbursement of any drawing under a Letter of Credit, or (e) all or any portion of the Existing Secured Obligations as and when due and payable in accordance with the Financing Order and the applicable DIP Recognition Order;

8.2. **Covenants.** If any Loan Party or any of its Subsidiaries:

(a) fails to perform or observe any covenant or other agreement contained in any of (i) Section 5.2 of this Agreement (other than the first sentence thereof), 5.3 (solely if a Loan Party is not in good standing (or equivalent) in its jurisdiction of organization), 5.5, 5.6, 5.7, 5.16, 5.17, 5.19, 5.20, 5.21, 5.22, 5.23 and 5.24 of this Agreement, (ii) Section 6 of this Agreement, (iii) Section 7 of this Agreement, (iv) Section 7(c), (j) or (k) of the US Security Agreement, or (v) Section 7(c), (j) or (k) of the Canadian Security Agreement;

(b) fails to perform or observe any covenant or other agreement contained in any of Sections 5.3 (other than if a Loan Party is not in good standing (or equivalent) in its jurisdiction of organization), 5.8, 5.12 and 5.14 of this Agreement and such failure continues for a period of fifteen (15) days after the earlier of (i) the date on which such failure shall first become known to any officer of any Borrower or (ii) the date on which written notice thereof is given to Administrative Borrower by Agent;

(c) fails to perform or observe any covenant or other agreement contained in Section 5.1 or the first sentence of Section 5.2 of this Agreement and such failure shall continue (x) with respect to Section 5.1, for a period of three days or (y) with respect to the first sentence of Section 5.2, for a period of one day; or

(d) fails to perform or observe any covenant or other agreement contained in this Agreement, or in any of the other Loan Documents, in each case, other than any such covenant or agreement that is the subject of another provision of this Section 8 (in which event such other provision of this Section 8 shall govern), and such failure continues for a period of thirty (30) days after the earlier of (i) the date on which such failure shall first become known to any officer of any Borrower or (ii) the date on which written notice thereof is given to Administrative Borrower by Agent;

8.3. **Judgments.** If, after the Filing Date, (a) one or more judgments, orders, or awards for the payment of money involving an aggregate amount (less the amount covered by

insurance pursuant to which the insurer has not denied coverage) of \$1,000,000 is entered or filed against a Loan Party or any of its Subsidiaries, or with respect to any of their respective assets, and either (i) there is a period of forty-five (45) consecutive days at any time after the entry of any such judgment, order, or award during which (A) the same is not discharged, paid, satisfied, vacated, or bonded pending appeal, or (B) a stay of enforcement thereof is not in effect, or (ii) enforcement proceedings are commenced upon such judgment, order, or award or (b) any Loan Party or any of its Subsidiaries shall fail within forty-five (45) days to discharge one or more non-monetary judgments or orders, which judgments or orders, in any such case, are not stayed on appeal or otherwise being appropriately contested in good faith by proper proceedings diligently pursued so long as such proceedings have the effect of staying the enforcement of such judgment or judgments;

8.4. **[Reserved];**

8.5. **Material Adverse Effect.** There shall have occurred after the Closing Date an event which has resulted in a Material Adverse Effect;

8.6. **Default Under Other Agreements.** If, first arising after the Filing Date, there is (a) an "Event of Default" (as defined in the Term Loan Credit Agreement), (b) a default (after the expiration of any grace periods applicable thereto) in one or more agreements to which a Loan Party or any of its Subsidiaries is a party with one or more third Persons relative to a Loan Party's or any of its Subsidiaries' Indebtedness (other than the Term Loan Debt) involving an aggregate amount of \$1,000,000 or more, and such default (i) occurs at the final maturity of the obligations thereunder, or (ii) results in a right by such third Person, irrespective of whether exercised, to accelerate the maturity of such Loan Party's or its Subsidiary's obligations thereunder where payment and enforcement thereof is not subject to a stay of proceedings in the Bankruptcy Court (provided, that, if such default has been cured, waived or otherwise no longer in existence, the Event of Default resulting from this clause (b) shall be deemed to be cured, waived and no longer in existence), or (c) a default in or an involuntary early termination of one or more Hedge Agreements to which a Loan Party or any of its Subsidiaries is a party which results in net termination payment obligations being owed by the Loan Parties and their respective Subsidiaries an aggregate amount of \$1,000,000 or more at any one time outstanding, other than (i) any default arising prior to the Filing Date, (ii) due to Borrowers' filing, commencement and continuation of the Bankruptcy Cases and the Recognition Proceedings and any litigation arising therefrom, (iii) due to restrictions on payments arising as a result of the Bankruptcy Cases and the Recognition Proceedings or (iv) except with respect to the Term Loan Credit Agreement, where payment or enforcement, acceleration or termination thereof by the holders of such obligations is and remains subject to a stay of proceedings in the Bankruptcy Case. Notwithstanding anything in this Section 8.6 to the contrary, to the extent a payment or covenant "Event of Default" (as defined in the Term Loan Credit Agreement) is waived in accordance with the Term Loan Credit Agreement on or after the Closing Date, any such waiver shall automatically result in a waiver of any Event of Default under Section 8.6 hereof, solely to the extent Agent has not taken any enforcement action in respect of such Event of Default under Section 8.6 hereunder;

8.7. **Representations, etc.** If any warranty, representation, certificate, statement, or Record made herein or in any other Loan Document or delivered in writing to Agent or any

Lender in connection with this Agreement or any other Loan Document proves to be untrue 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) as of the date of issuance or making or deemed making thereof;

8.8. **Guaranty.** If the obligation of any Guarantor under any guaranty of the Obligations is limited or terminated by operation of law or by such Guarantor (other than in accordance with the terms of this Agreement, the US Security Agreement or the Canadian Security Agreement);

8.9. **Security Documents.** If this Agreement or any other Loan Document that purports to create a perfected Lien (except to the extent such Lien cannot be perfected or is otherwise not required to be perfected by the Loan Documents), shall, for any reason, fail or cease to create a valid and perfected and, except to the extent permitted by the terms hereof or thereof, first priority Lien (subject to the Intercreditor Agreement and to Permitted Liens) on or security interest in the Collateral covered hereby or thereby, except (i) as a result of any action by Agent or any Lender or the failure of Agent or any Lender to take any action, in each case, within its control, or (ii) as a result of a disposition of the applicable Collateral in a transaction expressly permitted under the Loan Documents;

8.10. **Loan Documents.** Any material provision of any Loan Document shall at any time for any reason be declared to be null and void, or the validity or enforceability of any provision shall be contested by any Loan Party, or a proceeding shall be commenced by any Loan Party, or by any Governmental Authority having jurisdiction over any Loan Party, seeking to establish the invalidity or unenforceability thereof, or any Loan Party shall deny that it has any liability or obligation purported to be created under any Loan Document;

8.11. **Invalidity of Subordination Provisions.** The subordination provisions of the Intercreditor Agreement or any agreement or instrument governing any subordinated Indebtedness shall for any reason be revoked or invalidated, or otherwise cease to be in full force and effect, in any material respect, or any Loan Party or Sponsor or any of their respective Affiliates shall contest in any manner the validity or enforceability thereof or deny that it has any further liability or obligation thereunder, or the Obligations, for any reason shall not in any material respect have the priority contemplated by this Agreement or such subordination provisions;

8.12. **Change in Control.** A Change in Control shall occur, whether directly or indirectly;

8.13. **ERISA.** The occurrence of any of the following events: (a) any Loan Party or ERISA Affiliate fails to make full payment when due of all amounts which any Loan Party or ERISA Affiliate is required to pay as contributions, installments, or otherwise to or with respect to a Pension Plan or Multiemployer Plan, and such failure could reasonably be expected to result in liability to any Loan Party in excess of \$1,000,000, (b) an accumulated funding deficiency or funding shortfall in excess of \$1,000,000 occurs or exists, whether or not waived, with respect to any Pension Plan, which could reasonably be expected, individually or in the aggregate to any Loan Party, to result in a liability in excess of \$1,000,000, (c) a Notification Event, which could

reasonably be expected to result in liability to a Loan Party in excess of \$1,000,000, either individually or in the aggregate to any Loan Party, (d) any Loan Party or ERISA Affiliate completely or partially withdraws from one or more Multiemployer Plans and as a result of such withdrawal, any Loan Party would reasonably be expected to incur Withdrawal Liability in excess of 1,000,000 in the aggregate, (e) any Loan Party or Subsidiary thereof fails to make full payment when due of all amounts which any Loan Party or Subsidiary thereof is required to pay as contributions, installments, or otherwise to or with respect to a Canadian Pension Plan, and such failure could reasonably be expected to result in liability to any Loan Party in excess of \$1,000,000, or (f) with respect to (x) any Canadian Pension Plan, the occurrence of any Canadian Pension Termination Event or (y) if any trust, deemed trust or Lien has been or may be imposed on a Loan Party or Subsidiary thereof or its property as a result of the occurrence of such event and such trust, deemed trust or Lien, and in each case will or would reasonably be likely to result in a liability to the Loan Parties in excess of \$1,000,000;

8.14. **Participation Put Agreement**. (a) Sponsor or any Sponsor Affiliated Entity fails to perform or observe any covenant or other agreement contained in the Existing Participation Agreement, the Participation Agreement or the Participation Put Agreement (or in any participation agreement (or amendment and restatement or replacement thereof entered into in connection therewith)), (b) [reserved] or (c) any material provision of the Participation Put Agreement (or in any participation agreement (or amendment and restatement or replacement thereof entered into in connection therewith)) shall at any time for any reason be declared to be null and void, or the validity or enforceability of any provision shall be contested by Sponsor or any Sponsor Affiliated Entity, or a proceeding shall be commenced by any such Person, or by any Governmental Authority having jurisdiction over any such Person, seeking to establish the invalidity or unenforceability thereof, or any such Person shall deny that it has any liability or obligation purported to be created under any such agreement; or

8.15. **Consultant**. (a) If the Consultant is terminated or disqualified for any reason and Borrowers have not engaged a replacement Consultant reasonably acceptable to Agent within five (5) Business Days thereafter, (b) the terms of the Consultant's engagement by Borrowers are modified in any material manner not reasonably acceptable to Agent, (c) the Consultant is instructed to cease working, (d) the Consultant's engagement by Borrowers, or any of the responsibilities, authority, powers, or duties of the Consultant, is terminated, suspended, or restricted in any material respect, or (e) the Consultant resigns and Borrowers have not engaged a replacement Consultant reasonably acceptable to the Agent within five (5) Business Days;

8.16. **Bankruptcy Matters**.

(a) (i) The Canadian Interim DIP Recognition Order is not issued within 3 Business Days following the entry of the Interim Financing Order, (ii) the Final Financing Order is not entered within forty (40) days following the Filing Date or (iii) the Canadian Final DIP Recognition Order is not issued within 3 Business Days following the entry of the Final Financing Order;

(b) Any of the Interim Financing Order, the Final Financing Order, the Canadian Interim DIP Recognition Order or the Canadian Final DIP Recognition Order is stayed, revised, revoked, remanded, rescinded, amended, reversed, vacated, or modified by the

Bankruptcy Court without the express prior written consent of the Agent (such consent to be given in its sole discretion);

(c) Any Debtor shall file a pleading seeking to modify or otherwise alter the Interim Financing Order, the Final Financing Order, the Canadian Interim DIP Recognition Order, the Canadian Final DIP Recognition Order, any Loan Document, any Existing Loan Document or any of the transactions contemplated in any of the foregoing without the prior consent of Agent, such consent to be given in its sole discretion;

(d) Without the written consent of the Agent, (i) an order with respect to any of the Bankruptcy Cases shall be entered by the Bankruptcy Court (A) appointing a trustee under Section 1104 of the Bankruptcy Code, or an examiner with enlarged powers relating to the operation of the business of the Loan Parties under Section 1106(b) of the Bankruptcy Code, which appointment shall not have been reversed, stayed or vacated within three days, or (B) terminating or shortening any Debtor's exclusive rights to file and solicit acceptances for a plan of reorganization in the Bankruptcy Cases, or (ii) an order with respect to the Recognition Proceedings shall be entered by the Canadian Court (A) appointing any monitor, trustee, receiver, interim receiver, receiver and manager or other similar Person in any Canadian proceeding under any Insolvency Laws, or an examiner with enlarged powers relating to the operation of the business of the Loan Parties pursuant to applicable Insolvency Laws (other than, for the avoidance of doubt, the appointment of the Information Officer) or (B) terminating or shortening any Debtor's exclusive rights to file and solicit acceptances for a plan of reorganization in the Bankruptcy Cases;

(e) (i) Any Loan Party shall attempt to invalidate, reduce or otherwise impair the liens or security interests of Agent and the Lenders, or otherwise in respect of the Obligations or Existing Secured Obligations, claims or rights against Loan Parties or any of their Subsidiaries or to subject any Collateral to assessment pursuant to Section 105, 506(c), 552 or any other section of the Bankruptcy Code or other applicable Insolvency Laws, (ii) any lien, security interest or Superpriority Claim created by the Loan Documents, the Financing Order or the applicable DIP Recognition Order shall, for any reason, cease to be valid, (iii) any action is commenced by any Loan Party or any of its Subsidiaries which contests the extent, validity, perfection, enforceability or priority of any of the liens and security interests of Agent, Existing Agent, the Lenders or Existing Lenders or in respect of the Existing Secured Obligations or the Obligations (including the Last Out Loans or the Last Out Obligations) created by the Loan Documents, the Existing Credit Agreement, the Existing Loan Documents, the Financing Order or the applicable DIP Recognition Order or (iv) any Loan Party or any Subsidiary of any Loan Party challenges the extent, validity or priority of the Obligations or the Existing Secured Obligations or the application of any payments or collections received by Agent, Lenders, Existing Agent, or Existing Lenders to the Obligations or Existing Secured Obligations as provided for herein or in the Financing Order;

(f) Without the written consent of the Agent, (i) an order with respect to any of the Bankruptcy Cases or the Recognition Proceedings shall be entered by the Bankruptcy Court or the Canadian Court dismissing any of the Bankruptcy Cases or the Recognition Proceedings or converting any of the Bankruptcy Cases (or any case comprising part of any of the Bankruptcy Cases) to a case under chapter 7 of the Bankruptcy Code or the applicable

provisions of other Insolvency Laws, which dismissal or conversion shall not have been reversed, stayed or vacated within 3 days, (ii) any Insolvency Proceeding with respect to the Loan Parties or their Subsidiaries other than the Recognition Proceedings shall be commenced in Canada under applicable Insolvency Laws or (iii) the Loan Parties shall seek or request the entry of any order to effect any of the events described in subclauses (i) and (ii) of this paragraph (f);

(g) An order with respect to any of the Bankruptcy Cases or the Recognition Proceedings shall be entered without the express prior written consent of Agent, (i) to revoke, vacate, reverse, stay, modify, supplement or amend the Existing Credit Agreement, any Loan Document, any Existing Loan Document, the Financing Order, the applicable DIP Recognition Order or the transactions contemplated in any of the foregoing, or (ii) to permit any administrative expense, claim or lien (now existing or hereafter arising, of any kind or nature whatsoever) to have priority equal or superior to the priority of the Agent, Existing Agent, Lenders and Existing Lenders in respect of the Obligations and Existing Secured Obligations;

(h) An order shall be entered by the Bankruptcy Court or the Canadian Court granting relief from the automatic stay in connection with the Bankruptcy Cases and the Recognition Proceedings to any party that affects the Loan Parties' property (including, without limitation, to permit foreclosure or enforcement on the Collateral) with a fair market value in excess of \$500,000 without the written consent of the Agent;

(i) Any plan of reorganization is filed by the Debtors, Sponsor or the Term Loan Lenders that, or an order shall be entered by the Bankruptcy Court or issued by the Canadian Court confirming a reorganization plan in any of the Bankruptcy Cases or the Recognition Proceedings which, does not (i) contain a provision that all Obligations and all Existing Secured Obligations shall be paid in full in a manner satisfactory to the Agent on or before the effective date, or substantial consummation, of such plan (other than in respect of the Last Out Obligations) and (ii) provide for the continuation of the liens and security interests granted to Agent and priorities (subject to the Existing Intercreditor Agreement and Participation Agreement in respect of the Last Out Obligations) until such plan effective date all Obligations and Existing Secured Obligations are paid in full (other than in respect of the Last Out Obligations as set forth above);

(j) Unless otherwise agreed to by Agent, other than with respect to the Term Loan Debt, a motion shall be filed by any Loan Party seeking authority, or an order shall be entered in any of the Bankruptcy Cases or the Recognition Proceedings, that (i) permits any Loan Party or any Subsidiary of any Loan Party to incur indebtedness secured by any claim under Bankruptcy Code Section 364(c)(1) or any corresponding provision under other applicable Insolvency Laws or by a Lien *pari passu* with or superior to the lien granted under the Loan Documents and the Existing Loan Documents and Bankruptcy Code Sections 364(c)(2) (or any corresponding provision under other applicable Insolvency Laws) or (d) unless (A) all of the Obligations and Existing Secured Obligations have been paid in full at the time of the entry of any such order, or (B) the Obligations and the Existing Secured Obligations are paid in full with such indebtedness, or (ii) permits any Loan Party or any Subsidiary of any Loan Party the right to use cash Collateral other than in accordance with the terms of the Financing Order, unless all of the Obligations and Existing Secured Obligations shall have been paid in full;

(k) Subject to the Existing Intercreditor Agreement, any motions in the Bankruptcy Cases or the Recognition Proceedings to sell Collateral (other than Term Loan Priority Collateral) or approve procedures regarding the same, or any orders of the Bankruptcy Court or Canadian Court approving or amending any of the foregoing, are not in form and substance reasonably acceptable to Agent;

(l) Any Loan Party or any Subsidiary of any Loan Party shall fail to maintain sufficient projected borrowing capacity under the Credit Agreement plus cash plus projected cash flow plus undrawn commitments under the Term Loan Credit Agreement to pay all accrued administrative obligations and other administrative claims when due, and sufficient additional borrowing capacity to enable such other unpaid administrative obligations and administrative claims that are required to be paid in full prior to such time that all Obligations and Existing Secured Obligations are paid in full;

(m) Three Business Days after written notice to the Loan Parties of the failure by the Loan Parties to deliver to the Agent any of the documents or other written information required to be delivered pursuant to the Financing Order when due (during which time the Loan Parties may cure) or any such documents or other written information shall contain a misrepresentation of a material fact when made so as to make the written information provided to the Agent and Lenders, taken as a whole, materially misleading;

(n) Except as set forth herein, the failure by the Loan Parties to observe or perform any of the material terms or provisions contained in the Financing Order in any respect adverse to the interests of the Lenders;

(o) The entry of an order of the Bankruptcy Court granting any lien on or security interest in any of the Collateral that is pari passu with or senior to the DIP Liens held by the Agent on or as security interests in the Collateral, the Adequate Protection Liens, the Superpriority Claims or the Liens securing the Existing Obligations, or the Loan Parties and any of their Subsidiaries shall seek or request (or support another party in the filing of) the entry of any such order, other than the Term Loan Debt;

(p) The Loan Parties' creating or permitting to exist any other superpriority claim which is pari passu with or senior to the claims of the Agent and the Lenders, the Adequate Protection Liens, the Superpriority Claims or the Pre-Petition Term Liens, except for the Carveout, the liens securing the Existing Term Loan Debt and the liens securing the Term Loan Debt, and the Permitted Priority Liens;

(q) The Parent or any of its Subsidiaries using the proceeds of the Loans for any item other than in compliance with Section 7(a), other than the Carveout, or makes any Pre-Petition Payment (other than the obligations under the Existing Term Loan Debt as contemplated by the Term Loan Credit Agreement and in accordance with the Approved Budget), in each case except as agreed in writing in advance by the Agent;

(r) Any uninsured judgments are entered with respect to any post-petition liabilities against any of the Loan Parties or any of their respective properties in a combined

aggregate amount in excess of \$200,000 unless stayed, vacated or satisfied for a period of twenty (20) calendar days after entry thereof;

(s) Any Loan Party asserts a right of subrogation or contribution against any other Loan Party prior to the date upon which all Obligations and Existing Secured Obligations have been paid in full and all Commitments have been terminated;

(t) Any Loan Party shall seek to sell any of its assets that are ABL Priority Collateral outside the ordinary course of business, unless (i) the proceeds of such sale are used to indefeasibly pay the Obligations and Existing Secured Obligations in full in cash unless such sale is consented to by the Agent (it being agreed that such consent is deemed to be given with respect to the Proposed Plan as in effect on the date hereof), or (ii) such sale is pursuant to bidding procedures approved by the Agent;

(u) The Parent or any of its Subsidiaries (or any party with the support of any of the Parent or any of its Subsidiaries) shall challenge the validity or enforceability of any of the Loan Documents or the Existing Loan Documents;

(v) Upon the consummation of a sale of all or substantially all of the Loan Parties' assets pursuant to Section 363 of the Bankruptcy Code, unless (i) the proceeds of such sale are applied to the indefeasible payment in full the Obligations and Existing Secured Obligations or otherwise applied in accordance with the DIP Orders or (ii) such sale is consented to by the Agent;

(w) Payment of or granting adequate protection with respect to any Indebtedness that was existing prior to the Filing Date other than as expressly provided in the Financing Order or permitted under the Intercreditor Agreement or as consented to by the Agent; and

(x) The termination of the Restructuring Support Agreement by any part thereto; or

8.17. **Permitted Variance.** Permitted Variances under the Approved Budget are exceeded for any period of time.

9. **RIGHTS AND REMEDIES.**

9.1. **Rights and Remedies.** Notwithstanding the provisions of Section 362 of the Bankruptcy Code, upon the occurrence and during the continuation of an Event of Default and subject to any notice required under the Financing Order or any DIP Recognition Order, the Required Lenders (at their election but without notice of their election and without demand (but with concurrent written notice to Administrative Borrower in the case of clauses (a) and (b) below) may authorize and instruct Agent to do any one or more of the following on behalf of the Lender Group (and Agent, acting upon the instructions of the Required Lenders, shall do the same on behalf of the Lender Group), all of which are authorized by Borrowers:

(a) (i) declare the principal of, and any and all accrued and unpaid interest and fees in respect of, the Loans and all other Obligations (other than the Bank Product Obligations),

whether evidenced by this Agreement or by any of the other Loan Documents to be immediately due and payable, whereupon the same shall become and be immediately due and payable and Borrowers shall be obligated to repay all of such Obligations in full, without presentment, demand, protest, or further notice or other requirements of any kind, all of which are hereby expressly waived by each Borrower, and (ii) direct Borrowers to provide (and Borrowers agree that upon receipt of such notice Borrowers will provide) Letter of Credit Collateralization to Agent to be held as security for Borrowers' reimbursement obligations for drawings that may subsequently occur under issued and outstanding Letters of Credit;

(b) declare the Commitments terminated, whereupon the Commitments shall immediately be terminated together with (i) any obligation of any Revolving Lender to make Revolving Loans, (ii) the obligation of any Swing Lender to make Swing Loans, and (iii) the obligation of any Issuing Lender to issue Letters of Credit;

(c) terminate the Loan Parties' right to use Cash Collateral by written notice thereof to counsel for the Loan Parties, counsel for the Committee (if any), the U.S. Trustee, and the Information Officer, without further notice, application or order of the Bankruptcy Court or the Canadian Court;

(d) subject to the applicable terms, if any, of the Financing Order (which will include, without limitation, a seven (7) Business Day advance written notice period requirement) and the applicable DIP Recognition Order, exercise all other rights and remedies available to Agent or the Lenders under the Loan Documents, under applicable law, or in equity; provided, that, during such seven (7) Business Day period, none of the Agent or Lenders shall be required to provide any Loans or other financial accommodations under this Agreement.

9.2. **Remedies Cumulative.** The rights and remedies of the Lender Group under this Agreement, the other Loan Documents, and all other agreements shall be cumulative. The Lender Group shall have all other rights and remedies not inconsistent herewith as provided under the Code, by law, or in equity. No exercise by the Lender Group of one right or remedy shall be deemed an election, and no waiver by the Lender Group of any Event of Default shall be deemed a continuing waiver. No delay by the Lender Group shall constitute a waiver, election, or acquiescence by it.

10. **WAIVERS; INDEMNIFICATION.**

10.1. **Demand; Protest; etc.** Each Borrower waives demand, protest, notice of protest, notice of default or dishonor, notice of payment and nonpayment, nonpayment at maturity, release, compromise, settlement, extension, or renewal of documents, instruments, chattel paper, and guarantees at any time held by the Lender Group on which any Borrower may in any way be liable.

10.2. **The Lender Group's Liability for Collateral.** Each Borrower hereby agrees that: (a) so long as Agent complies with its obligations, if any, under the Code, the Lender Group shall not in any way or manner be liable or responsible for: (i) the safekeeping of the Collateral, (ii) any loss or damage thereto occurring or arising in any manner or fashion from any cause, (iii) any diminution in the value thereof, or (iv) any act or default of any carrier,

warehouseman, bailee, forwarding agency, or other Person, and (b) all risk of loss, damage, or destruction of the Collateral shall be borne by Borrowers.

10.3. **Indemnification**. Each Borrower shall pay, indemnify, defend, and hold the Agent-Related Persons, the Lender-Related Persons, and each Participant (each, an "Indemnified Person") harmless (to the fullest extent permitted by law) from and against any and all claims, demands, suits, actions, investigations, proceedings, liabilities, fines, costs, penalties, and damages, and all reasonable and documented fees and disbursements of attorneys, experts, or consultants and all other costs and expenses actually incurred in connection therewith or in connection with the enforcement of this indemnification (as and when they are incurred and irrespective of whether suit is brought), at any time asserted against, imposed upon, or incurred by any of them (a) in connection with or as a result of or related to (1) the execution and delivery, advising, structuring, drafting, reviewing, administering or syndicating, or the monitoring of Parent's and its Subsidiaries' compliance with the terms of, the Loan Documents or any Existing Loan Documents (provided that any legal fees incurred in connection therewith shall be limited to the reasonable fees and reasonable out-of-pocket expenses of one primary counsel for all Indemnified Persons (taken as a whole) (and, solely in the case of an actual conflict of interest, one additional counsel as necessary to the affected Indemnified Persons taken as a whole) and to the extent reasonably necessary, one local counsel in each relevant material jurisdiction)), (2) enforcement (including any restructuring or workout with respect hereto and in connection with the Bankruptcy Cases) of this Agreement, any of the other Loan Documents or any Existing Loan Document, or the transactions contemplated hereby or thereby (provided, that the indemnification in this clause (a) shall not extend to (i) any dispute among Indemnified Persons that does not arise out of an act or omission by Borrower or any other Loan Party or Subsidiary thereof (other than any claims against Agent or a Lead Arranger in their capacity as such), or (ii) any claims primarily related to Taxes or any costs attributable to such Tax claims, which shall be governed by Section 16), (b) with respect to any investigation, litigation, or proceeding related to this Agreement, any other Loan Document or any Existing Loan Document, the making of any Loans or issuance of any Letters of Credit hereunder, or the use of the proceeds of the Loans or the Letters of Credit provided hereunder or under the Existing Credit Agreement (irrespective of whether any Indemnified Person or Loan Party is a party thereto), or any act, omission, event, or circumstance in any manner related thereto, and (c) in connection with or arising out of any violation of Environmental Law by Parent or any of its Subsidiaries, any presence or release of Hazardous Materials at, on, under, to or from any assets or properties owned, leased or operated by any Borrower or any of its Subsidiaries, or any Environmental Actions against, Environmental Liabilities of, or Remedial Actions required of, Parent or any of its Subsidiaries, or related in any way to any operations, assets or properties of any Borrower or any of its Subsidiaries (each and all of the foregoing, the "Indemnified Liabilities"). The foregoing notwithstanding, no Borrower shall have any obligation to any Indemnified Person under this Section 10.3 with respect to any (a) material breach of any Indemnified Person of their obligations (or the obligations of such Indemnified Persons' Agent-Related Persons) under the Loan Documents, as finally determined by a court of competent jurisdiction or (b) Indemnified Liability that a court of competent jurisdiction finally determines to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnified Person or its officers, directors, employees, attorneys, or agents. This provision shall survive the termination of this Agreement and the repayment in full of the Obligations. If any Indemnified Person makes any payment to any other Indemnified Person with respect to an

Indemnified Liability as to which Borrowers were required to indemnify the Indemnified Person receiving such payment, the Indemnified Person making such payment is entitled to be indemnified and reimbursed by Borrowers with respect thereto. **WITHOUT LIMITATION, EXCEPT AS SET FORTH ABOVE, THE FOREGOING INDEMNITY SHALL APPLY TO EACH INDEMNIFIED PERSON WITH RESPECT TO INDEMNIFIED LIABILITIES WHICH IN WHOLE OR IN PART ARE CAUSED BY OR ARISE OUT OF ANY NEGLIGENT ACT OR OMISSION OF SUCH INDEMNIFIED PERSON OR OF ANY OTHER PERSON.**

11. NOTICES.

Unless otherwise provided in this Agreement, all notices or demands relating to this Agreement or any other Loan Document shall be in writing and (except for financial statements and other informational documents which may be sent by first-class mail, postage prepaid) shall be personally delivered or sent by registered or certified mail (postage prepaid, return receipt requested), overnight courier, electronic mail (at such email addresses as a party may designate in accordance herewith), or telefacsimile. In the case of notices or demands to Parent, any Borrower or Agent, as the case may be, they shall be sent to the respective address set forth below:

If to Parent or any
Borrower: **HOLLANDER SLEEP PRODUCTS, LLC**
6501 Congress Avenue Suite 300
Boca Raton, Florida 33487
Attn: Stephen Cumbow
Fax No. 561-214-4030

with copies to
(which shall not
constitute notice or
service of process): **SENTINEL CAPITAL PARTNERS, L.L.C.**
330 Madison Avenue, 27th Floor
New York, New York 10017
Attn: Michael Fabian
Fax No. (212) 688-6513

KIRKLAND & ELLIS
601 Lexington Avenue
New York, New York 10022
Attn: Yongjin Im
Fax No. (212) 446-4900

If to Agent: **WELLS FARGO BANK, NATIONAL
ASSOCIATION**
2450 Colorado Avenue, Suite 3000 West
Santa Monica, California 90404
Attn: Account Manager – Hollander
Fax No. (866) 495-9803

with copies to **GOLDBERG KOHN LTD.**
(which shall not 55 East Monroe Street, Suite 3300
constitute notice or Chicago, Illinois 60606
service of process): Attn: Randall L. Klein
Fax No. (312) 863-7474

Any party hereto may change the address at which they are to receive notices hereunder, by notice in writing in the foregoing manner given to the other party. All notices or demands sent in accordance with this Section 11, shall be deemed received on the earlier of the date of actual receipt or three Business Days after the deposit thereof in the mail; provided, that (a) notices sent by overnight courier service shall be deemed to have been given when received, (b) notices 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) and (c) notices by electronic mail shall be deemed received upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return email or other written acknowledgment).

12. CHOICE OF LAW AND VENUE; JURY TRIAL WAIVER; JUDICIAL REFERENCE PROVISION.

(a) **THE VALIDITY OF THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (UNLESS EXPRESSLY PROVIDED TO THE CONTRARY IN ANOTHER LOAN DOCUMENT IN RESPECT OF SUCH OTHER LOAN DOCUMENT), THE CONSTRUCTION, INTERPRETATION, AND ENFORCEMENT HEREOF AND THEREOF, THE RIGHTS OF THE PARTIES HERETO AND THERETO WITH RESPECT TO ALL MATTERS ARISING HEREUNDER OR THEREUNDER OR RELATED HERETO OR THERETO, AND ANY CLAIMS, CONTROVERSIES OR DISPUTES ARISING HEREUNDER OR THEREUNDER OR RELATED HERETO OR THERETO SHALL BE DETERMINED UNDER, GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK AND, TO THE EXTENT APPLICABLE, THE BANKRUPTCY CODE.**

(b) **IF THE BANKRUPTCY COURT ABSTAINS FROM HEARING OR REFUSES TO EXERCISE JURISDICTION OVER ANY OF THE FOLLOWING, THE PARTIES AGREE THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS SHALL BE TRIED AND LITIGATED ONLY IN THE STATE COURTS AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, FEDERAL COURTS LOCATED IN THE COUNTY OF NEW YORK, STATE OF NEW YORK; PROVIDED, THAT ANY SUIT SEEKING ENFORCEMENT AGAINST ANY COLLATERAL OR OTHER PROPERTY MAY BE BROUGHT, AT AGENT'S OPTION, IN THE COURTS OF ANY JURISDICTION WHERE AGENT ELECTS TO BRING SUCH ACTION OR WHERE SUCH COLLATERAL OR OTHER PROPERTY MAY BE FOUND. EACH OF PARENT AND EACH BORROWER AND EACH MEMBER OF THE LENDER GROUP WAIVE, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, ANY RIGHT EACH MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS**

OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS SECTION 12(b).

(c) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EACH OF PARENT AND EACH BORROWER AND EACH MEMBER OF THE LENDER GROUP HEREBY WAIVE THEIR RESPECTIVE RIGHTS, IF ANY, TO A JURY TRIAL OF ANY CLAIM, CONTROVERSY, DISPUTE OR CAUSE OF ACTION DIRECTLY OR INDIRECTLY BASED UPON OR ARISING OUT OF ANY OF THE LOAN DOCUMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED THEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS (EACH A "CLAIM"). EACH OF PARENT AND EACH BORROWER AND EACH MEMBER OF THE LENDER GROUP REPRESENT AND WARRANT THAT EACH HAS REVIEWED THIS WAIVER AND EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. IN THE EVENT OF LITIGATION, A COPY OF THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

(d) THE PARTIES HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF NEW YORK AND THE STATE OF NEW YORK AND THE BANKRUPTCY COURT, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENTS, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT AGENT MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST ANY LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(e) NO CLAIM MAY BE MADE BY ANY LOAN PARTY AGAINST AGENT, ANY SWING LENDER, ANY OTHER LENDER, ANY ISSUING LENDER, OR ANY AFFILIATE, DIRECTOR, OFFICER, EMPLOYEE, COUNSEL, REPRESENTATIVE, AGENT, OR ATTORNEY-IN-FACT OF ANY OF THEM FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OR LOSSES IN RESPECT OF ANY CLAIM FOR BREACH OF CONTRACT OR ANY OTHER THEORY OF LIABILITY ARISING OUT OF OR RELATED TO THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR ANY ACT, OMISSION, OR EVENT OCCURRING IN CONNECTION THEREWITH, AND EACH LOAN PARTY HEREBY WAIVES, RELEASES, AND AGREES NOT TO SUE UPON ANY CLAIM FOR SUCH DAMAGES, WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST IN ITS FAVOR.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION 12, THE BANKRUPTCY COURT SHALL HAVE EXCLUSIVE JURISDICTION OVER ANY ACTION OR DISPUTE INVOLVING, RELATING TO OR ARISING OUT OF THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS.

13. ASSIGNMENTS AND PARTICIPATIONS; SUCCESSORS.

13.1. Assignments and Participations.

(a) (i) Subject to the conditions set forth in clause (a)(ii) below, any Lender may assign and delegate all or any portion of its rights and duties under the Loan Documents (including the Obligations owed to it and its Commitments) to one or more assignees so long as such prospective assignee is an Eligible Transferee (each, an "Assignee"), with the prior written consent (such consent not be unreasonably withheld or delayed) of:

(A) solely to the extent such Assignee is a Specified Competitor, Administrative Borrower; provided, that no such consent of Administrative Borrower shall be required with respect to any such assignment if an Event of Default has occurred and is continuing; and

(B) Agent, Swing Lenders, and Issuing Lenders.

(ii) Assignments shall be subject to the following additional conditions:

(A) no assignment may be made to a natural person;

(B) no assignment may be made to a Loan Party or any of its Subsidiaries, or any Sponsor Affiliated Entity (except with respect to Last Out Loans with the consent of the Agent or upon payment in full of the Obligations (other than the Last Out Loans) as contemplated by the Participation Agreement);

(C) the amount of the Commitments and the other rights and obligations of the assigning Lender hereunder and under the other Loan Documents subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to Agent) shall be in a minimum amount (unless waived by Agent) of \$5,000,000 (or lesser amounts, if agreed by Agent, or otherwise if less, all of such Lender's remaining Commitments and Loans) (except such minimum amount shall not apply to (I) an assignment or delegation by any Lender to any other Lender, an Affiliate of any Lender, or a Related Fund of such Lender or (II) a group of new Lenders, each of which is an Affiliate of each other or a Related Fund of such new Lender to the extent that the aggregate amount to be assigned to all such new Lenders is at least \$5,000,000);

(D) 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;

(E) the parties to each assignment shall execute and deliver to Agent an Assignment and Acceptance; provided, that Borrowers and Agent may continue to deal

solely and directly with the assigning Lender in connection with the interest so assigned to an Assignee until written notice of such assignment, together with payment instructions, addresses, and related information with respect to the Assignee, have been given to Administrative Borrower and Agent by such Lender and the Assignee;

(F) unless waived by Agent, the assigning Lender or Assignee has paid to Agent, for Agent's separate account, a processing fee in the amount of \$3,500; and

(G) the assignee, if it is not a Lender, shall deliver to Agent an Administrative Questionnaire in a form approved by Agent (the "Administrative Questionnaire").

(b) From and after the date that Agent receives the executed Assignment and Acceptance and, if applicable, payment of the required processing fee, (i) the Assignee thereunder shall be a party hereto and, to the extent that rights and obligations hereunder have been assigned to it pursuant to such Assignment and Acceptance, shall be a "Lender" and shall have the rights and obligations of a Lender under the Loan Documents, and (ii) the assigning Lender shall, to the extent that rights and obligations hereunder and under the other Loan Documents have been assigned by it pursuant to such Assignment and Acceptance, relinquish its rights (except with respect to Section 10.3) and be released from any future obligations under this Agreement (and in the case of an Assignment and Acceptance covering all or the remaining portion of an assigning Lender's rights and obligations under this Agreement and the other Loan Documents, such Lender shall cease to be a party hereto and thereto); provided, that nothing contained herein shall release any assigning Lender from obligations that survive the termination of this Agreement, including such assigning Lender's obligations under Section 15 and Section 17.9(a).

(c) By executing and delivering an Assignment and Acceptance, the assigning Lender thereunder and the Assignee thereunder confirm to and agree with each other and the other parties hereto as follows: (i) other than as provided in such Assignment and Acceptance, such assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Agreement or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement or any other Loan Document furnished pursuant hereto, (ii) such assigning Lender makes no representation or warranty and assumes no responsibility with respect to the financial condition of any Loan Party or the performance or observance by any Loan Party of any of its obligations under this Agreement or any other Loan Document furnished pursuant hereto, (iii) such Assignee confirms that it has received a copy of this Agreement, together with such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment and Acceptance, (iv) such Assignee will, independently and without reliance upon Agent, such assigning Lender or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement, (v) such Assignee appoints and authorizes Agent to take such actions and to exercise such powers under this Agreement and the other Loan Documents as are delegated to Agent, by the terms hereof and thereof, together with such powers as are reasonably incidental thereto, and (vi) such

Assignee agrees that it will perform all of the obligations which by the terms of this Agreement are required to be performed by it as a Lender.

(d) Immediately upon Agent's receipt of the required processing fee, if applicable, and delivery of notice to the assigning Lender pursuant to Section 13.1(b), this Agreement shall be deemed to be amended to the extent, but only to the extent, necessary to reflect the addition of the Assignee and the resulting adjustment of the Commitments arising therefrom. The Commitment allocated to each Assignee shall reduce such Commitments of the assigning Lender *pro tanto*.

(e) Any Lender may at any time sell to one or more commercial banks, financial institutions, or other Persons (other than, so long as no Event of Default has occurred, a Specified Competitor) (a "Participant") participating interests in all or any portion of its Obligations, its Commitment, and the other rights and interests of that Lender (the "Originating Lender") hereunder and under the other Loan Documents; provided, that (i) the Originating Lender shall remain a "Lender" for all purposes of this Agreement and the other Loan Documents and the Participant receiving the participating interest in the Obligations, the Commitments, and the other rights and interests of the Originating Lender hereunder shall not constitute a "Lender" hereunder or under the other Loan Documents and the Originating Lender's obligations under this Agreement shall remain unchanged, (ii) the Originating Lender shall remain solely responsible for the performance of such obligations, (iii) Borrowers, Agent, and the Lenders shall continue to deal solely and directly with the Originating Lender in connection with the Originating Lender's rights and obligations under this Agreement and the other Loan Documents, (iv) no Lender shall transfer or grant any participating interest under which the Participant has the right to approve any amendment to, or any consent or waiver with respect to, this Agreement or any other Loan Document, except to the extent such amendment to, or consent or waiver with respect to this Agreement or of any other Loan Document would (A) extend the final maturity date of the Obligations hereunder in which such Participant is participating, (B) reduce the interest rate applicable to the Obligations hereunder in which such Participant is participating, (C) release all or substantially all of the Collateral or guaranties (except to the extent expressly provided herein or in any of the Loan Documents) supporting the Obligations hereunder in which such Participant is participating, (D) postpone the payment of, or reduce the amount of, the interest or fees payable to such Participant through such Lender (other than a waiver of default interest), or (E) decreases the amount or postpones the due dates of scheduled principal repayments or prepayments or premiums payable to such Participant through such Lender (for the avoidance of doubt, mandatory prepayments pursuant to Section 2.4(e) may be postponed, delayed, waived or modified without the consent of a Participant), (v) no participation shall be sold to a natural person, (vi) no participation shall be sold to a Loan Party, an affiliate of a Loan Party or any Sponsor Affiliated Entity, except pursuant to and in accordance with the terms of the Existing Participation Agreement or the Participation Agreement, and (vii) all amounts payable by Borrowers hereunder shall be determined as if such Lender had not sold such participation, except that, if amounts outstanding under this Agreement are due and unpaid, or shall have been declared or shall have become due and payable upon the occurrence of an Event of Default, each Participant shall be deemed to have the right of setoff in respect of its participating interest in amounts owing under this Agreement to the same extent as if the amount of its participating interest were owing directly to it as a Lender under this Agreement; provided, however, each Participant shall be entitled to the benefits of Section 16 as

if it were a Lender provided such Participant delivers the forms and documentation required by Section 16 and otherwise agrees in writing to be subject to Section 16 as if it were a Lender. Subject to the foregoing, sentence, the rights of any Participant only shall be derivative through the Originating Lender with whom such Participant participates and no Participant shall have any rights under this Agreement or the other Loan Documents or any direct rights as to the other Lenders, Agent, Borrowers, the Collateral, or otherwise in respect of the Obligations. No Participant shall have the right to participate directly in the making of decisions by the Lenders among themselves.

(f) In connection with any such assignment or participation or proposed assignment or participation or any grant of a security interest in, or pledge of, its rights under and interest in this Agreement, a Lender may, subject to the provisions of Section 17.9, disclose all documents and information which it now or hereafter may have relating to Parent and its Subsidiaries and their respective businesses.

(g) Any other provision in this Agreement notwithstanding, any Lender may at any time create a security interest in, or pledge, all or any portion of its rights under and interest in this Agreement in favor of any Federal Reserve Bank in accordance with Regulation A of the Federal Reserve Bank or U.S. Treasury Regulation 31 CFR §203.24, and such Federal Reserve Bank may enforce such pledge or security interest in any manner permitted under applicable law.

(h) Agent (as a non-fiduciary agent on behalf of Borrowers) shall maintain, or cause to be maintained, a register (the "Register") on which it enters the name and address of each Lender as the registered owner of the Revolver Commitments (and the principal amount thereof and stated interest thereon) held by such Lender (each, a "Registered Loan"). Other than in connection with an assignment by a Lender of all or any portion of its portion of the Revolver Commitments to an Affiliate of such Lender or a Related Fund of such Lender (i) a Registered Loan (and the registered note, if any, evidencing the same) may be assigned or sold in whole or in part only by registration of such assignment or sale on the Register (and each registered note shall expressly so provide) and (ii) any assignment or sale of all or part of such Registered Loan (and the registered note, if any, evidencing the same) may be effected only by registration of such assignment or sale on the Register, together with the surrender of the registered note, if any, evidencing the same duly endorsed by (or accompanied by a written instrument of assignment or sale duly executed by) the holder of such registered note, whereupon, at the request of the designated assignee(s) or transferee(s), one or more new registered notes in the same aggregate principal amount shall be issued to the designated assignee(s) or transferee(s). Prior to the registration of assignment or sale of any Registered Loan (and the registered note, if any evidencing the same), Borrowers shall treat the Person in whose name such Registered Loan (and the registered note, if any, evidencing the same) is registered as the owner thereof for the purpose of receiving all payments thereon and for all other purposes, notwithstanding notice to the contrary, absent manifest error. In the case of any assignment by a Lender of all or any portion of its Revolver Commitments to an Affiliate of such Lender or a Related Fund of such Lender, and which assignment is not recorded in the Register, the assigning Lender, on behalf of Borrowers, shall maintain a register comparable to the Register. This Section 13.1(h) shall be construed so that the Revolver Commitments are at all times maintained in "registered form" within the meaning of Section 163(f), 165(g), 871(h)(2), 881(c)(2) and 4701 of the IRC.

(i) In the event that a Lender sells participations in the Registered Loan, such Lender, as a non-fiduciary agent on behalf of Borrowers, shall maintain (or cause to be maintained) a register in accordance with Section 5f.103-1(c) of the United States Treasury Regulations on which it enters the name of all participants in the Registered Loans held by it (and the principal amount (and stated interest thereon) of the portion of such Registered Loans that is subject to such participations) (the "Participant Register"). A Registered Loan (and the Registered Note, if any, evidencing the same) may be participated in whole or in part only by registration of such participation on the Participant Register (and each registered note shall expressly so provide). Any participation of such Registered Loan (and the registered note, if any, evidencing the same) may be effected only by the registration of such participation on the Participant Register.

(j) Agent shall make a copy of the Register (and each Lender shall make a copy of its Participant Register to the extent it has one) available for review by Borrowers from time to time as Borrowers may reasonably request.

(k) Notwithstanding anything contained herein to the contrary, no assignment may be made unless after giving effect thereto the Pro Rata Share of the US Revolver Commitments of a Lender and its Affiliates shall equal the Pro Rata Share of the Canadian Revolver Commitments of such Lender and its Affiliates and the Pro Rata Share of the Canadian Revolver Commitments of a Lender and its Affiliates shall equal the Pro Rata Share of the US Revolver Commitments of such Lender and its Affiliates.

(l) Notwithstanding anything to the contrary set forth herein, the participations and assignments contemplated by the Participation Agreement shall be permitted hereunder.

13.2. **Successors.** This Agreement shall bind and inure to the benefit of the respective permitted successors and assigns of each of the parties; provided, that, except to the extent otherwise expressly permitted hereunder, no Borrower may assign this Agreement or any rights or duties hereunder without the Lenders' prior written consent and any prohibited assignment shall be absolutely void ab initio. No consent to assignment by the Lenders shall release any Borrower from its Obligations. A Lender may assign this Agreement and the other Loan Documents and its rights and duties hereunder and thereunder pursuant to Section 13.1 and, except as expressly required pursuant to Section 13.1, no consent or approval by any Loan Party is required in connection with any such assignment.

14. **AMENDMENTS; WAIVERS.**

14.1. **Amendments and Waivers.**

(a) No amendment, waiver or other modification of any provision of this Agreement or any other Loan Document (other than Bank Product Agreements or the Fee Letter), and no consent with respect to any departure by Borrowers therefrom, shall be effective unless the same shall be in writing and signed by the Required Lenders (or by Agent at the written request of the Required Lenders) and the Loan Parties that are party thereto and then any such waiver or consent shall be effective, but only in the specific instance and for the specific

purpose for which given; provided, that no such waiver, amendment, or consent shall, unless in writing and signed by all of the Lenders directly and adversely affected thereby and all of the Loan Parties that are party thereto, do any of the following:

(i) increase the amount of or extend the expiration date of any Commitment of such Lender or amend, modify, or eliminate the last sentence of Section 2.4(c) (it being understood that a waiver of any condition precedent or the waiver of any Default, Event of Default or a waiver of a mandatory prepayment under Section 2.4(e) shall not constitute an extension or increase of any Commitment),

(ii) postpone or delay any date fixed by this Agreement or any other Loan Document for any payment of principal, interest, fees, or other amounts due hereunder or under any other Loan Document (for the avoidance of doubt, mandatory prepayments pursuant to Section 2.4(e) may be postponed, delayed, waived or modified with the consent of Required Lenders) due to such Lender,

(iii) reduce the principal of, or the rate of interest on, any loan or other extension of credit hereunder, or reduce any fees or other amounts payable hereunder or under any other Loan Document other than the Fee Letter due to such Lender (except (i) in connection with the waiver of applicability of Section 2.6(c) and (ii) in connection with the waiver of a mandatory prepayment under Section 2.4(e), which, in each case, shall be effective with the written consent of the Required Lenders),

(iv) amend, modify, or eliminate this Section or any provision of this Agreement providing for consent or other action by all Lenders,

(v) amend, modify, or eliminate the definitions of "Required Lenders" or "Pro Rata Share",

(vi) other than in connection with a transaction expressly permitted by the terms hereof or the other Loan Documents, release or contractually subordinate all or substantially all of the value of the Guarantees or Collateral, or

(vii) amend, modify, or eliminate any of the provisions of Section 2.4(b)(i) or (ii).

(b) No amendment, waiver, modification, or consent shall amend, modify, waive, or eliminate,

(i) the definition of, or any of the terms or provisions of, the Fee Letter, without the written consent of Agent and Borrowers, and shall not require the written consent of any of the Lenders, or

(ii) any provision of Section 15 pertaining to Agent, or any other rights or duties of Agent under this Agreement or the other Loan Documents, without the written consent of Agent, Borrowers, and the Required Lenders.

(c) No amendment, waiver, modification, elimination, or consent shall, without written consent of Agent, Borrowers and each Lender,

(i) amend, modify, or eliminate the definition of US Borrowing Base, Canadian Borrowing Base or any of the defined terms (including the definitions of US Eligible Accounts, Canadian Eligible Accounts, US Eligible Inventory and Canadian Eligible Inventory) that are used in such definition to the extent that any such change results in more credit being made available to Borrowers based upon the US Borrowing Base or Canadian Borrowing Base, but not otherwise, or the definition of US Maximum Revolver Amount or Canadian Maximum Revolver Amount,

(ii) amend, modify, or eliminate Section 3.1 or 3.2 (provided, that a waiver of a Default or Event of Default or an event or circumstance that could give rise to a Default or Event of Default shall not constitute an amendment or modification of Section 3.1 or 3.2), or

(iii) amend, modify, or eliminate the definition of "Initial Approved Budget" or "Approved Budget".

(d) No amendment, waiver, modification, elimination, or consent shall amend, modify, or waive any provision of this Agreement or the other Loan Documents pertaining to an Issuing Lender, or any other rights or duties of an Issuing Lender under this Agreement or the other Loan Documents, without the written consent of the applicable Issuing Lender, Agent, Borrowers, and the Required Lenders,

(e) No amendment, waiver, modification, elimination, or consent shall amend, modify, or waive any provision of this Agreement or the other Loan Documents pertaining to Swing Lender, or any other rights or duties of Swing Lender under this Agreement or the other Loan Documents, without the written consent of Swing Lender, Agent, Borrowers, and the Required Lenders,

(f) Anything in this Section 14.1 to the contrary notwithstanding, (i) any amendment, modification, elimination, waiver, consent, termination, or release of, or with respect to, any provision of this Agreement or any other Loan Document that relates only to the relationship of the Lender Group among themselves, and that does not affect the rights or obligations of Parent or any Borrower, shall not require consent by or the agreement of any Loan Party, and (ii) any amendment, waiver, modification, elimination, or consent of or with respect to any provision of this Agreement or any other Loan Document may be entered into without the consent of, or over the objection of, any Defaulting Lender other than any of the matters governed by Section 14.1(a)(i) through (iii) that affect such Lender, and

(g) The terms of the Existing Participation Agreement, the Participation Agreement and the Participation Put Agreement (unless earlier terminated) and any participation entered into thereunder shall be binding on the successors and assignees of each Lender party thereto.

Notwithstanding anything to the contrary herein, with the consent of Agent at the request of the Administrative Borrower (without the need to obtain any consent of any Lender), any

Loan Document may be amended to cure any obvious error or any error or omission of a technical nature that is jointly identified by Agent and the Administrative Borrower.

14.2. Replacement of Certain Lenders.

(a) If (i) any action to be taken by the Lender Group or Agent hereunder requires the consent, authorization, or agreement of all Lenders or all Lenders affected thereby and if such action has received the consent, authorization, or agreement of the Required Lenders, but not of all Lenders or all Lenders affected thereby, or (ii) any Lender makes a claim for compensation under Section 16, then Borrowers or Agent, upon at least five Business Days prior irrevocable notice (or such shorter period as Agent may agree), may permanently replace any Lender (and its Affiliates) that failed to give its consent, authorization, or agreement (a "Non-Consenting Lender") or any Lender that made a claim for compensation (a "Tax Lender") with one or more Replacement Lenders, and the Non-Consenting Lender (and its Affiliates) or Tax Lender (and its Affiliates), as applicable, shall have no right to refuse to be replaced hereunder. Such notice to replace the Non-Consenting Lender or Tax Lender, as applicable, shall specify an effective date for such replacement, which date shall not be later than fifteen (15) Business Days after the date such notice is given.

(b) Prior to the effective date of such replacement, the Non-Consenting Lender (and its Affiliates) or Tax Lender (and its Affiliates), as applicable, and each Replacement Lender shall execute and deliver an Assignment and Acceptance, subject only to the Non-Consenting Lender (and its Affiliates) or Tax Lender (and its Affiliates), as applicable, being repaid in full its share of the outstanding Obligations (without any premium or penalty of any kind whatsoever, but including (i) all interest, fees and other amounts that may be due in payable in respect thereof, and (ii) an assumption of its Pro Rata Share of participations in the Letters of Credit). If the Non-Consenting Lender (or its Affiliates) or Tax Lender (or its Affiliates), as applicable, shall refuse or fail to execute and deliver any such Assignment and Acceptance prior to the effective date of such replacement, Agent may, but shall not be required to, execute and deliver such Assignment and Acceptance in the name of and on behalf of the Non-Consenting Lender (and its Affiliates) or Tax Lender (and its Affiliates), as applicable, and irrespective of whether Agent executes and delivers such Assignment and Acceptance, the Non-Consenting Lender (and its Affiliates) or Tax Lender (and its Affiliates), as applicable, shall be deemed to have executed and delivered such Assignment and Acceptance. The replacement of any Non-Consenting Lender (or its Affiliates) or Tax Lender (or its Affiliates), as applicable, shall be made in accordance with the terms of Section 13.1. Until such time as one or more Replacement Lenders shall have acquired all of the Obligations, the Commitments, and the other rights and obligations of the Non-Consenting Lender (and its Affiliates) or Tax Lender (and its Affiliates), as applicable, hereunder and under the other Loan Documents, the Non-Consenting Lender (and its Affiliates) or Tax Lender (and its Affiliates), as applicable, shall remain obligated to make the Non-Consenting Lender's (and its Affiliates) or Tax Lender's (and its Affiliates), as applicable, Pro Rata Share of Revolving Loans and to purchase a participation in each Letter of Credit, in an amount equal to its Pro Rata Share of participations in such Letters of Credit.

14.3. No Waivers; Cumulative Remedies. No failure by Agent or any Lender to exercise any right, remedy, or option under this Agreement or any other Loan Document, or

delay by Agent or any Lender in exercising the same, will operate as a waiver thereof. No waiver by Agent or any Lender will be effective unless it is in writing, and then only to the extent specifically stated. No waiver by Agent or any Lender on any occasion shall affect or diminish Agent's and each Lender's rights thereafter to require strict performance by Parent and Borrowers of any provision of this Agreement. Agent's and each Lender's rights under this Agreement and the other Loan Documents will be cumulative and not exclusive of any other right or remedy that Agent or any Lender may have.

15. AGENT; THE LENDER GROUP.

15.1. **Appointment and Authorization of Agent.** Each Lender hereby designates and appoints Wells Fargo as its agent under this Agreement and the other Loan Documents and each Lender hereby irrevocably authorizes (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to designate, appoint, and authorize) Agent to execute and deliver each of the other Loan Documents on its behalf and to take such other action on its behalf under the provisions of this Agreement and each other Loan Document and to exercise such powers and perform such duties as are expressly delegated to Agent by the terms of this Agreement or any other Loan Document, together with such powers as are reasonably incidental thereto. Agent agrees to act as agent for and on behalf of the Lenders (and the Bank Product Providers) on the conditions contained in this Section 15. Any provision to the contrary contained elsewhere in this Agreement or in any other Loan Document notwithstanding, Agent shall not have any duties or responsibilities, except those expressly set forth herein or in the other Loan Documents, nor shall Agent have or be deemed to have any fiduciary relationship with any Lender (or Bank Product Provider), and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against Agent. Without limiting the generality of the foregoing, the use of the term "agent" in this Agreement or the other Loan Documents with reference to Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only a representative relationship between independent contracting parties. Each Lender hereby further authorizes (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to authorize) Agent to act as the secured party under each of the Loan Documents that create a Lien on any item of Collateral. Except as expressly otherwise provided in this Agreement, Agent shall have and may use its sole discretion with respect to exercising or refraining from exercising any discretionary rights or taking or refraining from taking any actions that Agent expressly is entitled to take or assert under or pursuant to this Agreement and the other Loan Documents. Without limiting the generality of the foregoing, or of any other provision of the Loan Documents that provides rights or powers to Agent, Lenders agree that Agent shall have the right to exercise the following powers as long as this Agreement remains in effect: (a) maintain, in accordance with its customary business practices, ledgers and records reflecting the status of the Obligations, the Collateral, payments and proceeds of Collateral, and related matters, (b) execute or file any and all financing or similar statements or notices, amendments, renewals, supplements, documents, instruments, proofs of claim, notices and other written agreements with respect to the Loan Documents, (c) make Revolving Loans, for itself or on behalf of Lenders, as provided in the Loan Documents, (d) exclusively receive, apply, and distribute payments and proceeds of the Collateral as provided in the Loan Documents, (e) open and maintain such bank accounts and

cash management arrangements as Agent deems necessary and appropriate in accordance with the Loan Documents for the foregoing purposes, (f) perform, exercise, and enforce any and all other rights and remedies of the Lender Group with respect to Parent or its Subsidiaries, the Obligations, the Collateral, or otherwise related to any of same as provided in the Loan Documents, and (g) incur and pay such Lender Group Expenses as Agent may deem necessary or appropriate for the performance and fulfillment of its functions and powers pursuant to the Loan Documents.

15.2. **Delegation of Duties.** Agent may execute any of its duties under this Agreement or any other Loan Document by or through agents (including WF Canada), employees or attorneys in fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. Each member of the Lender Group and each Loan Party acknowledges and agrees that any agent appointed by Agent shall be entitled to the rights and benefits of this **Section 15.** Agent shall not be responsible for the negligence or misconduct of any agent or attorney in fact that it selects as long as such selection was made without gross negligence or willful misconduct.

15.3. **Liability of Agent.** None of the Agent-Related Persons shall (a) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby (except for its own gross negligence or willful misconduct), or (b) be responsible in any manner to any of the Lenders (or Bank Product Providers) for any recital, statement, representation or warranty made by Parent or any of its Subsidiaries or Affiliates, or any officer or director thereof, contained in this Agreement or in any other Loan Document, or in any certificate, report, statement or other document referred to or provided for in, or received by Agent under or in connection with, this Agreement or any other Loan Document, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document, or for any failure of Parent or its Subsidiaries or any other party to any Loan Document to perform its obligations hereunder or thereunder. No Agent-Related Person shall be under any obligation to any Lenders (or Bank Product Providers) to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the books and records or properties of Parent or its Subsidiaries.

15.4. **Reliance by Agent.** Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, telefacsimile or other electronic method of transmission, telex or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent, or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to Borrowers or counsel to any Lender), independent accountants and other experts selected by Agent. Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless Agent shall first receive such advice or concurrence of the Lenders as it deems appropriate and until such instructions are received, Agent shall act, or refrain from acting, as it deems advisable. If Agent so requests, it shall first be indemnified to its reasonable satisfaction by the Lenders (and, if it so elects, the Bank Product Providers) against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan

Document in accordance with a request or consent of the Required Lenders and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the Lenders (and Bank Product Providers).

15.5. **Notice of Default or Event of Default.** Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, except with respect to defaults in the payment of principal, interest, fees, and expenses required to be paid to Agent for the account of the Lenders and, except with respect to Events of Default of which Agent has actual knowledge, unless Agent shall have received written notice from a Lender or Administrative Borrower referring to this Agreement, describing such Default or Event of Default, and stating that such notice is a "notice of default." Agent promptly will notify the Lenders of its receipt of any such notice or of any Event of Default of which Agent has actual knowledge. If any Lender obtains actual knowledge of any Event of Default, such Lender promptly shall notify the other Lenders and Agent of such Event of Default. Each Lender shall be solely responsible for giving any notices to its Participants, if any. Subject to Section 15.4, Agent shall take such action with respect to such Default or Event of Default as may be requested by the Required Lenders in accordance with Section 9; provided, that unless and until Agent has received any such request, Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable.

15.6. **Credit Decision.** Each Lender (and Bank Product Provider) acknowledges that none of the Agent-Related Persons has made any representation or warranty to it, and that no act by Agent hereinafter taken, including any review of the affairs of Parent and its Subsidiaries or Affiliates, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender (or Bank Product Provider). Each Lender represents (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to represent) to Agent that it has, independently and without reliance upon any Agent-Related Person and based on such due diligence, documents and information as it has deemed appropriate, made its own appraisal of, and investigation into, the business, prospects, operations, property, financial and other condition and creditworthiness of any Borrower or any other Person party to a Loan Document, and all applicable bank regulatory laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to Borrowers. Each Lender also represents (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to represent) that it will, independently and without reliance upon any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of any Borrower or any other Person party to a Loan Document. Except for notices, reports, and other documents expressly herein required to be furnished to the Lenders by Agent, Agent shall not have any duty or responsibility to provide any Lender (or Bank Product Provider) with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any Borrower or any other Person party to a Loan Document that may come into the possession of any of the Agent-Related Persons. Each Lender acknowledges (and by entering into a Bank Product Agreement, each Bank Product Provider

shall be deemed to acknowledge) that Agent does not have any duty or responsibility, either initially or on a continuing basis (except to the extent, if any, that is expressly specified herein) to provide such Lender (or Bank Product Provider) with any credit or other information with respect to Borrowers, their Affiliates or any of their respective business, legal, financial or other affairs, and irrespective of whether such information came into Agent's or its Affiliates' or representatives' possession before or after the date on which such Lender became a party to this Agreement (or such Bank Product Provider entered into a Bank Product Agreement).

15.7. **Costs and Expenses; Indemnification.** Agent may incur and pay Lender Group Expenses to the extent Agent reasonably deems necessary or appropriate for the performance and fulfillment of its functions, powers, and obligations pursuant to the Loan Documents, including court costs, attorneys' fees and expenses, fees and expenses of financial accountants, advisors, consultants, and appraisers, costs of collection by outside collection agencies, auctioneer fees and expenses, and costs of security guards or insurance premiums paid to maintain the Collateral, whether or not Borrowers are obligated to reimburse Agent or Lenders for such expenses pursuant to this Agreement or otherwise. Agent is authorized and directed to deduct and retain sufficient amounts from payments or proceeds of the Collateral received by Agent to reimburse Agent for such out-of-pocket costs and expenses prior to the distribution of any amounts to Lenders (or Bank Product Providers). In the event Agent is not reimbursed for such costs and expenses by Parent or its Subsidiaries, each Lender hereby agrees that it is and shall be obligated to pay to Agent such Lender's ratable thereof. Whether or not the transactions contemplated hereby are consummated, each of the Lenders, on a ratable basis, shall indemnify and defend the Agent-Related Persons (to the extent not reimbursed by or on behalf of Borrowers and without limiting the obligation of Borrowers to do so) from and against any and all Indemnified Liabilities; provided, that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities resulting solely from such Person's gross negligence or willful misconduct nor shall any Lender be liable for the obligations of any Defaulting Lender in failing to make a Revolving Loan or other extension of credit hereunder. Without limitation of the foregoing, each Lender shall reimburse Agent upon demand for such Lender's ratable share of any costs or out of pocket expenses (including attorneys, accountants, advisors, and consultants fees and expenses) incurred by Agent in connection with the preparation, execution, delivery, administration, modification, amendment, or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement or any other Loan Document to the extent that Agent is not reimbursed for such expenses by or on behalf of Borrowers. The undertaking in this Section shall survive the payment of all Obligations hereunder and the resignation or replacement of Agent.

15.8. **Agents in Individual Capacity.** Wells Fargo and its Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, provide Bank Products to, acquire Equity Interests in, and generally engage in any kind of banking, trust, financial advisory, underwriting, or other business with Parent and its Subsidiaries and Affiliates and any other Person party to any Loan Document as though it were not Agent hereunder, and, in each case, without notice to or consent of the other members of the Lender Group. The other members of the Lender Group acknowledge (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to acknowledge) that, pursuant to such activities, Wells Fargo or its Affiliates may receive information regarding Parent or its Affiliates or any

other Person party to any Loan Documents that is subject to confidentiality obligations in favor of Parent or such other Person and that prohibit the disclosure of such information to the Lenders (or Bank Product Providers), and the Lenders acknowledge (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to acknowledge) that, in such circumstances (and in the absence of a waiver of such confidentiality obligations, which waiver Agent will use its reasonable best efforts to obtain), Agent shall not be under any obligation to provide such information to them. The terms "Lender" and "Lenders" include Wells Fargo in its individual capacity.

15.9. **Successor Agent.** Agent may resign as Agent upon thirty (30) days (ten (10) days if an Event of Default has occurred and is continuing) prior written notice to the Lenders (unless such resignation is made pursuant to Section 9 of the Participation Agreement or such notice or applicable notice period is otherwise waived by the Required Lenders, in which case no such prior notice shall be required) and without any notice to the Bank Product Providers. If Agent resigns under this Agreement, the Required Lenders shall be entitled, appoint a successor Agent for the Lenders (and the Bank Product Providers). If, at the time that Agent's resignation is effective, it is acting as an Issuing Lender or a Swing Lender, such resignation shall also operate to effectuate its resignation as an Issuing Lender or a Swing Lender, as applicable, and it shall automatically be relieved of any further obligation to issue Letters of Credit, or to make Swing Loans. If no successor Agent is appointed prior to the effective date of the resignation of Agent, Agent may appoint, after consulting with the Lenders, a successor Agent. If Agent has materially breached or failed to perform any material provision of this Agreement or of applicable law, the Required Lenders may agree in writing to remove and replace Agent with a successor Agent from among the Lenders. In any such event, upon the acceptance of its appointment as successor Agent hereunder, such successor Agent shall succeed to all the rights, powers, and duties of the retiring Agent and the term "Agent" shall mean such successor Agent and the retiring Agent's appointment, powers, and duties as Agent shall be terminated. After any retiring Agent's resignation hereunder as Agent, the provisions of this Section 15 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement. If no successor Agent has accepted appointment as Agent by the date which is thirty (30) days following a retiring Agent's notice of resignation, the retiring Agent's resignation shall nevertheless thereupon become effective and the Lenders shall perform all of the duties of Agent hereunder until such time, if any, as the Lenders appoint a successor Agent as provided for above.

15.10. **Lender in Individual Capacity.** Any Lender and its respective Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, provide Bank Products to, acquire Equity Interests in and generally engage in any kind of banking, trust, financial advisory, underwriting, or other business with Parent and its Subsidiaries and Affiliates and any other Person party to any Loan Documents as though such Lender were not a Lender hereunder without notice to or consent of the other members of the Lender Group (or the Bank Product Providers). The other members of the Lender Group acknowledge (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to acknowledge) that, pursuant to such activities, such Lender and its respective Affiliates may receive information regarding Parent or its Affiliates or any other Person party to any Loan Documents that is subject to confidentiality obligations in favor of Parent or such other Person and that prohibit the disclosure of such information to the Lenders, and the Lenders acknowledge (and by entering

into a Bank Product Agreement, each Bank Product Provider shall be deemed to acknowledge) that, in such circumstances (and in the absence of a waiver of such confidentiality obligations, which waiver such Lender will use its reasonable best efforts to obtain), such Lender shall not be under any obligation to provide such information to them.

15.11. **Collateral Matters.**

(a) The Lenders hereby irrevocably authorize (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to authorize) Agent to release any Lien on any Collateral (i) upon the termination of the Commitments and payment and satisfaction in full by Borrowers of all of the Obligations, (ii) constituting property being sold or disposed of if a release is required or desirable in connection therewith and if Borrowers certify to Agent that the sale or disposition is permitted under Section 6.4 (and Agent may rely conclusively on any such certificate, without further inquiry), (iii) constituting property in which neither Parent or its Subsidiaries owned any interest at the time Agent's Lien was granted nor at any time thereafter, (iv) constituting property leased or licensed to Parent or its Subsidiaries under a lease or license that has expired or is terminated in a transaction permitted under this Agreement, or (v) in connection with a credit bid or purchase authorized under this Section 15.11. Notwithstanding anything to the contrary in the foregoing, to the extent property is sold or disposed of pursuant to and in accordance with Section 6.4 to a Person that is not a Loan Party (or required to become a Loan Party), Agent's Lien on such sold or disposed of Collateral shall automatically terminate. The Loan Parties and the Lenders hereby irrevocably authorize (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to authorize) Agent, based upon the instruction of the Required Lenders, to (a) consent to, credit bid or purchase (either directly or indirectly through one or more entities) all or any portion of the Collateral at any sale thereof conducted under the provisions of the Bankruptcy Code, including Section 363 of the Bankruptcy Code and any similar laws in any other jurisdictions in which a Loan Party is subject, (b) credit bid or purchase (either directly or indirectly through one or more entities) all or any portion of the Collateral at any sale or other disposition thereof conducted under the provisions of the Code, including pursuant to Sections 9-610 or 9-620 of the Code or the PPSA, or (c) credit bid or purchase (either directly or indirectly through one or more entities) all or any portion of the Collateral at any other sale or foreclosure conducted or consented to by Agent in accordance with applicable law in any judicial action or proceeding or by the exercise of any legal or equitable remedy. In connection with any such credit bid or purchase, (i) the Obligations owed to the Lenders and the Bank Product Providers shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims being estimated for such purpose if the fixing or liquidation thereof would not impair or unduly delay the ability of Agent to credit bid or purchase at such sale or other disposition of the Collateral and, if such contingent or unliquidated claims cannot be estimated without impairing or unduly delaying the ability of Agent to credit bid at such sale or other disposition, then such claims shall be disregarded, not credit bid, and not entitled to any interest in the Collateral that is the subject of such credit bid or purchase) and the Lenders and the Bank Product Providers whose Obligations are credit bid shall be entitled to receive interests (ratably based upon the proportion of their Obligations credit bid in relation to the aggregate amount of Obligations so credit bid) in the Collateral that is the subject of such credit bid or purchase (or in the Equity Interests of the any entities that are used to consummate such credit bid or purchase), and (ii) Agent, based upon the instruction of the Required Lenders, may accept non-cash

consideration, including debt and equity securities issued by any entities used to consummate such credit bid or purchase and in connection therewith Agent may reduce the Obligations owed to the Lenders and the Bank Product Providers (ratably based upon the proportion of their Obligations credit bid in relation to the aggregate amount of Obligations so credit bid) based upon the value of such non-cash consideration; provided, that Bank Product Obligations not entitled to the application set forth in Section 2.4(b)(ii)(A)(10) or Section 2.4(b)(ii)(B)(10) shall not be entitled to be, and shall not be, credit bid, or used in the calculation of the ratable interest of the Lenders and Bank Product Providers in the Obligations which are credit bid. Except as provided above, Agent will not execute and deliver a release of any Lien on any Collateral without the prior written authorization of (y) if the release is of all or substantially all of the Collateral, all of the Lenders (without requiring the authorization of the Bank Product Providers), or (z) otherwise, the Required Lenders (without requiring the authorization of the Bank Product Providers). Upon request by Agent or Borrowers at any time, the Lenders will (and if so requested, the Bank Product Providers will) confirm in writing Agent's authority to release any such Liens on particular types or items of Collateral pursuant to this Section 15.11; provided, that (1) anything to the contrary contained in any of the Loan Documents notwithstanding, Agent shall not be required to execute any document or take any action necessary to evidence such release on terms that, in Agent's opinion, could expose Agent to liability or create any obligation or entail any consequence other than the release of such Lien without recourse, representation, or warranty, and (2) such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those expressly released) upon (or obligations of Borrowers in respect of) any and all interests retained by any Borrower, including, the proceeds of any sale, all of which shall continue to constitute part of the Collateral.

(b) Agent shall have no obligation whatsoever to any of the Lenders (or the Bank Product Providers) (i) to verify or assure that the Collateral exists or is owned by Parent or its Subsidiaries or is cared for, protected, or insured or has been encumbered, (ii) to verify or assure that Agent's Liens have been properly or sufficiently or lawfully created, perfected, protected, or enforced or are entitled to any particular priority, (iii) to verify or assure that any particular items of Collateral meet the eligibility criteria applicable in respect thereof, (iv) to impose, maintain, increase, reduce, implement, or eliminate any particular reserve hereunder or to determine whether the amount of any reserve is appropriate or not, or (v) to exercise at all or in any particular manner or under any duty of care, disclosure or fidelity, or to continue exercising, any of the rights, authorities and powers granted or available to Agent pursuant to any of the Loan Documents, it being understood and agreed that in respect of the Collateral, or any act, omission, or event related thereto, subject to the terms and conditions contained herein, Agent may act in any manner it may deem appropriate, in its sole discretion given Agent's own interest in the Collateral in its capacity as one of the Lenders and that Agent shall not have any other duty or liability whatsoever to any Lender (or Bank Product Provider) as to any of the foregoing, except as otherwise expressly provided herein.

(c) Wells Fargo maintains internal policies and procedures, standards and/or other documentation that address requirements placed on federally-regulated lenders under Flood Laws. Agent will post on the Platform documents that it receives in connection with the Flood Laws. However, Agent reminds each Lender that, pursuant to the Flood Laws, each federally regulated lender is responsible for assuring its own compliance with the flood insurance requirements.

15.12. **Restrictions on Actions by Lenders; Sharing of Payments.**

(a) Each of the Lenders agrees that it shall not, without the express written consent of Agent, set off against the Obligations, any amounts owing by such Lender to Parent or its Subsidiaries or any deposit accounts of Parent or its Subsidiaries now or hereafter maintained with such Lender. Each of the Lenders further agrees that it shall not, unless specifically requested to do so in writing by Agent, take or cause to be taken any action, including, the commencement of any legal or equitable proceedings to enforce any Loan Document against any Borrower or any Guarantor or to foreclose any Lien on, or otherwise enforce any security interest in, any of the Collateral.

(b) If, at any time or times any Lender shall receive (i) by payment, foreclosure, setoff, or otherwise, any proceeds of Collateral or any payments with respect to the Obligations, except for any such proceeds or payments received by such Lender from Agent pursuant to the terms of this Agreement, or (ii) payments from Agent in excess of such Lender's Pro Rata Share of all such distributions by Agent, such Lender promptly shall (A) turn the same over to Agent, in kind, and with such endorsements as may be required to negotiate the same to Agent, or in immediately available funds, as applicable, for the account of all of the Lenders and for application to the Obligations in accordance with the applicable provisions of this Agreement, or (B) purchase, without recourse or warranty, an undivided interest and participation in the Obligations owed to the other Lenders so that such excess payment received shall be applied ratably as among the Lenders in accordance with their Pro Rata Shares; provided, that to the extent that such excess payment received by the purchasing party is thereafter recovered from it, those purchases of participations shall be rescinded in whole or in part, as applicable, and the applicable portion of the purchase price paid therefor shall be returned to such purchasing party, but without interest except to the extent that such purchasing party is required to pay interest in connection with the recovery of the excess payment.

15.13. **Agency for Perfection.** Agent hereby appoints each other Lender (and each Bank Product Provider) as its agent (and each Lender hereby accepts (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to accept) such appointment) for the purpose of perfecting Agent's Liens in assets which, in accordance with Article 8 or Article 9, as applicable, of the Code or the applicable provisions of the PPSA or the STA can be perfected by possession or control. Should any Lender obtain possession or control of any such Collateral, such Lender shall notify Agent thereof, and, promptly upon Agent's request therefor shall deliver possession or control of such Collateral to Agent or in accordance with Agent's instructions.

15.14. **Payments by Agent to the Lenders.** All payments to be made by Agent to the Lenders (or Bank Product Providers) shall be made by bank wire transfer of immediately available funds pursuant to such wire transfer instructions as each party may designate for itself by written notice to Agent. Concurrently with each such payment, Agent shall identify whether such payment (or any portion thereof) represents principal, premium, fees, or interest of the Obligations.

15.15. **Concerning the Collateral and Related Loan Documents.** Each member of the Lender Group authorizes and directs Agent to enter into this Agreement and the other Loan

Documents. Each member of the Lender Group agrees (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to agree) that any action taken by Agent in accordance with the terms of this Agreement or the other Loan Documents relating to the Collateral and the exercise by Agent of its powers set forth therein or herein, together with such other powers that are reasonably incidental thereto, shall be binding upon all of the Lenders (and such Bank Product Provider).

15.16. **Field Examination Reports; Confidentiality; Disclaimers by Lenders; Other Reports and Information.** By becoming a party to this Agreement, each Lender:

(a) is deemed to have requested that Agent furnish such Lender, promptly after it becomes available, a copy of each field examination report respecting Parent or its Subsidiaries (each, a "Report") prepared by or at the request of Agent, and Agent shall so furnish each Lender with such Reports,

(b) expressly agrees and acknowledges that Agent does not (i) make any representation or warranty as to the accuracy of any Report, and (ii) shall not be liable for any information contained in any Report,

(c) expressly agrees and acknowledges that the Reports are not comprehensive audits or examinations, that Agent or other party performing any field examination will inspect only specific information regarding Parent and its Subsidiaries and will rely significantly upon Parent's and its Subsidiaries' books and records, as well as on representations of Borrowers' personnel,

(d) agrees to keep all Reports and other material, non-public information regarding Parent and its Subsidiaries and their operations, assets, and existing and contemplated business plans in a confidential manner in accordance with Section 17.9, and

(e) without limiting the generality of any other indemnification provision contained in this Agreement, agrees: (i) to hold Agent and any other Lender preparing a Report harmless from any action the indemnifying Lender may take or fail to take or any conclusion the indemnifying Lender may reach or draw from any Report in connection with any loans or other credit accommodations that the indemnifying Lender has made or may make to Borrowers, or the indemnifying Lender's participation in, or the indemnifying Lender's purchase of, a loan or loans of Borrowers, and (ii) to pay and protect, and indemnify, defend and hold Agent, and any such other Lender preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including, documented or invoiced out-of-pocket attorneys' fees and costs) incurred by Agent and any such other Lender preparing a Report as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender.

In addition to the foregoing, (x) any Lender may from time to time request of Agent in writing that Agent provide to such Lender a copy of any report or document provided by Parent or its Subsidiaries to Agent that has not been contemporaneously provided by Parent or such Subsidiary to such Lender, and, upon receipt of such request, Agent promptly shall provide a copy of same to such Lender, (y) to the extent that Agent is entitled, under any provision of the

Loan Documents, to request additional reports or information from Parent or its Subsidiaries, any Lender may, from time to time, reasonably request Agent to exercise such right as specified in such Lender's notice to Agent, whereupon Agent promptly shall request of Borrowers the additional reports or information reasonably specified by such Lender, and, upon receipt thereof from Parent or such Subsidiary, Agent promptly shall provide a copy of same to such Lender, and (z) any time that Agent renders to Borrowers a statement regarding the Loan Account, Agent shall send a copy of such statement to each Lender.

15.17. **Several Obligations; No Liability.** Notwithstanding that certain of the Loan Documents now or hereafter may have been or will be executed only by or in favor of Agent in its capacity as such, and not by or in favor of the Lenders, any and all obligations on the part of Agent (if any) to make any credit available hereunder shall constitute the several (and not joint) obligations of the respective Lenders on a ratable basis, according to their respective Commitments, to make an amount of such credit not to exceed, in principal amount, at any one time outstanding, the amount of their respective Commitments. Nothing contained herein shall confer upon any Lender any interest in, or subject any Lender to any liability for, or in respect of, the business, assets, profits, losses, or liabilities of any other Lender. Each Lender shall be solely responsible for notifying its Participants of any matters relating to the Loan Documents to the extent any such notice may be required, and no Lender shall have any obligation, duty, or liability to any Participant of any other Lender. Except as provided in Section 15.7, no member of the Lender Group shall have any liability for the acts of any other member of the Lender Group. No Lender shall be responsible to any Borrower or any other Person for any failure by any other Lender (or Bank Product Provider) to fulfill its obligations to make credit available hereunder, nor to advance for such Lender (or Bank Product Provider) or on its behalf, nor to take any other action on behalf of such Lender (or Bank Product Provider) hereunder or in connection with the financing contemplated herein.

15.18. **Sole Lead Arranger and Sole Book Runners.** Each of the Sole Lead Arranger and Sole Book Runner, in such capacities, shall not have any right, power, obligation, liability, responsibility, or duty under this Agreement other than those applicable to it in its capacity as a Lender, as Agent, as a Swing Lender, or as an Issuing Lender. Without limiting the foregoing, each of the Sole Lead Arranger and Sole Book Runner, in such capacities, shall not have or be deemed to have any fiduciary relationship with any Lender or any Loan Party. Each Lender, Agent, Swing Lender, Issuing Lender, and each Loan Party acknowledges that it has not relied, and will not rely, on the Sole Lead Arranger and Sole Book Runner in deciding to enter into this Agreement or in taking or not taking action hereunder. Each of the Sole Lead Arranger and Sole Book Runner, in such capacities, shall be entitled to resign at any time by giving notice to Agent and Borrowers.

15.19. **Appointment for the Province of Quebec.** Without prejudice to Section 15.1 above, each member of the Lender Group hereby appoints and by entering into a Bank Product Agreement each of the Bank Product Providers shall be deemed to appoint the Agent as hypothecary representative of the Lender Group and the Bank Product Providers as contemplated under Article 2692 of the Civil Code of Quebec (in such capacity, the "Hypothecary Representative"), to enter into, to take and to hold on their behalf, and for their benefit, any deed of hypothec ("Deed of Hypothec") executed or to be executed by any of the Borrowers or Guarantors granting a hypothec pursuant to the laws of the Province of Quebec

(Canada), as security for, inter alia, the Obligations (or any portion thereof) and to exercise such powers and duties which are conferred thereupon under such deed. The Hypothecary Representative shall (A) have the sole and exclusive right and authority to exercise, except as may be otherwise specifically restricted by the terms hereof, all rights and remedies given to the Agent, as Hypothecary Representative, with respect to the property or assets charged under any Deed of Hypothec under any other applicable law or otherwise, and (B) benefit from and be subject to all provisions hereof with respect to Agent *mutatis mutandis*, including, without limitation, all such provisions with respect to the liability or responsibility to and indemnification by the Lender Group and the Bank Product Providers, the Borrowers or the Guarantors. The execution prior to the date hereof by the Agent, as Hypothecary Representative of any Deed of Hypothec made pursuant to the laws of the Province of Quebec (Canada) is hereby ratified and confirmed. The appointment of the Agent as Hypothecary Representative shall be deemed to have been ratified and confirmed by each Person accepting an assignment of, a participation in or an arrangement in respect of, all or any portion of any of the Lender Group's or the Bank Product Providers' rights and obligations under this Agreement by the execution of an assignment, including an Assignment and Acceptance Agreement or other agreement pursuant to which it becomes such assignee or participant, and by each successor Agent by the execution of an assignment agreement or other agreement, or by the compliance with other formalities, as the case may be, pursuant to which it becomes a successor Agent hereunder. Each successor Agent appointed pursuant to the terms of this Agreement shall, automatically and without any further action or formality, become the successor Hypothecary Representative under each Deed of Hypothec (subject only to the registration of a notice of replacement in accordance with 2692 of the Civil Code of Quebec prior to exercising the rights relating to any Deed of Hypothec).

16. WITHHOLDING TAXES.

16.1. **Payments.** All payments under the Loan Documents by or on account of any obligation of any Loan Party will be made free and clear of, and without deduction or withholding for, any present or future Taxes, except as required by applicable law. If any Taxes are required to be deducted or withheld from any payment by or on account of any obligation of any Loan Party under the Loan Documents, the applicable Loan Party shall deduct, withhold or pay (as the case may be) the full amount of such Taxes to the relevant Governmental Authority and, if such taxes are Indemnified Taxes, the amount payable by the Loan Parties shall be increased as is necessary so that after withholding or deduction for or on account of such Indemnified Taxes, the amount received by the Lender, Agent, or other applicable recipient will not be less than the amount the applicable Lender, Agent, or other recipient would have received had no such withholding or deduction in respect of Indemnified Taxes been made. Borrowers will furnish to Agent promptly after the date the payment of any Tax is due pursuant to applicable law, certified copies of tax returns and receipts (or such other similar documents as may be available) evidencing such payment by Borrowers, or other evidence of payment reasonably satisfactory to Agent. Each Borrower agrees to pay any present or future stamp, value added, court or documentary, intangible, recording, filing or similar taxes or any other excise or property taxes, charges, or similar levies, other than Excluded Taxes ("Other Taxes") that arise from any payment made hereunder or from the execution, delivery, performance, recordation, registration, from the receipt or perfection of a security interest under, or filing of, or otherwise with respect to this Agreement or any other Loan Document within ten (10) days after receipt of demand therefor. The Loan Parties shall jointly and severally indemnify each

Indemnified Person (as defined in Section 10.3) (collectively a "Tax Indemnitee") for the full amount of Indemnified Taxes or Other Taxes arising in connection with this Agreement or any other Loan Document (including, without limitation, any Indemnified Taxes or Other Taxes imposed or asserted on, or attributable to, amounts payable under this Section 16) imposed on, or paid by, or required to be withheld on payments to, such Tax Indemnitee and all reasonable and documented out-of-pocket fees and disbursements of attorneys, experts or consultants, and all other reasonable costs and expenses actually incurred in connection therewith or in connection with the enforcement of this indemnification, as and when they are incurred and irrespective of whether suit is brought, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to a Borrower by a Lender (with a copy to Agent), or by Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error. The obligations of the Borrowers and Loan Parties under this Section 16 shall survive the termination of this Agreement and the repayment of the Loans.

16.2. **Exemptions.**

(a) Each Lender and Agent agrees to deliver to Agent and Borrowers and each Participant agrees to deliver to the Originating Lender, two original copies of the following forms, as applicable, before receiving its first payment under this Agreement, but only if such Lender, Participant or Agent is legally able to deliver such forms:

(i) if such Lender or Participant or Agent is a Foreign Lender entitled to claim an exemption from United States withholding tax pursuant to the portfolio interest exception, (A) a statement of the Lender or Participant or Agent, signed under penalty of perjury, that it is not a (I) a "bank" as described in Section 881(c)(3)(A) of the IRC, (II) a 10% shareholder of any Borrower (within the meaning of Section 871(h)(3)(B) of the IRC), or (III) a controlled foreign corporation related to any Borrower within the meaning of Section 864(d)(4) of the IRC, and (B) a properly completed and executed IRS Form W-8BEN, IRS Form W-8BEN-E or Form W-8IMY (with proper attachments);

(ii) if such Lender or Participant or Agent is a Foreign Lender entitled to claim an exemption from, or a reduction of, withholding tax under a United States tax treaty, a properly completed and executed copy of IRS Form W-8BEN or IRS Form W-8BEN-E;

(iii) if such Lender or Participant or Agent is a Foreign Lender entitled to claim that interest paid under this Agreement is exempt from United States withholding tax because it is effectively connected with a United States trade or business of such Lender, a properly completed and executed copy of IRS Form W-8ECI;

(iv) if such Lender or Participant or Agent is a Foreign Lender entitled to claim that interest paid under this Agreement is exempt from United States withholding tax because such Lender or Participant or Agent serves as an intermediary, a properly completed and executed copy of IRS Form W-8IMY (with proper attachments); or

(v) if such Lender or Participant or Agent is a U.S. Person, a properly completed and executed copy of any other form or forms, including IRS Form W-9, as may be

required under the IRC or other laws of the United States as a condition to exemption from, or reduction of, United States withholding or backup withholding tax.

(b) Each Lender or Participant or Agent shall provide new forms (or successor forms) upon the expiration or obsolescence of any previously delivered forms, or if any such form becomes inaccurate in any respect, and to promptly notify Agent and Borrowers, or the Originating Lender in the case of a Participant, of any change in circumstances which would modify or render invalid any claimed exemption or reduction.

(c) If a Lender or Participant or Agent is entitled to claim an exemption or reduction from withholding tax in a jurisdiction other than the United States, such Lender or such Agent agrees with and in favor of Agent and Borrowers or the Participant agrees with and in favor of the Originating Lender, to deliver to Agent and Borrowers, or the Originating Lender in the case of a Participant, any such form or forms, as may be required under the laws of such jurisdiction as a condition to exemption from, or reduction of, foreign withholding or backup withholding tax before receiving its first payment under this Agreement (including, for the avoidance of doubt, to the extent required, Canada Revenue Agency Forms NR-301, NR-302 or NR-303, as applicable), but only if such Lender or such Participant or such Agent is legally able to deliver such forms, provided, that nothing in this Section 16.2 shall require a Lender or Participant or Agent to disclose any information that it deems to be confidential (including without limitation, its tax returns). Each Lender and each Participant and each Agent shall provide new forms (or successor forms) upon the expiration or obsolescence of any previously delivered forms and to promptly notify Agent and Borrowers, or the Originating Lender in the case of a Participant, of any change in circumstances which would modify or render invalid any claimed exemption or reduction.

(d) If a Lender or Participant claims exemption from, or reduction of, withholding tax and such Lender or Participant sells, assigns, grants a participation in, or otherwise transfers all or part of the Obligations of Borrowers to such Lender or Participant, such Lender or Participant agrees to notify Agent and Borrowers (or, in the case of a sale of a participation interest, to the Lender granting the participation) of the percentage amount in which it is no longer the beneficial owner of Obligations of Borrowers to such Lender or Participant. To the extent of such percentage amount, Agent and Borrowers will treat such Lender's or the Originating Lender will treat such Participant's documentation provided pursuant to Section 16.2(a), 16.2(c) or 16.2(e) as no longer valid. With respect to such percentage amount, such Participant or Assignee shall provide new documentation to Agent and Borrowers, or the Originating Lender in the case of a Participant, pursuant to Section 16.2(a), 16.2(c) or 16.2(e), if applicable. Borrowers agree that each Participant shall be entitled to the benefits of this Section 16 with respect to its participation in any portion of the Commitments and the Obligations so long as such Participant complies with the obligations set forth in this Section 16 with respect thereto.

(e) If a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding tax imposed by FATCA if such Lender were to fail to comply with the applicable due diligence and reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the IRC, as applicable), such Lender shall deliver to Agent (or, in the case of a Participant, to the Lender granting the participation only) at the time

or times prescribed by law and at such time or times reasonably requested by Agent (or, in the case of a Participant, the Lender granting the participation) such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the IRC) and such additional documentation reasonably requested by Agent (or, in the case of a Participant, the Lender granting the participation) as may be necessary for Agent or Borrowers to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (e), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

16.3. **Reductions.**

(a) If a Lender or a Participant is entitled to a reduction in the applicable withholding tax, Agent (or, in the case of a Participant, the Lender granting the participation) or the Borrowers may withhold from any payment to such Lender or such Participant an amount equivalent to the applicable withholding tax after taking into account such reduction. If the forms or other documentation required by Section 16.2(a), 16.2(c) or 16.2(e) are not delivered to Agent (or, in the case of a Participant, to the Lender granting the participation), then Agent (or, in the case of a Participant, the Lender granting the participation) or the Borrowers may withhold from any payment to such Lender or such Participant not providing such forms or other documentation an amount equivalent to the applicable withholding tax or required by applicable law.

(b) If the IRS or any other Governmental Authority of the United States or other jurisdiction asserts a claim that Agent (or, in the case of a Participant, to the Lender granting the participation) did not properly withhold tax from amounts paid to or for the account of any Lender or any Participant due to a failure on the part of the Lender or any Participant (because the appropriate form was not delivered, was not properly executed, or because such Lender failed to notify Agent (or such Participant failed to notify the Lender granting the participation) of a change in circumstances which rendered the exemption from, or reduction of, withholding tax ineffective, or for any other reason) such Lender shall indemnify and hold Agent harmless (or, in the case of a Participant, such Participant shall indemnify and hold Agent and the Lender granting the participation harmless) for all amounts paid, directly or indirectly, by Agent (or, in the case of a Participant, to the Lender granting the participation), as tax or otherwise, including penalties and interest, and including any taxes imposed by any jurisdiction on the amounts payable to Agent (or, in the case of a Participant, to the Lender granting the participation only) under this Section 16, together with all costs and expenses (including attorneys' fees and expenses). The obligation of the Lenders and the Participants under this subsection shall survive the payment of all Obligations and the resignation or replacement of Agent.

16.4. **Refunds.** If Agent or a Lender or Participant determines, in its sole discretion, that it has received a refund of any Indemnified Taxes with respect to which Borrowers have paid additional amounts pursuant to this Section 16, so long as no Default or Event of Default has occurred and is continuing, it shall pay over such refund to Borrowers (but only to the extent of payments made, or additional amounts paid, by Borrowers under this Section 16 with respect to Indemnified Taxes giving rise to such a refund), net of all out-of-

pocket expenses (including Taxes) of Agent or such Lender or such Participant and without interest (other than any interest paid by the applicable Governmental Authority with respect to such a refund); provided, that Borrowers, upon the request of Agent or such Lender or such Participant, agrees to repay the amount paid over to Borrowers (plus any penalties, interest or other charges, imposed by the applicable Governmental Authority, other than such penalties, interest or other charges imposed as a result of the willful misconduct, bad faith or gross negligence of Agent or such Lender or such Participant hereunder) to Agent or such Lender or such Participant in the event Agent or such Lender or such Participant is required to repay such refund to such Governmental Authority. Notwithstanding anything in this Agreement to the contrary, this Section 16 shall not be construed to require Agent or any Lender or any Participant to make available its tax returns (or any other confidential information) to any Borrower or any other Person.

17. GENERAL PROVISIONS.

17.1. **Effectiveness.** This Agreement shall be binding and deemed effective when executed by Parent, each Borrower, Agent, and each Lender whose signature is provided for on the signature pages hereof.

17.2. **Section Headings.** Headings and numbers have been set forth herein for convenience only. Unless the contrary is compelled by the context, everything contained in each Section applies equally to this entire Agreement.

17.3. **Interpretation.** Neither this Agreement nor any uncertainty or ambiguity herein shall be construed against the Lender Group or Parent or any Borrower, whether under any rule of construction or otherwise. On the contrary, this Agreement has been reviewed by all parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to accomplish fairly the purposes and intentions of all parties hereto.

17.4. **Severability of Provisions.** Each provision of this Agreement shall be severable from every other provision of this Agreement for the purpose of determining the legal enforceability of any specific provision.

17.5. **Bank Product Providers.** Each Bank Product Provider in its capacity as such shall be deemed a third party beneficiary hereof and of the provisions of the other Loan Documents for purposes of any reference in a Loan Document to the parties for whom Agent is acting. Agent hereby agrees to act as agent for such Bank Product Providers and, by virtue of entering into a Bank Product Agreement, the applicable Bank Product Provider shall be automatically deemed to have appointed Agent as its agent and to have accepted the benefits of the Loan Documents. It is understood and agreed that the rights and benefits of each Bank Product Provider under the Loan Documents consist exclusively of such Bank Product Provider's being a beneficiary of the Liens and security interests (and, if applicable, guarantees) granted to Agent and the right to share in payments and collections out of the Collateral as more fully set forth herein. In addition, each Bank Product Provider, by virtue of entering into a Bank Product Agreement, shall be automatically deemed to have agreed that Agent shall have the right, but shall have no obligation, to establish, maintain, relax, or release reserves in respect of the Bank Product Obligations and that if reserves are established there is no obligation on the part of

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, Agent shall be entitled to assume no amounts are due or owing to any Bank Product Provider unless such Bank Product Provider has provided a written certification (setting forth a reasonably detailed calculation) to Agent as to the amounts that are due and owing to it and such written certification is received by Agent a reasonable period of time prior to the making of such distribution. Agent shall have no obligation to calculate the amount due and payable with respect to any Bank Products, but may rely upon the written certification of the amount due and payable from the applicable Bank Product Provider. In the absence of an updated certification, Agent shall be entitled to assume that the amount due and payable to the applicable Bank Product Provider is the amount last certified to Agent by such Bank Product Provider as being due and payable (less any distributions made to such Bank Product Provider on account thereof). Borrowers may obtain Bank Products from any Bank Product Provider, although Borrowers are not required to do so. Each Borrower acknowledges and agrees that no Bank Product Provider has committed to provide any Bank Products and that the providing of Bank Products by any Bank Product Provider is in the sole and absolute discretion of such Bank Product Provider. Notwithstanding anything to the contrary in this Agreement or any other Loan Document, no provider or holder of any Bank Product 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 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 Loan Documents, including as to any matter relating to the Collateral or the release of Collateral or Guarantors.

17.6. **Debtor-Creditor Relationship.** The relationship between the Lenders and Agent, on the one hand, and the Loan Parties, on the other hand, is solely that of creditor and debtor. No member of the Lender Group has (or shall be deemed to have) any fiduciary relationship or duty to any Loan Party arising out of or in connection with the Loan Documents or the transactions contemplated thereby, and there is no agency or joint venture relationship between the members of the Lender Group, on the one hand, and the Loan Parties, on the other hand, by virtue of any Loan Document or any transaction contemplated therein.

17.7. **Counterparts; Electronic Execution.** This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Agreement. Delivery of an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission shall be equally as effective as delivery of an original executed counterpart of this Agreement. Any party delivering an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission also shall deliver an original executed counterpart of this Agreement but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement. The foregoing shall apply to each other Loan Document mutatis mutandis.

17.8. **Revival and Reinstatement of Obligations; Certain Waivers.** If any member of the Lender Group or any Bank Product Provider repays, refunds, restores, or returns in whole or in part, any payment or property (including any proceeds of Collateral) previously

paid or transferred to such member of the Lender Group or such Bank Product Provider in full or partial satisfaction of any Obligation or on account of any other obligation of any Loan Party under any Loan Document or any Bank Product Agreement, because the payment, transfer, or the incurrence of the obligation so satisfied is asserted or declared to be void, voidable, or otherwise recoverable under any law relating to creditors' rights, including provisions of the Bankruptcy Code relating to fraudulent transfers, preferences, or other voidable or recoverable obligations or transfers (each, a "Voidable Transfer"), or because such member of the Lender Group or Bank Product Provider elects to do so on the reasonable advice of its counsel in connection with a claim that the payment, transfer, or incurrence is or may be a Voidable Transfer, then, as to any such Voidable Transfer, or the amount thereof that such member of the Lender Group or Bank Product Provider elects to repay, restore, or return (including pursuant to a settlement of any claim in respect thereof), and as to all reasonable costs, expenses, and attorneys' fees of such member of the Lender Group or Bank Product Provider related thereto, the liability of the Loan Parties with respect to the amount or property paid, refunded, restored, or returned will automatically and immediately be revived, reinstated, and restored and will exist as if such Voidable Transfer had never been made.

17.9. **Confidentiality.**

(a) Agent and Lenders each individually (and not jointly or jointly and severally) agree that material, non-public information regarding Parent and its Subsidiaries, their operations, assets, and existing and contemplated business plans ("Confidential Information") shall be treated by Agent and the Lenders in a confidential manner, and shall not be disclosed by Agent and the Lenders to Persons who are not parties to this Agreement, except: (i) to attorneys for and other advisors, accountants, auditors, and consultants to any member of the Lender Group and to employees, directors and officers of any member of the Lender Group (the Persons in this clause (i), "Lender Group Representatives") on a "need to know" basis in connection with this Agreement and the transactions contemplated hereby and on a confidential basis, (ii) to Subsidiaries and Affiliates of any member of the Lender Group (including the Bank Product Providers), provided that any such Subsidiary or Affiliate shall have agreed to receive such information hereunder subject to the terms of this Section 17.9, (iii) as may be required by regulatory authorities so long as such authorities are informed of the confidential nature of such information, (iv) as may be required by statute, decision, or judicial or administrative order, rule, or regulation; provided that (x) prior to any disclosure under this clause (iv), the disclosing party agrees to provide Borrowers with prior notice thereof, to the extent that it is practicable to do so and to the extent that the disclosing party is permitted to provide such prior notice to Borrowers pursuant to the terms of the applicable statute, decision, or judicial or administrative order, rule, or regulation and (y) any disclosure under this clause (iv) shall be limited to the portion of the Confidential Information as may be required by such statute, decision, or judicial or administrative order, rule, or regulation, (v) as may be agreed to in advance in writing by Borrowers, (vi) as requested by any Governmental Authority, provided, that, (x) prior to any disclosure under this clause (vi) the disclosing party agrees to provide Borrowers with prior written notice thereof, to the extent that it is practicable to do so and to the extent that the disclosing party is permitted to provide such prior written notice to Borrowers pursuant to the terms of the applicable request or by law and (y) any disclosure under this clause (vi) shall be limited to the portion of the Confidential Information as may be requested by such Governmental Authority pursuant to such applicable request, (vii) as required by any Governmental Authority

pursuant to any subpoena or other legal process, provided, that, (x) prior to any disclosure under this clause (vii) the disclosing party agrees to provide Borrower with prior written notice thereof, to the extent that it is practicable to do so and to the extent that the disclosing party is permitted to provide such prior written notice to Borrower pursuant to the terms of the subpoena or other legal process and (y) any disclosure under this clause (vii) shall be limited to the portion of the Confidential Information as may be required by such Governmental Authority pursuant to such subpoena or other legal process, (viii) as to any such information that is or becomes generally available to the public (other than as a result of prohibited disclosure by Agent or the Lenders or the Lender Group Representatives), (ix) in connection with any assignment, participation or pledge of any Lender's interest under this Agreement, provided that prior to receipt of Confidential Information any such assignee, participant, or pledgee shall have agreed in writing to receive such Confidential Information either subject to the terms of this Section 17.9 or pursuant to confidentiality requirements substantially similar to those contained in this Section 17.9 (and such Person may disclose such Confidential Information to Persons employed or engaged by them as described in clause (i) above), (x) in connection with any litigation or other adversary proceeding involving parties hereto which such litigation or adversary proceeding involves claims related to the rights or duties of such parties under this Agreement or the other Loan Documents; provided, that, prior to any disclosure to any Person (other than any Loan Party, Agent, any Lender, any of their respective Affiliates, or their respective counsel) under this clause (ix) with respect to litigation involving any Person (other than any Borrower, Agent, any Lender, any of their respective Affiliates, or their respective counsel), the disclosing party agrees to provide Borrowers with prior written notice thereof, (xi) for the exercise of any secured creditor remedy under this Agreement or under any other Loan Document and (xii) for purposes of establishing a "due diligence" or similar defense in any legal proceeding.

(b) Anything in this Agreement to the contrary notwithstanding, Agent may disclose information concerning the terms and conditions of this Agreement and the other Loan 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 any Borrower or the other Loan Parties and the Commitments provided hereunder in any "tombstone" or other advertisements, on its website or in other marketing materials of Agent or any Lender.

(c) The Loan Parties hereby acknowledge that Agent or its Affiliates may make available to the Lenders materials or information provided by or on behalf of Borrowers hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks, SyndTrak or another similar electronic system (the "Platform"). The Platform is provided "as is" and "as available." Agent does not warrant the accuracy or completeness of the Borrower Materials, or the adequacy of the Platform and expressly disclaim liability for errors or omissions in the communications. 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 Agent in connection with the Borrower Materials or the Platform. In no event shall Agent or any of the Agent-Related Persons have any liability to the Loan Parties, any Lender or any other person for damages of any kind, including direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of any Loan

Party's or Agent's transmission of communications through the Internet, except to the extent the liability of such person is found in a final non-appealable judgment by a court of competent jurisdiction to have resulted from such person's gross negligence or willful misconduct. Each Loan Party further agrees that certain of the Lenders may be "public-side" Lenders (i.e., Lenders that do not wish to receive material non-public information with respect to the Loan Parties or their securities) (each, a "Public Lender"). The Loan Parties shall be deemed to have authorized Agent and its Affiliates and the Lenders to treat Borrower Materials marked "PUBLIC" or otherwise at any time filed with the SEC as not containing any material non-public information with respect to the Loan Parties or their securities for purposes of United States federal and state securities laws. All Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated as "Public Investor" (or another similar term). Agent and its Affiliates and the Lenders shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" or that are not at any time filed with the SEC as being suitable only for posting on a portion of the Platform not marked as "Public Investor" (or such other similar term).

17.10. **Survival.** All representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that Agent, any Issuing Lender, or any Lender may have had notice or knowledge of any Default or Event of Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of, or any accrued interest on, any Loan or any fee or any other amount payable under this Agreement is outstanding or unpaid or any Letter of Credit is outstanding and so long as the Commitments have not expired or been terminated.

17.11. **Patriot Act.** Each Lender that is subject to the requirements of the Patriot Act hereby notifies the Loan Parties that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender to identify each Loan Party in accordance with the Patriot Act. In addition, Agent and each Lender shall have the right to periodically conduct due diligence on all Loan Parties, their senior management and key principals and legal and beneficial owners. Each Loan Party agrees to cooperate in respect of the conduct of such due diligence and further agrees that the reasonable costs and charges for any such due diligence by Agent shall constitute Lender Group Expenses hereunder and be for the account of Borrowers.

17.12. **Integration.** This Agreement, together with the other Loan Documents, reflects the entire understanding of the parties with respect to the transactions contemplated hereby and shall not be contradicted or qualified by any other agreement, oral or written, before the date hereof. The foregoing to the contrary notwithstanding, all Bank Product Agreements, if any, are independent agreements governed by the written provisions of such Bank Product Agreements, which will remain in full force and effect, unaffected by any repayment, prepayments, acceleration, reduction, increase, or change in the terms of any credit extended hereunder, except as otherwise expressly provided in such Bank Product Agreement.

17.13. **HSP as Agent for Borrowers.** Each Borrower hereby irrevocably appoints HSP as the borrowing agent and attorney-in-fact for all Borrowers (the "Administrative Borrower") which appointment shall remain in full force and effect unless and until Agent shall have received prior written notice signed by each Borrower that such appointment has been revoked and that another Borrower has been appointed Administrative Borrower. Each Borrower hereby irrevocably appoints and authorizes the Administrative Borrower (a) to provide Agent with all notices with respect to Revolving Loans and Letters of Credit obtained for the benefit of any Borrower and all other notices and instructions under this Agreement and the other Loan Documents (and any notice or instruction provided by Administrative Borrower shall be deemed to be given by Borrowers hereunder and shall bind each Borrower), (b) to receive notices and instructions from members of the Lender Group (and any notice or instruction provided by any member of the Lender Group to the Administrative Borrower in accordance with the terms hereof shall be deemed to have been given to each Borrower), and (c) to take such action as the Administrative Borrower deems appropriate on its behalf to obtain Revolving Loans and Letters of Credit and to exercise such other powers as are reasonably incidental thereto to carry out the purposes of this Agreement. It is understood that the handling of the Loan Accounts and Collateral in a combined fashion, as more fully set forth herein, is done solely as an accommodation to Borrowers in order to utilize the collective borrowing powers of Borrowers in the most efficient and economical manner and at their request, and that Lender Group shall not incur liability to any Borrower as a result hereof. Each Borrower expects to derive benefit, directly or indirectly, from the handling of the Loan Accounts and the Collateral in a combined fashion since the successful operation of each Borrower is dependent on the continued successful performance of the integrated group. To induce the Lender Group to do so, and in consideration thereof, each Borrower hereby jointly and severally agrees to indemnify each member of the Lender Group and hold each member of the Lender Group harmless against any and all liability, expense, loss or claim of damage or injury, made against the Lender Group by any Borrower or by any third party whosoever, arising from or incurred by reason of (i) the handling of the Loan Accounts and Collateral of Borrowers as herein provided, or (ii) the Lender Group's relying on any instructions of the Administrative Borrower, except that Borrowers will have no liability to the relevant Agent-Related Person or Lender-Related Person under this Section 17.13 with respect to any liability that has been finally determined by a court of competent jurisdiction to have resulted solely from the gross negligence or willful misconduct of such Agent-Related Person or Lender-Related Person, or its Affiliates, officers, directors, employees, attorneys or agents as the case may be.

17.14. **Judgment Currency.** If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of each Borrower in respect of any such sum due from it to Agent or any Lender hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the "Judgment Currency") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "Agreement Currency"), be discharged only to the extent that on the Business Day following receipt by Agent or such Lender, as the case may be, of any sum adjudged to be so due in the Judgment Currency, Agent or such Lender, as the case may be, may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency.

If the amount of the Agreement Currency so purchased is less than the sum originally due to Agent or any Lender from any Borrower in the Agreement Currency, such Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify Agent or such Lender, as the case may be, against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to Agent or any Lender in such currency, Agent or such Lender, as the case may be, agrees to return the amount of any excess to such Borrower (or to any other Person who may be entitled thereto under applicable law).

17.15. **No Setoff.** All payments made by Borrowers hereunder or under any note or other Loan Document will be made without setoff, counterclaim, or other defense.

17.16. **Quebec Interpretation.** For all purposes of any assets, liabilities or entities located in the Province of Quebec and for all purposes pursuant to which the interpretation or construction of this Agreement may be subject to the laws of the Province of Quebec or a court or tribunal exercising jurisdiction in the Province of Quebec, (a) "personal property" shall include "movable property", (b) "real property" shall include "immovable property", (c) "tangible property" shall include "corporeal property", (d) "intangible property" shall include "incorporeal property", (e) "security interest", "mortgage" and "lien" shall include a "hypothec", "prior claim" and a "resolatory clause", (f) all references to filing, registering or recording under the Code or PPSA shall include publication under the Civil Code of Quebec, (g) all references to "perfection" of or "perfected" liens or security interest shall include a reference to an "opposable" or "set up" lien or security interest as against third parties, (h) any "right of offset", "right of setoff" or similar expression shall include a "right of compensation", (i) "goods" shall include corporeal movable property" other than chattel paper, documents of title, instruments, money and securities, (j) an "agent" shall include a "mandatary", (k) "construction liens" shall include "legal hypothecs", (l) "joint and several" shall include solidary, (m) "gross negligence or willful misconduct" shall be deemed to be "intentional or gross fault", (n) "beneficial ownership" shall include "ownership", (o) "easement" shall include "servitude", (p) "priority" shall include "prior claim" or "rank", as applicable, (q) "survey" shall include "certificate of location and plan", and (r) "fee simple title" shall include "absolute ownership".

17.17. **English Language Only.** The parties hereto confirm that it is their wish that this Agreement and any other document executed in connection with the transactions contemplated hereby be drawn up in the English language only and that all other documents contemplated hereunder or relating hereto, including notices, shall also be drawn up in the English language only. *Les parties aux présentes confirment que c'est leur volonté que cette convention et les autres documents de crédit soient rédigés en langue anglaise seulement et que tous les documents, y compris tous avis, envisages par cette convention et les autres documents peuvent être rédigés en langue anglaise seulement.*

17.18. **Canadian Amalgamations.** Each Loan Party acknowledges that, in the event it amalgamates with any other corporation or corporations under the laws of Canada or any Province thereof, it is the intention of the parties hereto that the term "Loan Party", "Borrower" or "Guarantor" when used in this Agreement or any other Loan Document, shall apply to each of the amalgamating corporations and to the amalgamated corporation, such that the security interest granted under any Loan Document:

(a) shall extend to Collateral owned by each of the amalgamating corporations and the amalgamated corporation at the time of amalgamation and to any Collateral thereafter owned or acquired by the amalgamated corporation; and

(b) shall secure all Obligations of each of the amalgamating corporations and the amalgamated corporation to Agent for the benefit of the Lenders, at the time of amalgamation and all Obligations of the amalgamated corporation to Agent for the benefit of the Lenders. The security interest granted under any Loan Document shall attach to all Collateral owned by each corporation amalgamating with such Loan Party, and by the amalgamated corporation, at the time of the amalgamation, and shall attach to all Collateral thereafter owned or acquired by the amalgamated corporation when such becomes owned or is acquired.

17.19. **Acknowledgement and Consent to Bail-In of EEA Financial Institutions.** Notwithstanding anything to the contrary in any Loan 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 Loan 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 Loan 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.

[Signature pages to follow.]

Schedule 1.1

As used in the Agreement, the following terms shall have the following definitions:

"ABL Priority Collateral" has the meaning specified therefor in the Intercreditor Agreement.

"Account" means an account (as that term is defined in the Code).

"Account Debtor" means any Person who is obligated on an Account, chattel paper, or a general intangible.

"Accounting Changes" means changes in accounting principles required by the promulgation of any rule, regulation, pronouncement or opinion by the Financial Accounting Standards Board of the American Institute of Certified Public Accountants (or successor thereto or any agency with similar functions) or the Canadian Institute of Chartered Accountants (or successor thereto).

"Acquisition" means any transaction or series of related transactions for the purpose of or resulting in, directly or indirectly, (a) the purchase or other acquisition by a Person or its Subsidiaries of all or substantially all of the assets of (or any division or business line of) any other Person, or (b) the purchase or other acquisition (whether by means of a merger, consolidation, or otherwise) by a Person or its Subsidiaries of all or substantially all of the Equity Interests of any other Person.

"Additional Documents" has the meaning specified therefor in Section 5.12 of the Agreement.

"Adequate Protection Liens" has the meaning specified therefore in the Financing Order.

"Administration Charge" means the charge granted by the Canadian Court on the Collateral of the Canadian Borrower and Collateral located in Canada of the other Loan Parties in a maximum amount of \$200,000 to secure the professional fees and disbursements of the Information Officer and its counsel, in each case incurred in respect of the Recognition Proceedings, both before and after the making of the Canadian Interim DIP Recognition Order, which charge shall rank ahead of the Liens granted in respect of the Agent and Lenders hereunder and in the Canadian Interim DIP Recognition Order.

"Administrative Borrower" has the meaning specified therefor in Section 17.13 of the Agreement.

"Administrative Questionnaire" has the meaning specified therefor in Section 13.1(a) of the Agreement.

"Affected Lender" has the meaning specified therefor in Section 2.13(b) of the Agreement.

"Affiliate" means, as applied to any Person, any other Person who controls, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" means the possession, directly or indirectly through one or more intermediaries, of the power to direct the management and policies of a Person, whether through the ownership of Equity Interests, by contract, or otherwise; provided, that, for purposes of the definition of US Eligible Accounts, Canadian Eligible Accounts and Section 6.10 of the Agreement: (a) any Person which owns directly or indirectly 10% or more of the Equity Interests having ordinary voting power for the election of directors or other members of the governing body of a Person or 10% or more of the partnership or other ownership interests of a Person (other than as a limited partner of such Person) shall be deemed an Affiliate of such Person, (b) each director (or comparable manager) of a Person shall be deemed to be an Affiliate of such Person, and (c) each partnership in which a Person is a general partner shall be deemed an Affiliate of such Person.

"Agent" has the meaning specified therefor in the preamble to the Agreement.

"Agent Consultant" means any consultant, financial advisor, appraiser, or other professional engaged by Agent or any legal counsel to Agent.

"Agent-Related Persons" means Agent, together with Agent's Affiliates, officers, directors, employees, attorneys, and agents.

"Agent's Applicable Account" means the Agent's US Account and/or Agent's Canadian Account, as the context requires.

"Agent's Canadian Account" means the Deposit Account identified on Schedule A-1 as Agent's Canadian Account (or such other Deposit Account that has been designated as such, in writing, by Agent to Administrative Borrower and the Lenders).

"Agent's Liens" means the Liens granted by Parent or its Subsidiaries to Agent under the Loan Documents and securing all or a portion of the Obligations.

"Agent's US Account" means the Deposit Account identified on Schedule A-2 as Agent's US Account (or such other Deposit Account that has been designated as such, in writing, by Agent to Administrative Borrower and the Lenders).

"Agreement" means the Debtor-in-Possession Credit Agreement to which this Schedule 1.1 is attached.

"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 any Loan Party 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 any Loan 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 Currency" means Dollars; provided, that with respect to Canadian Revolving Loans and other Obligations denominated in Canadian Dollars, Applicable Currency means Canadian Dollars.

"Applicable Margin" means, as of any date of determination and with respect to Base Rate Loans, 2.00 percentage points (the "Base Rate Margin"), or Non-Base Rate Loans, 4.00 percentage points (the "Non-Base Rate Margin").

"Applicable Unused Line Fee Percentage" means 0.375 percentage points.

"Application Event" means the occurrence of (a) a failure by Borrowers to repay all of the Obligations in full on the Maturity Date, or (b) an Event of Default and the election by the Agent to require that payments and proceeds of Collateral be applied pursuant to Section 2.4(b)(ii) of the Agreement.

"Approved Budget" means the Initial Approved Budget as amended and supplemented by any Weekly Cash Flow Forecast delivered in accordance with Section 5.2(a) and approved by the Agent in accordance with Section 5.28.

"Assignee" has the meaning specified therefor in Section 13.1(a) of the Agreement.

"Assignment and Acceptance" means an Assignment and Acceptance Agreement substantially in the form of Exhibit A-1 to the Agreement.

"Authorized Person" means any one of the individuals identified on Schedule A-3 to the Agreement, as such schedule is updated from time to time by written notice from Administrative Borrower to Agent.

"Avoidance Actions" means any and all claims and causes of action of any Borrower's estate arising under Sections 542, 544, 545, 547, 548, 549, 550, 551, 553(b) or 724(a) of the Bankruptcy Code, together with any proceeds therefrom.

"Avoided Payments" has the meaning specified in Section 2.4(e)(ii) of the Agreement.

"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.

"Bank Product Agreements" means the US Bank Product Agreements and/or the Canadian Bank Product Agreements, as the context requires.

"Bank Product Collateralization" means, with respect to the US Bank Product Obligations or the Canadian Bank Product Obligations, as applicable, providing cash collateral (pursuant to documentation reasonably satisfactory to Agent) in the Applicable Currency to be held by Agent for the benefit of the Bank Product Providers (other than the Hedge Providers) in an amount determined by Agent as sufficient to satisfy the reasonably estimated credit exposure with respect to the then existing Bank Product Obligations (other than Hedge Obligations).

"Bank Product Obligations" means the US Bank Product Obligations and/or the Canadian Bank Product Obligations, as the context requires.

"Bank Product Provider" means any Lender or any of its Affiliates, including each of the foregoing in its capacity, if applicable, as a Hedge Provider; provided, that no such Person (other than Wells Fargo or its Affiliates) shall constitute a Bank Product Provider with respect to a Bank Product unless and until Agent receives a Bank Product Provider Agreement from such Person and with respect to the applicable Bank Product within ten (10) days after the provision of such Bank Product to Parent or its Subsidiaries; provided further, that if, at any time, a Lender ceases to be a Lender under the Agreement (prior to the payment in full of the 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 Bank Product Providers and the obligations with respect to Bank Products provided by such former Lender or any of its Affiliates shall no longer constitute Bank Product Obligations.

"Bank Product Provider Agreement" means an agreement in substantially the form attached hereto as Exhibit B-2 to the Agreement, in form and substance satisfactory to Agent, duly executed by the applicable Bank Product Provider, Borrowers, and Agent.

"Bank Product Reserves" means the US Bank Product Reserves and/or the Canadian Bank Product Reserves, as the context requires.

"Bank Products" means US Bank Products and/or Canadian Bank Products, as the context requires.

"Bankruptcy Cases" means the cases of Debtors jointly administered under chapter 11 of the Bankruptcy Code pending before the Bankruptcy Court, bearing case number [_____] and any superseding chapter 7 case or cases.

"Bankruptcy Code" means (i) title 11 of the United States Code, (ii) the *Bankruptcy and Insolvency Act* (Canada), (iii) the CCAA, (iv) the *Winding-Up and Restructuring Act* (Canada), (v) the *Canada Business Corporations Act* (Canada) where such statute is used by a Person to propose an arrangement and/or (vi) any similar legislation in a relevant jurisdiction, in each case as applicable and as in effect from time to time.

"Bankruptcy Court" has the meaning specified in the recitals to this Agreement.

"Base Rate" means the US Base Rate; provided, that with respect to Canadian Obligations denominated in Canadian Dollars, Base Rate means the Canadian Base Rate.

"Base Rate Loan" means each portion of the Loans that bears interest at a rate determined by reference to the applicable Base Rate.

"Base Rate Margin" has the meaning set forth in the definition of Applicable Margin.

"Benefit Plan" means a "defined benefit plan" (as defined in Section 3(35) of ERISA) subject to Title IV of ERISA for which Parent or any of its Subsidiaries or ERISA Affiliates has been an "employer" (as defined in Section 3(5) of ERISA) within the past six years.

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

"Board of Governors" means the Board of Governors of the Federal Reserve System of the United States (or any successor).

"Borrower" and "Borrowers" have the respective meanings specified therefor in the preamble to the Agreement.

"Borrower Materials" has the meaning specified therefor in Section 17.9(c) of the Agreement.

"Borrowing" means a US Borrowing and/or a Canadian Borrowing, as the context requires.

"Borrowing Base Certificate" means a certificate substantially in the form of Exhibit B-1, prepared by the Borrowers' management, in consultation with Consultant, which form of Borrowing Base Certificate may be amended, restated, supplemented or otherwise modified from time to time (including without limitation changes to the format thereof), as requested by Borrowers and approved by Agent in Agent's sole discretion.

"Business Day" means any day that is not a Saturday, Sunday, or other day on which banks are authorized or required to close in the state of California or Florida, except that (a) if a determination of a Business Day shall relate to a Non-Base Rate Loan, the term "Business Day" also shall exclude any day on which banks are closed for dealings in Dollar deposits in the London interbank market, and (b) if a determination of a Business Day shall relate to a Canadian Revolving Loan or Canadian Letter of Credit (including a request therefor), the term "Business Day" also shall exclude any day on which banks are authorized or required to close in Toronto, Ontario, Canada.

"Canadian Anti-Money Laundering & Anti-Terrorism Legislation" means the Criminal Code, R.S.C. 1985, c. C-46, The Proceeds of Crime (Money Laundering) and Terrorist

Financing Act, S.C. 2000, c. 17, the United Nations Act, R.S.C. 1985, c.U-2 and the Corruption of Foreign Public Officials Act (S.C. 1998, c. 34) or any similar Canadian legislation, together with all rules, regulations and interpretations thereunder or related thereto including, without limitation, the Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism and the United Nations Al-Qaida and Taliban Regulations promulgated under the United Nations Act.

"Canadian Availability" means, as of any date of determination, the Dollar Equivalent amount that Canadian Borrower is entitled to borrow as Canadian Revolving Loans under Section 2.1 of the Agreement (after giving effect to the then outstanding Canadian Revolver Usage).

"Canadian Bank Product" means any one or more of the following financial products or accommodations extended to a Canadian Loan Party by a Bank Product Provider: (a) credit cards (including commercial cards (including so-called "purchase cards", "procurement cards" or " p-cards ")), (b) payment card processing services, (c) debit cards, (d) stored value cards, (e) Cash Management Services, or (f) transactions under Hedge Agreements.

"Canadian Bank Product Agreements" means those agreements entered into from time to time by a Canadian Loan Party with a Bank Product Provider in connection with the obtaining of any of the Canadian Bank Products.

"Canadian Bank Product Obligations" means (a) all obligations, liabilities, reimbursement obligations, fees, or expenses owing by Canadian Loan Parties to any Bank Product Provider pursuant to or evidenced by a Canadian Bank Product 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 Canadian Hedge Obligations, and (c) all amounts that Agent or any Lender is obligated to pay to a Bank Product Provider as a result of Agent or such Lender purchasing participations from, or executing guarantees or indemnities or reimbursement obligations to, a Bank Product Provider with respect to the Canadian Bank Products provided by such Bank Product Provider to Canadian Loan Parties.

"Canadian Bank Product Reserves" means, as of any date of determination, those reserves that Agent deems necessary or appropriate to establish (based upon the Bank Product Providers' determination of the liabilities and obligations of Canadian Loan Parties in respect of Canadian Bank Product Obligations after notice by Bank Product Providers to, and with the consent of, Agent) in respect of Canadian Bank Products then provided or outstanding.

"Canadian Base Rate" means the Canadian CDOR Rate plus 1.50 percentage points (which shall be determined on a daily basis).

"Canadian Benefit Plan" means any plan, fund, program, or policy, whether oral or written, formal or informal, funded or unfunded, insured or uninsured, providing material employee benefits, including medical, hospital care, dental, sickness, accident, disability, life insurance, pension, retirement or savings benefits, under which a Loan Party or a Subsidiary thereof has any liability with respect to any employee or former employee in Canada.

"Canadian Borrowing" means a borrowing consisting of Canadian Revolving Loans made on the same day by the Lenders (or Agent on behalf thereof), or by Canadian Swing Lender in the case of a Canadian Swing Loan, or by Agent in the case of an Canadian Extraordinary Advance.

"Canadian Borrowing Base" means, as of any date of determination, the Dollar Equivalent amount of the result of:

(a) 85% of the amount of Canadian Eligible Accounts, less the amount, if any, of the Canadian Dilution Reserve, *plus*

(b) *the lower of*

(i) the product of 75% multiplied by the value (calculated at the lower of cost or market on a basis consistent with Canadian Loan Parties' historical accounting practices) of Canadian Eligible Inventory at such time,

(ii) the product of 85% multiplied by the Net Recovery Percentage identified in the most recent inventory appraisal ordered and obtained by Agent multiplied by the value (calculated at the lower of cost or market on a basis consistent with the Canadian Loan Parties' historical accounting practices) of Canadian 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 (A) \$37,500,000, minus (B) the amount of the contribution of US Eligible Inventory to the US Borrowing Base under clause (b) of the definition of US Borrowing Base, *minus*

(c) the aggregate amount of reserves, if any, established by Agent under Section 2.1(c) of the Agreement;

provided, that Canadian Availability attributable to Canadian Eligible Inventory consisting of Canadian Eligible In-Transit Inventory shall not exceed \$3,000,000 at any time.

Notwithstanding anything else herein to the contrary, the Canadian Borrowing Base shall be deemed to be \$0 until such time as the Canadian Court shall have issued the Canadian Initial Recognition Order, the Canadian Supplemental Order and the Canadian Interim DIP Recognition Order.

"Canadian CDOR Rate" means for any particular day the average rate per annum as reported on the Reuters Screen CDOR Page (or any successor page or such other page or commercially available service displaying Canadian interbank bid rates for Canadian Dollar bankers' acceptances having a 1 month duration as the Agent may designate from time to time, or if no such substitute service is available, the rate quoted by a Schedule I bank under the Bank Act (Canada) selected by the Agent at which such bank is offering to purchase Canadian Dollar bankers' acceptances) as of 10:00 a.m. Eastern (Toronto) time on such day, or if such day is not a Business Day, the on the immediately preceding Business Day, for a one month period, and in

an amount comparable to the amount of the applicable Canadian Obligation (and, if any such reported rate is below zero, then the rate determined pursuant to this clause (b) shall be deemed to be zero). Each determination of the Canadian CDOR Rate shall be made by the Agent and shall be conclusive in the absence of manifest error.

"Canadian Court" has the meaning specified therefore in the recitals to this Agreement.

"Canadian Defined Benefit Plan" means any Canadian Pension Plan which contains a "defined benefit provision" as defined in subsection 147.1(1) of the Income Tax Act (Canada).

"Canadian Designated Account" means the Canadian Deposit Account of Canadian Borrower identified on Schedule D-1 to the Agreement (or such other Deposit Account of Canadian Borrower located at Canadian Designated Account Bank that has been designated as such, in writing, by Canadian Borrower to Agent).

"Canadian Designated Account Bank" has the meaning specified therefor in Schedule D-1 to the Agreement (or such other bank that is located within Canada that has been designated as such, in writing, by Canadian Borrower to Agent).

"Canadian Dilution" means, as of any date of determination, a percentage, based upon the experience of the immediately prior 12 months, that is the result of dividing the amount of (a) bad debt write-downs, discounts, advertising allowances, credits, or other dilutive items with respect to a Canadian Loan Party's Accounts during such period, by (b) a Canadian Loan Party's billings with respect such Canadian Loan Party's Accounts during such period.

"Canadian Dilution Reserve" means, as of any date of determination, an amount sufficient to reduce the advance rate against Canadian Eligible Accounts by 1 percentage point for each percentage point by which Canadian Dilution is in excess of 5%. If the Canadian Dilution does not exceed 5%, the Canadian Dilution Reserve shall be zero.

"Canadian Dollar Equivalent" means, at any time, with respect to any amount denominated in Dollars, the equivalent amount thereof in Canadian Dollars as determined by Agent at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date or such other date as determined by Agent) for the purchase of Canadian Dollars with Dollars.

"Canadian Dollars" or "Cdn\$" means the lawful currency of Canada, as in effect from time to time.

"Canadian Eligible Accounts" means those Accounts created by a Canadian Loan Party in the ordinary course of its business, that arise out of such Canadian Loan Party's sale of goods or rendition of services, that comply with each of the representations and warranties respecting Canadian Eligible Accounts made in the Loan Documents, and that are not excluded as ineligible by virtue of one or more of the excluding criteria set forth below; provided, that such criteria may be revised from time to time by Agent in Agent's Permitted Discretion to address the results of any field examination performed by (or on behalf of) Agent from time to

time after the Closing Date. In determining the amount to be included, Canadian Eligible Accounts shall be calculated net of customer deposits, unapplied cash, taxes, discounts, credits, allowances, and rebates. Canadian Eligible Accounts shall not include the following:

(a) Accounts that the Account Debtor has failed to pay within ninety (90) days of original invoice date or within sixty (60) days of original due date,

(b) Accounts owed by an Account Debtor (or its Affiliates) where 50% or more of all Accounts owed by that Account Debtor (or its Affiliates) are deemed ineligible under clause (a) above,

(c) Accounts with respect to which the Account Debtor is an Affiliate of a Borrower or an employee or agent of a Borrower or any Affiliate of a Borrower, excluding, however, any Account Debtor that is an Affiliate of a Loan Party, solely because such Affiliate is owned or controlled by the Sponsor or its Affiliates so long as such transactions are on terms no less favorable than similar transactions with independent third parties,

(d) Accounts arising in a transaction wherein goods are placed on consignment or are sold pursuant to a guaranteed sale, a sale or return, a sale on approval, a bill and hold, or any other terms by reason of which the payment by the Account Debtor may be conditional,

(e) Accounts that are not payable in Dollars or Canadian Dollars,

(f) Accounts with respect to which the Account Debtor either (i) does not maintain its chief executive office in Canada or the United States, or (ii) is not organized under the laws of Canada or any province or territory thereof or under the laws of the United States or any state or territory thereof, or (iii) is the government of any foreign country or sovereign state (for greater certainty, other than Canada), or of any state, province, municipality, or other political subdivision thereof, or of any department, agency, public corporation, or other instrumentality thereof, unless (A) the Account is supported by an irrevocable letter of credit reasonably satisfactory to Agent (as to form, substance, and issuer or domestic confirming bank) that has been delivered to Agent and is directly drawable by Agent, or (B) the Account is covered by credit insurance in form, substance, and amount, and by an insurer, reasonably satisfactory to Agent,

(g) Accounts with respect to which the Account Debtor is a Canadian Governmental Authority (exclusive, however, of Accounts with respect to which the applicable Canadian Loan Party has complied, to the reasonable satisfaction of Agent, with any assignment of claims statute, including the Financial Administration Act (Canada)),

(h) Accounts with respect to which the Account Debtor is a creditor of a Loan Party, has or has asserted a right of recoupment or setoff, or has disputed its obligation to pay all or any portion of the Account, to the extent of such claim, right of recoupment or setoff, or dispute,

(i) Accounts with respect to an Account Debtor whose total obligations owing to Canadian Loan Parties exceeds 15% of all Canadian Eligible Accounts (or, if the

Account Debtor is (A) Wal-Mart, 50% of all Canadian Eligible Accounts, (B) Costco, 50% of all Canadian Eligible Accounts, and (C) Hudson Bay, 30% of all Canadian Eligible Accounts), to the extent of the obligations owing by such Account Debtor in excess of such percentage; provided, that, in each case, the amount of Canadian Eligible Accounts that are excluded because they exceed the foregoing percentage shall be determined by Agent based on all of the otherwise Canadian Eligible Accounts prior to giving effect to any eliminations based upon the foregoing concentration limit,

(j) to Borrowers' knowledge, Accounts with respect to which the Account Debtor is subject to an Insolvency Proceeding, is not Solvent, has gone out of business, or as to which a Borrower has received notice of an imminent Insolvency Proceeding or a material impairment of the financial condition of such Account Debtor,

(k) Accounts, the collection of which, Agent, in its Permitted Discretion, believes to be doubtful, including by reason of the Account Debtor's financial condition,

(l) Accounts that are not subject to a valid and perfected first priority Agent's Lien (subject to Permitted Liens having priority under applicable law for which reserves have been established pursuant to Section 2.1(c)),

(m) Accounts with respect to which (i) the goods giving rise to such Account have not been shipped and billed to the Account Debtor, or (ii) the services giving rise to such Account have not been performed and billed to the Account Debtor,

(n) Accounts with respect to which the Account Debtor is a Sanctioned Person or Sanctioned Entity, or

(o) Accounts that represent the right to receive progress payments or other advance billings that are due prior to the completion of performance by Loan Parties of the subject contract for goods or services.

"Canadian Eligible In-Transit Inventory" means Eligible In-Transit Inventory owned by a Canadian Loan Party.

"Canadian Eligible Inventory" means Inventory of a Canadian Loan Party consisting of raw materials and finished goods, that complies with each of the representations and warranties respecting Canadian Eligible Inventory made in the Loan Documents, and that is not excluded as ineligible by virtue of one or more of the excluding criteria set forth below; provided, that such criteria may be revised from time to time by Agent in Agent's Permitted Discretion to address the results of any field examination or appraisal performed by Agent from time to time after the Closing Date. In determining the amount to be so included, Inventory shall be valued at the lower of cost or market on a basis consistent with Canadian Loan Parties' historical accounting practices. An item of Inventory shall not be included in Canadian Eligible Inventory if:

(a) a Canadian Loan Party does not have good, valid, and marketable title thereto,

(b) a Canadian Loan Party does not have actual and exclusive possession thereof (either directly or through a bailee or agent of such Canadian Loan Party),

(c) it is not located at one of the locations in Canada set forth on Schedule E-1 (as such schedule may be updated pursuant to Section 5.14) to the Agreement (or in-transit from one such location to another such location),

(d) it is in-transit to or from a location of a Canadian Loan Party (other than in-transit from one location set forth on Schedule E-1 to the Agreement to another location set forth on Schedule E-1 to the Agreement), unless it is Canadian Eligible In-Transit Inventory,

(e) it is located on real property leased by a Canadian Loan Party or in a contract warehouse, in each case, unless either (i) it is subject to a Collateral Access Agreement executed by the lessor or warehouseman, as the case may be, and it is segregated or otherwise separately identifiable from goods of others, if any, stored on the premises or (ii) Agent has established a Landlord Reserve with respect to such location,

(f) it is the subject of a bill of lading or other document of title, unless it is Canadian Eligible In-Transit Inventory,

(g) it is not subject to a valid and perfected first priority Agent's Lien (subject to Permitted Liens having priority under applicable law for which reserves have been established pursuant to Section 2.1(c)),

(h) it consists of goods returned or rejected by a Canadian Loan Party's customers unless such goods are in salable condition and may be sold as new and unused Inventory by Canadian Loan Parties in the ordinary course of their business to their customers,

(i) it consists of goods that are obsolete or slow moving, work-in-process, restrictive or custom items, or goods that constitute spare parts, packaging and shipping materials, supplies used or consumed in a Canadian Loan Party's business, bill and hold goods, defective goods, "seconds," or Inventory acquired on consignment, or

(j) it is subject to third party trademark or other intellectual property or proprietary rights, unless (i) Agent is reasonably satisfied that such Inventory can be freely sold by Agent on and after the occurrence of an Event of a Default, without Agent infringing any rights of, or incurring any liabilities to, any licensor or owner of such third party rights, other than the payment of royalties at the contractual rate with respect to Inventory subject to a third party license with a Loan Party or (ii) reserves have been established pursuant to Section 2.1(c).

"Canadian Extraordinary Advances" has the meaning specified therefor in Section 2.3(d)(iii) of the Agreement.

"Canadian Final DIP Recognition Order" means an order of the Canadian Court in the Recognition Proceedings, which order shall be satisfactory in form and substance to Agent, which order shall recognize and enforce the Final Financing Order in Canada.

"Canadian Guarantor" means (a) each Subsidiary of Parent organized under the laws of Canada, or any province or territory thereof, that is or becomes a guarantor of all or any part of the Obligations or (b) such Persons that are debtors in the Bankruptcy Cases, the Recognition Proceedings or as are required from time to time to become a Canadian Guarantor pursuant to the terms hereof.

"Canadian Hedge Obligations" means any and all obligations or liabilities, whether absolute or contingent, due or to become due, now existing or hereafter arising, of any Canadian Loan Party arising under, owing pursuant to, or existing in respect of Hedge Agreements entered into with one or more of the Hedge Providers.

"Canadian Initial Recognition Order" means an order of the Canadian Court, in form and substance satisfactory to Agent, which order shall recognize the Bankruptcy Cases as foreign main proceedings under Part IV of the CCAA and shall grant an interim stay in Canada.

"Canadian Interim DIP Recognition Order" means an order of the Canadian Court, in form and substance satisfactory to Agent, which order shall, among other things, recognize the Interim Financing Order and provide for a super priority charge over the Collateral of the Canadian Borrower and Collateral located in Canada of the other Loan Parties in respect of the Agent's and the Lenders' claims. For the avoidance of doubt, the Canadian Interim DIP Recognition Order may be part of the Canadian Supplemental Order.

"Canadian Issuing Lender" means WF Canada or any other Lender that, at the request of Administrative Borrower and with the consent of Agent (such consent not to be unreasonably withheld or delayed), agrees, in such Lender's sole discretion, to become a Canadian Issuing Lender for the purpose of issuing Canadian Letters of Credit or Canadian Reimbursement Undertakings pursuant to Section 2.11B of the Agreement and Canadian Issuing Lender shall be a Lender.

"Canadian Letter of Credit" means a letter of credit (as that term is defined in the Code) issued by Canadian Issuing Lender or Canadian Underlying Issuer for the account of Canadian Borrower.

"Canadian Letter of Credit Disbursement" means a payment made by Canadian Issuing Lender pursuant to a Canadian Letter of Credit or a Canadian Reimbursement Undertaking.

"Canadian Letter of Credit Exposure" means, as of any date of determination with respect to any Lender, such Lender's Pro Rata Share of the Canadian Letter of Credit Usage on such date (including such Lender's Pro Rata Share of Canadian Reimbursement Undertakings on such date).

"Canadian Letter of Credit Fee" has the meaning specified therefor in Section 2.6(b) of the Agreement.

"Canadian Letter of Credit Usage" means, as of any date of determination, the aggregate undrawn amount of all outstanding Canadian Letters of Credit.

"Canadian Loan Account" has the meaning specified therefor in Section 2.9 of the Agreement.

"Canadian Loan Party" means Canadian Borrower or any Canadian Guarantor.

"Canadian Maximum Revolver Amount" means \$20,000,000 decreased by the amount of reductions in the Canadian Revolver Commitments made in accordance with Section 2.4(c) of the Agreement.

"Canadian Obligations" means (a) all loans (including the Canadian Revolving Loans (inclusive of Canadian Extraordinary Advances and Canadian Swing Loans)), debts, principal, interest (including any interest that accrues after the commencement of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding), reimbursement or indemnification obligations with respect to Canadian Letters of Credit (irrespective of whether contingent), premiums, liabilities (including all amounts charged to the Canadian Loan Account pursuant to the Agreement), obligations (including indemnification obligations) of any Canadian Loan Party, fees (including the fees provided for in the Fee Letter) of any Canadian Loan Party, Lender Group Expenses (including any fees or expenses that accrue after the commencement of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding) of any Canadian Loan Party, guaranties of any Canadian Loan Party, and all covenants and duties of any other kind and description owing by any Canadian Loan Party arising out of, under, pursuant to, in connection with, or evidenced by the Agreement or any of the other Loan Documents 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, and including all interest not paid when due and all other expenses or other amounts that any Canadian Loan Party is required to pay or reimburse by the Loan Documents or by law or otherwise in connection with the Loan Documents, (b) all debts, liabilities, or obligations (including reimbursement obligations, irrespective of whether contingent) owing by Canadian Borrower or any other Canadian Loan Party to Canadian Issuing Lender now or hereafter arising from or in respect of a Canadian Letters of Credit, and (c) all Canadian Bank Product Obligations; provided, that Canadian Obligations shall not include Excluded Swap Obligations. Without limiting the generality of the foregoing, the Canadian Obligations under the Loan Documents include the obligation to pay (i) the principal of the Canadian Revolving Loans, (ii) interest accrued on the Canadian Revolving Loans, (iii) the amount necessary to reimburse Canadian Issuing Lender for amounts paid or payable pursuant to Canadian Letters of Credit, (iv) Letter of Credit commissions, charges, expenses, and fees, in each case in respect of Canadian Letters of Credit (v) Lender Group Expenses of any Canadian Loan Party, (vi) fees payable by any Canadian Loan Party under the Agreement or any of the other Loan Documents, and (vii) indemnities and other amounts payable by any Canadian Loan Party under any Loan Document (excluding Excluded Swap Obligations) and (viii) the joint and several liability of the Canadian Borrower in respect of the Obligations hereunder and any guaranties by any Canadian Loan Party of all or any part of the US Obligations. Any reference in the Agreement or in the Loan Documents to the Canadian Obligations shall include all or any portion thereof and any extensions, modifications, renewals, or alterations thereof, both prior and subsequent to any Insolvency Proceeding.

"Canadian Overadvance" means, as of any date of determination, that the Canadian Revolver Usage is greater than any of the limitations set forth in Section 2.1 or Section 2.11B.

"Canadian Patent Security Agreement" has the meaning specified therefor in the Canadian Security Agreement.

"Canadian Pension Plan" means each pension plan required to be registered under Canadian federal or provincial law that is maintained or contributed to, or to which there is or may be an obligation to contribute by a Loan Party or a Subsidiary thereof, for its employees or former employees, but does not include the Canada Pension Plan or the Quebec Pension Plan as maintained by the Government of Canada or the Province of Quebec, respectively.

"Canadian Pension Termination Event " means (a) the voluntary full or partial wind up of a Canadian Pension Plan by any Loan Party or Subsidiary thereof or initiation of any action or filing to do so; (b) the institution of proceedings by any Governmental Authority to terminate in whole or in part or have a trustee appointed to administer any Canadian Pension Plan; or (c) any other event or condition which might constitute grounds for the termination of, winding up or partial termination of, winding up or the appointment of trustee to administer, any Canadian Pension Plan.

"Canadian Priority Payables Reserves" means reserves (determined from time to time by Agent in its Permitted Discretion) for: (a) the amount past due and owing by any Canadian Loan Party, or the accrued amount for which such Canadian Loan Party has an obligation to remit, to a Governmental Authority or other Person pursuant to any applicable law, rule or regulation, in respect of (i) goods and services taxes, sales taxes, employee income taxes, municipal taxes and other taxes payable or to be remitted or withheld; (ii) workers' compensation or employment insurance; (iii) vacation or holiday pay; and (iv) other like charges and demands, in each case, to the extent that any Governmental Authority or other Person may claim a lien, security interest, hypothec, trust or other claim ranking or capable of ranking in priority to or *pari passu* with one or more of the Liens granted in the Loan Documents; and (b) the aggregate amount of any other liabilities of any Canadian Loan Party (i) in respect of which a trust or deemed trust has been or may be imposed on any Collateral to provide for payment, or (ii) in respect of unpaid or unremitted pension plan contributions, including amounts representing any unfunded liability, solvency deficiency or wind-up deficiency whether or not due with respect to a Canadian Pension Plan, or (iii) which are secured by a lien, security interest, pledge, charge, right or claim on any Collateral (other than Permitted Liens that do not have priority over Agent's Liens); in each case, pursuant to any applicable law, rule or regulation and which such lien, trust, security interest, hypothec, pledge, charge, right or claim ranks or in the Permitted Discretion of Agent, is capable of ranking in priority to or *pari passu* with one or more of the Liens granted in the Loan Documents (such as liens, trusts, security interests, hypothecs, pledges, charges, rights or claims in favor of employees, landlords, warehousemen, customs brokers, carriers, mechanics, materialmen, labourers, or suppliers, or liens, trusts, security interests, hypothecs, pledges, charges, rights or claims for ad valorem, excise, sales, or other taxes where given priority under applicable law); in each case net of the aggregate amount of all restricted cash held or set aside for the payment of such obligations.

"Canadian Protective Advances" has the meaning specified therefor in Section 2.3(d)(i) of the Agreement.

"Canadian Recognition Orders" means (i) the Canadian Initial Recognition Order, the Canadian Supplemental Order and the applicable DIP Recognition Order at such time in form and substance satisfactory to Agent and (ii) and any other order of the Canadian Court issued from time to time in form and substance satisfactory to Agent.

"Canadian Reimbursement Undertaking" has the meaning specified therefor in Section 2.11B(a) of the Agreement.

"Canadian Revolver Commitment" means, with respect to each Revolving Lender, its Canadian Revolver Commitment, and, with respect to all Revolving Lenders, their Canadian Revolver Commitments, in each case as set forth beside such Revolving Lender's name under the applicable heading on Schedule C-1 to the Agreement or in the Assignment and Acceptance pursuant to which such Revolving Lender became a Revolving Lender under the Agreement, as such amounts may be reduced or increased from time to time pursuant to assignments made in accordance with the provisions of Section 13.1 of the Agreement.

"Canadian Revolver Usage" means, as of any date of determination, the sum of (a) the amount of outstanding Canadian Revolving Loans (inclusive of Canadian Swing Loans and Canadian Protective Advances), plus (b) the amount of the Canadian Letter of Credit Usage.

"Canadian Revolving Loan Exposure" means, with respect to any Revolving Lender, as of any date of determination (a) prior to the termination of the Canadian Revolver Commitments, the amount of such Lender's Canadian Revolver Commitment, and (b) after the termination of the Canadian Revolver Commitments, the aggregate outstanding principal amount of the Canadian Revolving Loans of such Lender.

"Canadian Revolving Loans" has the meaning specified therefor in Section 2.1(b) of the Agreement.

"Canadian Security Agreement" means that certain Guaranty and Security Agreement dated as of the Closing Date, as the same may subsequently be amended, executed and delivered by each Loan Party party thereto to Agent.

"Canadian Security Documents" means the Canadian Security Agreement, the Quebec Security Documents and any other Loan Document that grants or purports to grant a Lien on any of the assets or interests, and the proceeds thereof, of any Canadian Loan Party.

"Canadian Supplemental Order" means an order of the Canadian Court, in form and substance satisfactory to Agent, and the Lenders, which order shall grant customary additional relief in the Recognition Proceedings.

"Canadian Swing Lender" means WF Canada or any other Lender that, at the request of Canadian Borrower and with the consent of Agent agrees, in such Lender's sole discretion, to become the Canadian Swing Lender under Section 2.3(b) of the Agreement.

"Canadian Swing Loan" has the meaning specified therefor in Section 2.3(b) of the Agreement.

"Canadian Swing Loan Exposure" means, as of any date of determination with respect to any Lender, such Lender's Pro Rata Share of the Canadian Swing Loans on such date.

"Canadian Trademark Security Agreement" has the meaning specified therefor in the Canadian Security Agreement.

"Canadian Underlying Issuer" means The Toronto-Dominion Bank or one of its Affiliates or such other Person that is reasonably acceptable to Agent.

"Capitalized Lease Obligation" means that portion of the obligations under a Capital Lease that is required to be capitalized in accordance with GAAP.

"Capital Lease" means a lease that is required to be capitalized for financial reporting purposes in accordance with GAAP.

"Carl Marks Engagement Agreement" means that certain Amended Advisory Agreement dated as of May 17, 2019 by and between HSP and Carl Marks Advisory Group LLC as the same may be further amended, restated, supplemented or otherwise modified in a manner reasonably acceptable to Agent.

"Carveout" or "Carve-Out" has the meaning specified therefor in the Interim Financing Order or the Final Financing Order, as applicable.

"Case Professionals" means any professional (other than an ordinary course professional) retained by the Borrowers or a Committee pursuant to a final order of the Bankruptcy Court (which order has not been vacated or stayed, unless the stay has been vacated) under Sections 327, 328, 363 or 1103(a) of the Bankruptcy Code.

"Cash Equivalents" means (a) Domestic Cash Equivalents; and (b) Foreign Cash Equivalents.

"Cash Management Services" means any cash management or related services including treasury, depository, return items, overdraft, controlled disbursement, merchant store value cards, e-payables services, electronic funds transfer, interstate depository network, automatic clearing house transfer (including the Automated Clearing House processing of electronic funds transfers through the direct Federal Reserve Fedline system or Canadian Payments Association) and other customary cash management arrangements.

"CCAA" means the *Companies' Creditors Arrangement Act (Canada)*, R.S.C. 1985, C-36, as amended.

"CFC" means a controlled foreign corporation (as that term is defined in the IRC) of which any Loan Party is a "United States shareholder" within the meaning of Section 951(b) of the IRC.

"Change in Control" means the occurrence of any of the following events: (a) Sponsor Affiliated Entity ceases to beneficially own and control, directly or indirectly, more than 50.0% of the voting and economic Equity Interests in Parent on a fully diluted basis, (b) any Person or "group" (within the meaning of Rules 13d-3 and 13d-5 promulgated under the Exchange Act) other than Sponsor Affiliated Entity shall have acquired beneficial ownership on a fully diluted basis of the voting Equity Interests of Parent sufficient (whether or not exercised) to elect a majority of the members of the Board of Directors of Parent, (c) Sponsor Affiliated Entity ceases to have the power to elect or designate, directly or indirectly, a majority of the Board of Directors of Parent by voting power, contract or otherwise, (d) Parent ceases to beneficially own and control, directly or indirectly, all of the Equity Interests in each Borrower or (e) Administrative Borrower ceases to beneficially own and control, directly or indirectly, all of the Equity Interests in PCF.

"Change in Law" means the occurrence after the date of the Agreement of: (a) the adoption or effectiveness of any law, rule, regulation, judicial ruling, judgment or treaty, (b) any change in any law, rule, regulation, judicial ruling, judgment or treaty or in the administration, interpretation, implementation or application by any Governmental Authority of any law, rule, regulation, guideline or treaty, or (c) the making or issuance by any Governmental Authority of any request, rule, guideline or directive, whether or not having the force of law; provided that notwithstanding anything in the Agreement to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives concerning capital adequacy 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 shall, in each case, be deemed to be a "Change in Law," regardless of the date enacted, adopted or issued.

"Closing Date" means May __, 2019.

"Closing Fee" has the meaning specified therefor in Section 2.10(d) of this Agreement.

"Code" means the New York Uniform Commercial Code, as in effect from time to time.

"Collateral" means all assets and interests in assets and proceeds thereof now owned or hereafter acquired by Parent or any of its Subsidiaries in or upon which a Lien is granted by such Person in favor of Agent or the Lenders under any of the Loan Documents. Without limitation of the foregoing, subject to the terms of the Interim Financing Order, Final Financing Order, the Intercreditor Agreement and the Carveout, the Collateral shall include all proceeds of any and all Avoidance Actions.

"Collateral Access Agreement" means a landlord waiver, bailee letter, or acknowledgement agreement of any lessor, warehouseman, processor, consignee, or other Person in possession of, having a Lien upon, or having rights or interests in Parent's or its Subsidiaries' books and records, Equipment, or Inventory, in each case, in form and substance reasonably

satisfactory to Agent (it being agreed that each "Collateral Access Agreement" entered into in connection with the Existing Credit Agreement shall be a Collateral Access Agreement).

"Commodity Exchange Act" has the meaning specified therefor in the Security Agreement.

"Commitment" means, with respect to each Lender, its Revolver Commitment and, with respect to all Lenders, their Revolver Commitments, in each case as such Dollar amounts or Canadian Dollar amounts, as applicable, are set forth beside such Lender's name under the applicable heading on Schedule C-1 to the Agreement or in the Assignment and Acceptance pursuant to which such Lender became a Lender under the Agreement, as such amounts may be reduced or increased from time to time pursuant to assignments made in accordance with the provisions of Section 13.1 of the Agreement.

"Committees" means, collectively, the official committee of unsecured creditors and any other committee formed, appointed or approved in any Bankruptcy Case.

"Compliance Certificate" means a certificate substantially in the form of Exhibit C-1 to the Agreement delivered by the Financial Officer of Administrative Borrower to Agent.

"Confidential Information" has the meaning specified therefor in Section 17.9(a) of the Agreement.

"Consultant" means a Person providing interim management services for the Borrowers and/or acting as financial consultant of Borrowers; such person (other than as set forth in the next sentence) to be reasonably acceptable to Agent and engaged by Borrowers pursuant to the terms of an engagement agreement reasonably acceptable to Agent. As of the Closing Date, the Consultant is Carl Marks Advisory Group LLC under and pursuant to the Carl Marks Engagement Agreement.

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

"Control Agreement" means a control agreement, in form and substance reasonably satisfactory to Agent, executed and delivered by Parent or one of its Subsidiaries, Agent, and the applicable securities intermediary (with respect to a Securities Account) or bank (with respect to a Deposit Account) (it being agreed that each "Control Agreement" entered into in connection with the Existing Credit Agreement shall be a Control Agreement).

"Cushion" has the meaning specified therefor in the preamble to the Agreement.

"Customs Broker Agreement" means a customs broker agreement of a customs broker in possession of documents evidencing in-transit Inventory, in form and substance reasonably satisfactory to Agent.

"Debtor" has the meaning specified therefor in the recitals to this Agreement.

"Default" means an event, condition, or default that, with the giving of notice, the passage of time, or both, would be an Event of Default.

"Defaulting Lender" means any Lender that (a) has failed to fund any amounts required to be funded by it under the Agreement on the date that it is required to do so under the Agreement (including the failure to make available to Agent amounts required pursuant to a Settlement or to make a required payment in connection with a Letter of Credit Disbursement), (b) notified Borrowers, Agent, or any Lender in writing that it does not intend to comply with all or any portion of its funding obligations under the Agreement, (c) has made a public statement to the effect that it does not intend to comply with its funding obligations under the Agreement or under other agreements generally (as reasonably determined by Agent) under which it has committed to extend credit, (d) failed, within one Business Day after written request by Agent, to confirm that it will comply with the terms of the Agreement relating to its obligations to fund any amounts required to be funded by it under the Agreement, (e) otherwise failed to pay over to Agent or any other Lender any other amount required to be paid by it under the Agreement on the date that it is required to do so under the Agreement, or (f) (i) becomes or is insolvent or has a parent company that has become or is insolvent, (ii) becomes the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, or custodian or appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in any such proceeding or appointment or has a parent company that has become the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, or custodian appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in any such proceeding or appointment or (iii) becomes the subject of a Bail-in Action.

"Defaulting Lender Rate" means (a) with respect to US Obligations, (i) for the first three days from and after the date the relevant payment is due, the US Base Rate, and (ii) thereafter, the interest rate then applicable to US Revolving Loans that are Base Rate Loans (inclusive of the Base Rate Margin applicable thereto), and (b) with respect to Canadian Obligations, (i) for the first three days from and after the date the relevant payment is due, the Canadian Base Rate (if such Canadian Obligations are denominated in Canadian Dollars) or the US Base Rate (if such Canadian Obligations are denominated in Dollars), and (ii) thereafter, the interest rate then applicable to Canadian Revolving Loans that are Base Rate Loans (inclusive of the Base Rate Margin applicable thereto).

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

"DIP Liens" means the Liens granted to the Agent under the Loan Documents and authorized by the Financing Order.

"DIP Recognition Order" means the Canadian Interim DIP Recognition Order and the Canadian Final DIP Recognition Order, whichever is in effect as of the relevant date in question.

"Disqualified Equity Interests" means any Equity Interests that, by their terms (or by the terms of any security or other Equity Interests into which they are convertible or for which

they are exchangeable), or upon the happening of any event or condition (a) matures or are mandatorily redeemable (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale or other disposition or casualty event so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale or other disposition or casualty event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments), (b) are redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests), in whole or in part, (c) provide for the scheduled payments of dividends in cash, or (d) are or become convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is one hundred eighty (180) days after the Maturity Date (as determined on the date of the issuance thereof).

"Dollar Equivalent" means, at any time, (a) with respect to any amount denominated in Dollars, such amount, and (b) with respect to any amount denominated in another currency, the equivalent amount thereof in Dollars as determined by Agent, at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date or such other date determined by Agent) for the purchase of Dollars with such currency.

"Dollars" or "\$" means United States dollars.

"Domestic Cash Equivalents" means (a) marketable direct obligations issued by, or unconditionally guaranteed by, the United States or issued by any agency thereof and backed by the full faith and credit of the United States, in each case maturing within 1 year from the date of acquisition thereof, (b) marketable direct obligations issued or fully guaranteed by any state of the United States or any political subdivision of any such state or any public instrumentality thereof maturing within 1 year from the date of acquisition thereof and, at the time of acquisition, having one of the two highest ratings obtainable from either Standard & Poor's Rating Group ("S&P") or Moody's Investors Service, Inc. ("Moody's"), (c) commercial paper maturing no more than two hundred seventy (270) days from the date of creation thereof and, at the time of acquisition, having a rating of at least A-1 from S&P or at least P-1 from Moody's, (d) certificates of deposit, time deposits, overnight bank deposits or bankers' acceptances maturing within 1 year from the date of acquisition thereof issued by any bank organized under the laws of the United States or any state thereof or the District of Columbia or any United States branch of a foreign bank having at the date of acquisition thereof combined capital and surplus of not less than (x) \$250,000,000 in the case of U.S. banks and (y) \$1,000,000,000 (or the dollar equivalent thereof as of the date of determination in the case of any United States branch of a foreign bank), (e) Deposit Accounts maintained with (i) any bank that satisfies the criteria described in clause (d) above, or (ii) any other bank organized under the laws of the United States or any state thereof so long as the full amount maintained with any such other bank is insured by the Federal Deposit Insurance Corporation, (f) repurchase obligations of any commercial bank satisfying the requirements of clause (d) of this definition or recognized securities dealer having combined capital and surplus of not less than (x) \$250,000,000 in the case of U.S. banks and (y) \$1,000,000,000 (or dollar equivalent thereof as of the date of determination) in the case of any United States branch of a foreign bank, having a term of not more than seven days, with respect to securities satisfying the criteria in clauses (a) or (d) above, (g) debt securities with maturities of six months or less from the date of acquisition backed by

standby letters of credit issued by any commercial bank satisfying the criteria described in clause (d) above, (h) [reserved], and (i) investment funds investing at least 90% of their assets in securities of the types described in clauses (a) through (h) above.

"Drawing Document" means any Letter of Credit or other document presented for purposes of drawing under any Letter of Credit.

"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 Tax Rate" means the aggregate Federal, state and local income tax rate applicable to an individual resident in the city of New York (or such other jurisdiction having the highest aggregate Federal, state and local income tax rate applicable to any equity owner of Parent) subject to tax at the highest marginal income tax rates provided for under the applicable Federal, state and local laws then in effect, taking into account the character of income and assuming full deductibility of state and local taxes.

"Eligible Accounts" means the US Eligible Accounts and/or the Canadian Eligible Accounts, as the context requires.

"Eligible In-Transit Inventory" means Inventory of a Loan Party that (a) is currently in transit from outside the United States to a location set forth on Schedule E-1 (as updated pursuant to Section 5.14) and (b) satisfies the following additional criteria: (i) under the terms of sale, title and risk of loss with respect to such Inventory have passed from Vendor to, and such Inventory is owned, by a Loan Party, or Agent is otherwise satisfied that a final sale of such Inventory to such Loan Party has occurred, (ii) such Inventory is not in transit for more than forty-five (45) days, (iii) no default exists under any agreement in effect between the vendor of such Inventory and such Loan Party that would permit such vendor under any applicable law (including the UCC) to divert, reclaim, reroute or stop shipment of such Inventory, (iv) such Inventory is covered by marine cargo insurance and is insured against types of loss, damage, hazards and risks, and in amounts, satisfactory to Agent in its Permitted Discretion, and (v) such Inventory is subject to a negotiable bill of lading or a non-negotiable bill of lading with Agent listed as consignee (x) that is consigned to Agent (either directly or by means of endorsements), (y) that was issued by the carrier in possession of the subject Inventory, and (z) that is in the United States in the possession of a customs broker that has executed a Customs Broker Agreement.

"Eligible Inventory" means the US Eligible Inventory and/or the Canadian Eligible Inventory, as the context requires.

"Eligible Transferee" means (a) any Lender (other than a Defaulting Lender), any Affiliate of any Lender and any Related Fund of any Lender; (b) (i) a commercial bank organized under the laws of the United States or any state thereof, and having total assets in excess of \$1,000,000,000; (ii) a savings and loan association or savings bank organized under the laws of the United States or any state thereof, and having total assets in excess of \$1,000,000,000; or (iii) a commercial bank organized under the laws of any other country or a political subdivision thereof; provided that (A) (x) such bank is acting through a branch or agency located in the United States or (y) such bank is organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development or a political subdivision of such country, and (B) such bank has total assets in excess of \$1,000,000,000; (c) any other entity (other than a natural person) that is an "accredited investor" (as defined in Regulation D under the Securities Act) that extends credit or buys loans as one of its businesses including insurance companies, investment or mutual funds and lease financing companies, and having total assets in excess of \$1,000,000,000; and (d) any other Person approved by Agent; provided, that no Sponsor Affiliated Entity shall qualify as an Eligible Transferee (except with respect to Last Out Loans to the extent so consented to by Agent or upon payment in full of the Obligations (other than Last Out Loans) as contemplated by the Participation Agreement).

"Employee Benefit Plan" means any employee benefit plan within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA, (a) that is or within the preceding 6 years has been sponsored, maintained or contributed to by any Loan Party or ERISA Affiliate or (b) to which any Loan Party or ERISA Affiliate has, or has had at any time within the preceding 6 years, any liability, contingent or otherwise, excluding any Canadian Benefit Plan or Canadian Pension Plan.

"Environmental Action" means any written complaint, demand, summons, citation, notice, directive, order, claim, litigation, judicial or administrative proceeding, judgment, letter, or other written communication from any Governmental Authority, or any third party involving liabilities under Environmental Laws, violations of Environmental Laws or releases of Hazardous Materials (a) from any assets, properties, or businesses of Parent, any Subsidiary of Parent, or any of their predecessors in interest, (b) from adjoining properties or businesses, or (c) from or onto any facilities which received Hazardous Materials generated by Parent, any Subsidiary of Parent, or any of their predecessors in interest.

"Environmental Law" means any applicable United States or foreign federal, state, provincial, territorial, municipal or local statute, law, rule having the force and effect of law, regulation, ordinance, code, binding and enforceable guideline or rule of common law now or hereafter in effect and in each case as amended, or any binding and enforceable judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, in each case, relating to the environment, Hazardous Materials affecting employee or worker health or safety, or Hazardous Materials, in each case as amended from time to time. Without limitation, Environmental Law includes the *Resource Conservation and Recovery Act* ("RCRA"), the *Comprehensive Environmental Response, Compensation and Liability Act* ("CERCLA"), the *Canadian Environmental Protection Act* (Canada), the *Fisheries*

Act (Canada), the Transportation of Dangerous Goods Act (Canada) and the Ontario Water Resources Act (Ontario).

"Environmental Liabilities" means all liabilities, obligations (including monetary obligations), losses, damages, costs and expenses (including all reasonable fees, disbursements and expenses of counsel, experts, or consultants, and costs of investigation and feasibility studies), fines, penalties, sanctions, and interest incurred (i) as a result of or related to any Environmental Action or Remedial Action or (ii) under Environmental Law.

"Environmental Lien" means any Lien in favor of any Governmental Authority related to or arising out of Environmental Liabilities.

"Equipment" means equipment (as that term is defined in the Code).

"Equity Documents" means, collectively, the (i) Amended and Restated Limited Liability Company Agreement of Parent, dated as of October 21, 2014, (ii) Securityholders Agreement, dated as of October 21, 2014, by and among Parent and other Persons party thereto, (iii) Registration Rights Agreement, dated as of October 21, 2014, by and among Parent and the other Persons party thereto, (iv) Contribution and Exchange Agreement, dated as of September 18, 2014, by and among Parent and the other Persons party thereto, (v) Subscription Agreements, dated as of October 21, 2014, by and among Parent and the other Persons party thereto, (vi) Securities Purchase Agreement, dated as of September 18, 2014, by and among HHFH, HHF Holdings, LLC, Hollander Home Fashions Corp., Jeffrey Hollander Irrevocable Exempt Trust dated October 29, 2012 and each of the other Persons party thereto, (vii) certificate of incorporation, bylaws, operating agreement or other organizational document of the Borrowers as of the Closing Date, and (viii) Management Services Agreement, in each case, as amended.

"Equity Interests" means, with respect to a Person, all of the shares, options, warrants, interests, participations, or other equivalents (regardless of how designated) of or in such Person, whether voting or nonvoting, including capital stock (or other ownership or profit interests or units), preferred stock, or any other "equity security" (as such term is defined in Rule 3a11-1 of the General Rules and Regulations promulgated by the SEC under the Exchange Act).

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and any successor statute thereto.

"ERISA Affiliate" means (a) any Person subject to ERISA whose employees are treated as employed by the same employer as the employees of Parent or its Subsidiaries under IRC Section 414(b), (b) any trade or business subject to ERISA whose employees are treated as employed by the same employer as the employees of Parent or its Subsidiaries under IRC Section 414(c), (c) solely for purposes of Section 302 of ERISA and Section 412 of the IRC, any organization subject to ERISA that is a member of an affiliated service group of which Parent or any of its Subsidiaries is a member under IRC Section 414(m), or (d) solely for purposes of Section 302 of ERISA and Section 412 of the IRC, any Person subject to ERISA that is a party to an arrangement with Parent or any of its Subsidiaries and whose employees are aggregated with the employees of Parent or its Subsidiaries under IRC Section 414(o).

"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.

"Event of Default" has the meaning specified therefor in Section 8 of the Agreement.

"Excess Availability" means, as of any date of determination, the Dollar Equivalent of the sum of (a) US Availability plus (b) Canadian Availability.

"Exchange Act" means the Securities Exchange Act of 1934, as in effect from time to time.

"Excluded Actions" has the meaning specified therefor in Section 5.12 of the Agreement.

"Excluded Collateral" has the meaning specified therefor in the Security Agreement.

"Excluded Subsidiary" means any Subsidiary of Parent (a) [reserved], (b) [reserved], (c) [reserved], and (d) that is a Foreign Subsidiary of Parent (other than any direct or indirect wholly owned Subsidiary of Parent that is organized under the laws of Canada or any province or other political subdivision thereof (each, a "Canadian Subsidiary")) that is a CFC) to Parent or one of its Subsidiaries (as reasonably determined by Parent in consultation with Agent).

"Excluded Swap Obligation" has the meaning specified therefore in the Security Agreement.

"Excluded Taxes" means (i) any Tax imposed on the net income or net profits of any Lender or any Participant (including any branch profits Taxes and franchise Taxes imposed in lieu of net income Taxes), in each case imposed by the jurisdiction (or by any political subdivision or taxing authority thereof) in which such Lender or such Participant is organized or the jurisdiction (or by any political subdivision or taxing authority thereof) in which such Lender's or such Participant's principal office is located in or as a result of a present or former connection between such Lender or such Participant and the jurisdiction or taxing authority imposing the tax (other than any such connection arising solely from such Lender or such Participant having executed, delivered or performed its obligations or received payment under, or enforced its rights or remedies under this Agreement or any other Loan Document); (ii) United States or Canadian federal Taxes that would not have been imposed but for a Lender's or a Participant's or Agent's failure to comply with the requirements of Section 16.2 of the Agreement, (iii) Canadian federal Taxes imposed on a recipient of a payment under the Loan Documents with which the applicable payor does not deal at arm's length (with the meaning provided by the *Income Tax Act* (Canada)), (iv) any United States or Canadian federal withholding Taxes that would be imposed on amounts payable to a Lender or Participant or Agent based upon the applicable withholding rate in effect at the time such Lender or Participant or Agent becomes a party to the Agreement (or designates a new lending office), except that Taxes shall include (A) any Tax amount that such Lender or Participant or Agent (or its assignor,

if any) was previously entitled to receive pursuant to Section 16.1 of the Agreement, if any, with respect to such withholding Tax at the time of designation of a new lending office (or assignment), and (B) additional United States or Canadian federal withholding taxes that may be imposed after the time such Lender or Participant or Agent becomes a party to the Agreement (or designates a new lending office), as a result of a change in law, rule, treaty, regulation, order or other decision with respect to any of the foregoing by any Governmental Authority; and (v) any United States federal withholding taxes imposed under FATCA.

"Existing Agent" means Wells Fargo Bank, National Association, in its capacity as administrative agent for the Existing Lenders.

"Existing Bank Product Obligations" means "Bank Product Obligations" as defined in the Existing Credit Agreement.

"Existing Canadian Letters of Credit" has the meaning set forth in Section 2.11(B)(o).

"Existing Credit Agreement" means that certain Third Amended and Restated Credit Agreement, dated as of June 9, 2017 by and among Borrowers, the Existing Lenders and Existing Agent, as administrative agent, as amended from time to time.

"Existing Hedge Agreements" means any Hedge Agreement entered into by any Loan Party or any Subsidiary that is (a) outstanding on the Closing Date and (b) listed on Schedule H-1.

"Existing Intercreditor Agreement" means that certain Intercreditor Agreement, dated as of June 9, 2017, by and between Existing Agent and Barings Finance LLC, as the administrative agent under the Existing Term Loan Credit Agreement (or any successor or assignee thereto), and acknowledged by Parent and Borrowers, as amended or modified from time to time.

"Existing Last Out Loans" means the "Last Out Loans" as defined in the Existing Credit Agreement.

"Existing Last Out Obligations" means all principal, interest, fees and other amounts due and payable in connection with the Existing Last Out Loans.

"Existing Lenders" means the lenders from time to time party to the Existing Credit Agreement.

"Existing Loan Documents" means "Loan Documents" as defined in the Existing Credit Agreement.

"Existing Participation Agreement" means that certain Subordinated Participation Agreement, dated on or about the Filing Date by and among SENTINEL CAPITAL PARTNERS V, L.P., SENTINEL DREAM BLOCKER, INC., SENTINEL CAPITAL INVESTORS V, L.P. and Existing Lenders.

"Existing Secured Canadian Obligations" means the Existing Secured Obligations constituting "Canadian Obligations" under the Existing Credit Agreement (in any event excluding, for the avoidance of doubt, upon the Canadian Court issuing the Canadian Interim DIP Recognition Order, the reimbursement obligations with respect to the Existing Canadian Letters of Credit that are deemed to be reissued as Canadian Letters of Credit hereunder upon the Canadian Court issuing the Canadian Interim DIP Recognition Order).

"Existing Secured Obligations" means all outstanding principal, accrued interest, accrued fees and expenses and any other indebtedness and amounts owing to Existing Lenders (or the agents therefor) under the Existing Loan Documents and all Existing Bank Product Obligations (in any event excluding, for the avoidance of doubt, (x) upon the Closing Date, the reimbursement obligations with respect to the Existing US Letters of Credit that are deemed to be reissued as US Letters of Credit hereunder on the Closing Date and (y) upon the Canadian Court issuing the Canadian Interim DIP Recognition Order, the reimbursement obligations with respect to the Existing Canadian Letters of Credit that are deemed to be reissued as Canadian Letters of Credit upon the Canadian Court issuing the Canadian Interim DIP Recognition Order).

"Existing Secured US Obligations" means the Existing Secured Obligations constituting "US Obligations" under the Existing Credit Agreement (in any event excluding, for the avoidance of doubt, upon the Closing Date, the reimbursement obligations with respect to the Existing US Letters of Credit that are deemed to be reissued as US Letters of Credit hereunder on the Closing Date).

"Existing Term Loan Agent" means the "Term Loan Agent" as defined in the Existing Intercreditor Agreement.

"Existing Term Loan Credit Agreement" means that certain Term Loan Credit Agreement dated as of June 9, 2017, by and among Borrowers, the Existing Term Loan Agent and the lenders from time to time party thereto, as amended from time to time to the extent permitted under the Existing Intercreditor Agreement.

"Existing Term Loan Debt" means "Term Loan Debt" as defined in the Existing Intercreditor Agreement.

"Existing Term Loan Documents" means the "Term Loan Documents" as defined in the Existing Intercreditor Agreement.

"Existing US Letters of Credit" has the meaning set forth in Section 2.11(A)(o).

"Exit Financing Commitment Letter" means a fully executed commitment letter for an exit financing from a commercial bank or other financial institution or fund which is engaged in making, purchasing or otherwise investing in commercial loans for its own account, in each case, in form and substance reasonably acceptable to the Agent, that provides for the payment in full in cash of the Obligations (other than Obligations in respect of the Last Out Loans) and, to the extent of any, Existing Secured Obligations, with only customary conditions precedent for financings of this type.

"Extraordinary Advances" means the US Extraordinary Advances and/or the Canadian Extraordinary Advances, as the context requires.

"Extraordinary Receipt" means any cash received by or paid to or for the account of any Person that is not contemplated in the Approved Budget and is not in the ordinary course of business (other than any such cash received or paid from Recovery Events or Avoided Payments), including tax refunds, pension plan reversions, indemnity payments and any purchase price adjustments; provided, however, that an Extraordinary Receipt shall not include indemnity payments to the extent that payments are received by any Person in respect of any third party claim against such Person and applied to pay (or to reimburse such Person for its prior payment of) such claim and the costs and expenses of such Person with respect thereto; provided, further, that Extraordinary Receipts shall not include items of Term Loan Priority Collateral or proceeds of any assets of the categories in the definition of Term Loan Priority Collateral.

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

"Federal Funds Rate" means, for any period, a fluctuating interest rate *per annum* equal to, for each day during such period, the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by Agent from three Federal funds brokers of recognized standing selected by it (and, if any such rate is below zero, then the rate determined pursuant to this definition shall be deemed to be zero).

"Fee Letter" means that certain fee letter, dated as of the Closing Date, among Borrowers and Agent.

"Filing Date" has the meaning specified therefor in the recitals to this Agreement.

"Final Financing Order" means the "Final Order" as defined in the Interim Financing Order, which order is in effect and not stayed, together with all extensions, modifications, and amendments thereto, in form and substance satisfactory to Agent, in its sole discretion.

"Financial Officer" of any Person means the chief financial officer, the treasurer, any assistant treasurer, any vice president of finance, the chief accountant or the controller of such Person or any officer with substantially equivalent responsibilities of any of the foregoing (which may be a Person employed by the Consultant).

"Financing Order" means (a) until the entry of the Final Financing Order, the Interim Financing Order, and (b) from and after entry of the Final Financing Order, the Final

Financing Order, together with all amendments, modifications and supplements to such Interim Financing Order or Final Financing Order, as applicable, which are acceptable to Agent in its sole discretion.

"First Day Hearing" means the first day of the hearing scheduled on which entry of the Interim Financing Order shall be heard.

"Flood Laws" means, collectively, (i) the National Flood Insurance Act of 1968 as now or hereafter in effect or any successor statute thereto, (ii) the Flood Disaster Protection Act of 1973 as now or hereafter in effect or any successor statute thereto, (iii) the National Flood Insurance Reform Act of 1994 as now or hereafter in effect or any successor statute thereto, (iv) the Flood Insurance Reform Act of 2004 and the Biggert –Waters Flood Insurance Reform Act of 2012.

"Foreign Cash Equivalents" means, in the case of any Subsidiary (other than a US Loan Party or other Subsidiary organized under the laws of the United States or a political subdivision thereof), investments denominated in the currency of the jurisdiction in which such Subsidiary is organized or in Dollars, in each case which are of substantially the same type as the items specified in the definition of Domestic Cash Equivalents.

"Foreign Lender" means any Lender or Participant that is not a United States person within the meaning of IRC section 7701(a)(30).

"Foreign Representative" has the meaning specified therefor in the recitals to this Agreement.

"Foreign Subsidiary" means any Subsidiary that is not organized under the laws of a state of the United States or the District of Columbia.

"Funding Date" means the date on which a Borrowing occurs.

"Funding Losses" has the meaning specified therefor in Section 2.12(b)(ii) of the Agreement.

"GAAP" means generally accepted accounting principles as in effect from time to time in the United States, consistently applied.

"Governing Documents" means, with respect to any Person, the certificate or articles of incorporation or formation (or equivalent thereof), by-laws (or equivalent thereof), or other organizational documents of such Person.

"Governmental Authority" means the government of the United States of America 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 supranational bodies such as the European Union or the European Central Bank).

"Guarantors" means US Guarantors and Canadian Guarantors.

"Hazardous Materials" means (a) substances that are regulated under Environmental Laws or are defined or listed in, or otherwise classified pursuant to, any Environmental Laws as "hazardous substances," "hazardous materials," "hazardous wastes," "toxic substances," or any other formulation intended to define, list, or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, reproductive toxicity, or "EP toxicity", (b) oil, petroleum, or petroleum derived substances, natural gas, natural gas liquids, synthetic gas, drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal resources, (c) any flammable substances or explosives or any radioactive materials, (d) asbestos in any form, and (e) electrical equipment that contains any oil or dielectric fluid containing levels of polychlorinated biphenyls in excess of 50 parts per million.

"Hedge Agreement" means (a) a "swap agreement" as that term is defined in Section 101(53B)(A) of the Bankruptcy Code and (b) any Existing Hedge Agreement.

"Hedge Obligations" means US Hedge Obligations and/or Canadian Hedge Obligations, as the context requires.

"Hedge Provider" means any Bank Product Provider that is a party to a Hedge Agreement with a Loan Party or its Subsidiaries or otherwise provides US Bank Products or Canadian Bank Products under clause (f) of such definitions, as applicable; provided, that if, at any time, a Lender ceases to be a Lender under this Agreement (prior to the payment in full of the 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 Hedge Providers and the obligations with respect to Hedge Agreements entered into with such former Lender or any of its Affiliates shall no longer constitute Hedge Obligations.

"HHFH" has the meaning specified therefor in the preamble to the Agreement.

"Hollander China" means Hollander Home Fashions Trading (Shanghai) Co., Ltd, a company organized under the laws of China.

"HSP" has the meaning specified therefor in the preamble to the Agreement.

"Indebtedness" as to any Person means (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes, or other similar instruments and all reimbursement or other obligations in respect of letters of credit, bankers acceptances, or other financial products, (c) all obligations of such Person as a lessee under Capital Leases, (d) all obligations or liabilities of others secured by a Lien on any asset of such Person, irrespective of whether such obligation or liability is assumed, (e) all obligations of such Person to pay the deferred purchase price of assets and any earn-out or similar obligations to the extent included, or required to be included, as a liability on the balance sheet of such Person at such time (other than (i) trade payables incurred in the ordinary course of business and repayable in accordance with customary trade practices, (ii) royalty payments payable in the ordinary course of business in respect of non-exclusive licenses, (iii) working capital and other similar purchase price adjustments, (iv) any earn-out obligation that is not yet

due and payable unless such obligation is not paid promptly after becoming due and payable, (v) customary cash pooling and cash management practices and other intercompany indebtedness having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms) incurred in the ordinary course of business, (vi) accruals for payroll or other employee compensation and other liabilities incurred in the ordinary course of business and (vii) any accrued or deferred management fees, including pursuant to the Management Services Agreement, (f) all monetary obligations of such Person owing under Hedge Agreements (which amount shall be calculated based on the amount that would be payable by such Person if the Hedge Agreement were terminated on the date of determination), (g) the liquidation value of any Disqualified Equity Interests of such Person, and (h) any obligation of such Person guaranteeing or intended to guarantee (whether directly or indirectly guaranteed, endorsed, co-made, discounted, or sold with recourse) any obligation of any other Person that constitutes Indebtedness under any of clauses (a) through (g) above. For purposes of this definition, (i) the amount of any Indebtedness represented by a guaranty or other similar instrument shall be the lesser of the principal amount of the obligations guaranteed and still outstanding and the maximum amount for which the guaranteeing Person may be liable pursuant to the terms of the instrument embodying such Indebtedness, and (ii) the amount of any Indebtedness which is limited or is non-recourse to a Person or for which recourse is limited to an identified asset shall be valued at the lesser of (A) if applicable, the limited amount of such obligations, and (B) if applicable, the fair market value of such assets securing such obligation.

"Indemnified Liabilities" has the meaning specified therefor in Section 10.3 of the Agreement.

"Indemnified Person" has the meaning specified therefor in Section 10.3 of the Agreement.

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

"Initial Approved Budget" means the 17-week operating budget (or such shorter, or longer, period, as applicable, to coincide with the Life of the Case) setting forth, on a consolidated basis with respect to the Loan Parties and their respective Subsidiaries, all forecasted consolidated cash receipts, consolidated cash disbursements and consolidated net cash flow on a weekly basis for the relevant period beginning as of the week of the Filing Date, broken down by week, including the anticipated weekly uses of the proceeds of the Loans for such period, which shall include, among other things, available cash, cash flow, trade payables and ordinary course expenses, total expenses and capital expenditures, fees and expenses relating to the Loans, fees and expenses related to the Bankruptcy Cases, and working capital and other general corporate needs, which forecast shall be in form and substance reasonably satisfactory to the Agent. Such Initial Approved Budget shall be in the form set forth in Exhibit B-3 hereto. For all purposes hereunder, the Initial Approved Budget shall constitute an "Approved Budget".

"Information Officer" means KSV Kofman Inc., in its capacity as court-appointed information officer of the Loan Parties in connection with the Recognition Proceedings.

"Insolvency Laws" means (i) the Bankruptcy Code, (ii) the *Bankruptcy and Insolvency Act (Canada)*, (iii) the CCAA, (iv) the *Winding-Up and Restructuring Act (Canada)*, (v) the *Canada Business Corporations Act (Canada)* or provincial corporate laws where such statute is used by a Person to propose an arrangement or compromise of some or all of the debts of a Person or a stay of proceedings to enforce some or all claims of creditors against a Person, and/or (vi) any similar legislation in a relevant jurisdiction, in each case as applicable and as in effect from time to time.

"Insolvency Proceeding" means any proceeding commenced by or against any Person under any provision of the Bankruptcy Code or under any other applicable Insolvency Laws, each as now and hereafter in effect, any successors to such statutes, and any similar laws in any jurisdiction including, without limitation, any laws relating to assignments for the benefit of creditors, formal or informal moratoria, compositions, extensions generally with creditors, or proceedings seeking reorganization, arrangement, or other similar relief (including the Bankruptcy Cases and the Recognition Proceedings) and any law permitting a debtor to obtain a stay or a compromise of the claims of its creditors.

"Intercompany Subordination Agreement" means that certain "Intercompany Subordination Agreement" as defined in the Existing Credit Agreement and as amended pursuant to the Reaffirmation Agreement.

"Intercreditor Agreement" means the Amended and Restated Intercreditor Agreement, dated as of the date hereof, by and between Agent and Barings Finance LLC, as the administrative agent under the Term Loan Credit Agreement (or any successor or assignee thereto), and acknowledged by Parent and Borrowers, which amends and restates in its entirety the Existing Intercreditor Agreement.

"Interim Financing Order" means collectively, the order of the Bankruptcy Court substantially in the form of Exhibit I-1 (except as may otherwise be agreed in writing or on the record by the Agent at the interim hearing with respect to such order in the Bankruptcy Cases) entered in the Bankruptcy Cases after an interim hearing (assuming satisfaction of the standards prescribed in Section 364 of the Bankruptcy Code and Bankruptcy Rule 4001 and other applicable law), which order is in effect and not stayed, together with all extensions, modifications, and amendments thereto, in form and substance reasonably satisfactory to Agent, in its sole discretion, which, among other matters but not by way of limitation, authorizes, on an interim basis, Debtors to execute and perform under the terms of this Agreement and the other Loan Documents

"Interest Period" means, with respect to each Non-Base Rate Loan, a period commencing on the date of the making of such Non-Base Rate Loan (or the continuation of a Non-Base Rate Loan or the conversion of a Base Rate Loan to a Non-Base Rate Loan) and ending 1 month thereafter; provided, that (a) interest shall accrue at the applicable rate based upon the Non-Base Rate from and including the first day of each Interest Period to, but excluding, the day on which any Interest Period expires, (b) any Interest Period that would end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day, (c) with respect to an Interest Period that begins on the last

Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period), the Interest Period shall end on the last Business Day of the calendar month that is 1 month after the date on which the Interest Period began, as applicable, and (d) Borrowers may not elect an Interest Period which will end after the Maturity Date.

"Inventory" means inventory (as that term is defined in the Code).

"Inventory Reserves" means, as of any date of determination, (a) Landlord Reserves, and (b) those reserves that 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 unless taken into account in the most recent Inventory appraisal delivered to Agent) with respect to US Eligible Inventory, Canadian Eligible Inventory, the US Maximum Revolver Amount, or the Canadian Maximum Revolver Amount.

"Investment" means, with respect to any Person, any investment by such Person in any other Person (including Affiliates) in the form of loans, guarantees, advances, capital contributions (excluding (a) commission, travel, and similar advances to officers and employees of such Person made in the ordinary course of business, and (b) *bona fide* accounts receivable arising in the ordinary course of business), or acquisitions of Indebtedness, Equity Interests, or all or substantially all of the assets of such other Person (or of any division or business line of such other Person), and any other items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. The amount of any Investment shall be the original cost of such Investment plus the cost of all additions thereto, without any adjustment for increases or decreases in value, or write-ups, write-downs, or write-offs with respect to such Investment.

"Investment Banker" has the meaning specified therefor in Section 5.21(a) of the Agreement.

"IRC" means the Internal Revenue Code of 1986, as amended, and any successor statutes, and all regulations and guidance promulgated thereunder. Any reference to a specific section of the IRC shall be deemed to be a reference to such section of the IRC and any successor statutes, and all regulations promulgated thereunder.

"ISP" means, with respect to any Letter of Credit, the International Standby Practices 1998 (International Chamber of Commerce Publication No. 590) and any subsequent revision thereof adopted by the International Chamber of Commerce on the date such Letter of Credit is issued.

"Issuer Document" means, with respect to any Letter of Credit, a letter of credit application, a letter of credit agreement, or any other document, agreement or instrument entered into (or to be entered into) by a Borrower in favor of Issuing Lender and relating to such Letter of Credit.

"Issuing Lender" means US Issuing Lender and/or Canadian Issuing Lender, as the context requires.

"Judgment Currency" has the meaning specified therefor in Section 17.14 of the Agreement.

"Landlord Reserve" means, as to each location at which any Loan Party has Inventory or Equipment included in the US Borrowing Base or Canadian Borrowing Base or books and records located and as to which a Collateral Access Agreement has not been received by Agent, a reserve in an amount equal to 3 months' rent under the lease relative to such location; provided that no such reserve shall be established with respect to locations in which 3 or more months' worth of rent is already reflected in the net orderly liquidation value attributable to such Collateral in the applicable appraisal.

"Last Out Loans" means the loans deemed to be funded hereunder upon the entry of the Final Financing Order pursuant to Section 2.2.

"Last Out Obligations" means all principal, interest, fees and other amounts due and payable in connection with the Last Out Loans.

"Lender" has the meaning set forth in the preamble to the Agreement, shall include each Issuing Lender and each Swing Lender, and shall also include any other Person made a party to the Agreement pursuant to the provisions of Section 13.1 of the Agreement and "Lenders" means each of the Lenders or any one or more of them.

"Lender Group" means each of the Lenders (including each Issuing Lender and each Swing Lender) and Agent, or any one or more of them.

"Lender Group Expenses" means (a) costs or expenses (including taxes and insurance premiums) required to be paid by Parent or its Subsidiaries under any of the Loan Documents or the Existing Loan Documents that are paid, advanced, or incurred by the Agent, the Existing Agent, the Existing Lenders and the Lender Group, (b) documented out-of-pocket fees or charges paid or incurred by Agent or the Existing Agent in connection with the Existing Lenders' or the Lender Group's transactions with Parent and its Subsidiaries under any of the Loan Documents or the Existing Loan Documents, including, photocopying, notarization, couriers and messengers, telecommunication, public record searches, filing fees, recording fees, publication, real estate surveys, real estate title policies and endorsements, and environmental audits, (c) Agent's and Existing Agent's customary fees and charges imposed or incurred in connection with any background checks or OFAC/PEP searches related to Parent or its Subsidiaries, (d) Agent's and Existing Agent's customary fees and charges (as adjusted from time to time) with respect to the disbursement of funds (or the receipt of funds) to or for the account of any Borrower (whether by wire transfer or otherwise), together with any out-of-pocket costs and expenses incurred in connection therewith, (e) customary charges imposed or incurred by Agent or Existing Agent resulting from the dishonor of checks payable by or to any Loan Party, (f) reasonable, documented out-of-pocket costs and expenses paid or incurred by the Existing Lenders or the Lender Group to correct any default or enforce any provision of the Loan Documents or the Existing Loan Documents, or during the continuance of an Event of Default, in gaining possession of, maintaining, handling, preserving, storing, shipping, selling, preparing for sale, or advertising to sell the Collateral or the Collateral (as defined in the Existing Loan Documents), or any portion thereof, irrespective of whether a sale is consummated (which, in the

case of attorneys' fees, shall be limited to reasonable documented out-of-pocket attorneys' fees of one primary outside counsel to the Lender Group, one New York local counsel, one Ontario local counsel, one local counsel for each other material jurisdiction (including Quebec) in connection with the Bankruptcy Cases, Agent Consultant, and, to the extent applicable, one local counsel in each relevant jurisdiction, and any other specialty counsel, regulatory counsel and, in the event of an actual or perceived conflict, counsel to avoid conflicts of interest as are required or advisable and in any case, shall not be duplicative of attorneys' fees pursuant to clause (i) below), (g) field examination, appraisal, and valuation fees and expenses of Agent, Existing Agent, any Agent Consultant, any Lender or any Existing Lender related to any field examinations, appraisals, or valuation to the extent of the fees and charges (and up to the amount of any limitation) provided in Section 2.10 of the Agreement (in each case, whether or not included in the Approved Budget), and including, without limitation, any charges relating to the engagement of any Agent Consultant from time to time (in each case, whether or not included in the Approved Budget), (h) Agent's, Existing Agent's, Existing Lenders' and Lenders' reasonable, documented costs and expenses (including reasonable and documented attorneys' fees and expenses) relative to third party claims or any other lawsuit or adverse proceeding paid or incurred, whether in enforcing or defending the Loan Documents, the Existing Loan Documents or otherwise in connection with the transactions contemplated by the Loan Documents, the Existing Loan Documents, Agent's Liens in and to the Collateral, Existing Agent's Liens in and to the Collateral (as defined in the Existing Loan Documents, or the Existing Lenders' or the Lender Group's relationship with Parent or any of its Subsidiaries, (i) Agent's and Existing Agent's reasonable and documented costs and expenses (including reasonable and documented attorneys' fees and due diligence expenses (which, in the case of attorneys' fees, shall be limited to reasonable documented out-of-pocket attorneys' fees of one primary outside counsel to the Lender Group, one New York local counsel, one Ontario local counsel, one local counsel for each other material jurisdiction (including Quebec) in connection with the Bankruptcy Cases, Agent Consultant, and, to the extent applicable, one local counsel in each relevant jurisdiction, and any other specialty counsel, regulatory counsel and, in the event of an actual or perceived conflict, counsel to avoid conflicts of interest as are required or advisable and in any case, shall not be duplicative of attorneys' fees pursuant to clause (f) above)) incurred in advising, structuring, drafting, reviewing, administering (including travel, meals, and lodging) syndication (including reasonable costs and expenses relative to the rating of the Loan, CUSIP, DXSyndicate™, SyndTrak or other communication costs incurred in connection with a syndication of the loan facilities), or amending, waiving, or modifying the Loan Documents or the Existing Loan Documents, and (j) Agent's, Existing Agent's, each Existing Lender's and each Lender's reasonable and documented costs and expenses (including reasonable documented attorneys, accountants, consultants, and other advisors fees and expenses) incurred in terminating, enforcing (including attorneys, accountants, consultants, and other advisors fees and expenses incurred in connection with a response to a third-party subpoena or investigation, the Bankruptcy Cases, the Recognition Proceedings or with such other "workout," a "restructuring," or an Insolvency Proceeding concerning Parent or any of its Subsidiaries or in exercising rights or remedies under the Loan Documents or the Existing Loan Documents), or defending the Loan Documents or the Existing Loan Documents, irrespective of whether a lawsuit or other adverse proceeding is brought, or in taking any enforcement action or any Remedial Action with respect to the Collateral (which, in the case of attorneys' fees, shall be limited to reasonable documented out-of-pocket attorneys' fees of one primary outside counsel to the Lender Group, one New York

local counsel, one Ontario local counsel, one local counsel for each other material jurisdiction (including Quebec) in connection with the Bankruptcy Cases, Agent Consultant, and, to the extent applicable, one local counsel in each relevant jurisdiction, and specialty counsel, regulatory counsel and, in the event of an actual or perceived conflict, counsel to avoid conflicts of interest as are required or advisable) or the Collateral (as defined in the Existing Loan Documents) (including any such costs and expenses incurred in connection with any action to lift the automatic stay of Section 362 of the Bankruptcy Code in connection with the Bankruptcy Cases and the Recognition Proceedings, or any other action or participation by any member of the Lender Group in the Bankruptcy Cases or the Recognition Proceedings, including any contested matters or adversary proceedings, to the extent related to any of the foregoing).

"Lender Group Representatives" has the meaning specified therefor in Section 17.9 of the Agreement.

"Lender-Related Person" means, with respect to any Lender, such Lender, together with such Lender's Affiliates, officers, directors, employees, attorneys, and agents.

"Letter of Credit" means a US Letter of Credit and/or a Canadian Letter of Credit, as the context requires.

"Letter of Credit Collateralization" means with respect to the US Letter of Credit Obligations or the Canadian Letter of Credit Obligations, as applicable, either (a) providing cash collateral in the Applicable Currency (pursuant to documentation reasonably satisfactory to Agent, including provisions that specify that the applicable Letter of Credit Fees and all fees, charges and commissions provided for in the Agreement (including any fronting fees) will continue to accrue while the applicable Letters of Credit are outstanding) to be held by Agent for the benefit of the applicable Revolving Lenders in an amount equal to 105% of the then existing US Letter of Credit Usage and 105% of the then existing Canadian Letter of Credit, (b) delivering to Agent documentation executed by all beneficiaries under the applicable Letters of Credit, in form and substance reasonably satisfactory to Agent and the applicable Issuing Lender, terminating all of such beneficiaries' rights under the Letters of Credit, or (c) providing Agent with a standby letter of credit, in form and substance reasonably satisfactory to Agent in the Applicable Currency, from a commercial bank acceptable to Agent (in its sole discretion) in an amount equal to 105% of the then existing US Letter of Credit Usage and 105% of the then existing Canadian Letter of Usage (it being understood that the applicable Letter of Credit Fee and all fronting fees set forth in the Agreement will continue to accrue while the applicable Letters of Credit are outstanding and that any such fees that accrue must be an amount that can be drawn under any such standby letter of credit).

"Letter of Credit Disbursement" means a US Letter of Credit Disbursement and/or a Canadian Letter of Credit Disbursement, as the context requires.

"Letter of Credit Exposure" means the US Letter of Credit Exposure and/or the Canadian Letter of Credit Exposure, as the context requires.

"Letter of Credit Fees" means the US Letter of Credit Fees and/or the Canadian Letter of Credit Fees, as the context requires.

"Letter of Credit Indemnified Costs" means any and all claims, demands, suits, actions, investigations, proceedings, liabilities, fines, costs, penalties, and damages, and all reasonable documented fees and disbursements of attorneys or experts, and all other costs and expenses actually incurred in connection therewith or in connection with the enforcement of the indemnification set forth in Section 2.11A or Section 2.11B (as and when they are incurred and irrespective of whether suit is brought), which may be incurred by or awarded against any Letter of Credit Related Person (other than Taxes, which shall be governed by Section 16) in connection with any Letter of Credit.

"Letter of Credit Related Person" means each member of the Lender Group (including each of each Issuing Lender and its branches, Affiliates, and correspondents and Canadian Underlying Issuer and its branches, Affiliates and correspondents) and each such Person's respective directors, officers, employees, attorneys and agents.

"Letter of Credit Usage" means the US Letter of Credit Usage and/or the Canadian Letter of Credit Usage, as the context requires.

"Lien" means any mortgage, deed of trust, pledge, hypothecation, assignment, charge, deposit arrangement, encumbrance, easement, lien (statutory or other), security interest, hypothec or other security arrangement and any other preference, priority, or preferential arrangement of any kind or nature whatsoever, including all "liens" as defined by Section 101(37) of the Bankruptcy Code and any conditional sale contract or other title retention agreement, the interest of a lessor under a Capital Lease and any synthetic or other financing lease having substantially the same economic effect as any of the foregoing.

"Life of the Case" means the period beginning on the Filing Date and lasting through (and including) the Plan Effective Date of the Plan.

"Loan" means any Revolving Loan (including any Swing Loan or Extraordinary Advance) made (or to be made) hereunder.

"Loan Account" has the meaning specified therefor in Section 2.9 of the Agreement.

"Loan Documents" means the Agreement, the Financing Order, the Canadian Recognition Orders, the Reaffirmation Agreement, the Borrowing Base Certificates, the Fee Letter, any Issuer Documents, the Letters of Credit, the US Security Agreement, the Canadian Security Documents, the US Guaranty, the Intercompany Subordination Agreement, Control Agreements, the US Copyright Security Agreement, the US Patent Security Agreement, the US Trademark Security Agreement, the Canadian Copyright Security Agreement, the Canadian Patent Security Agreement, the Canadian Trademark Security Agreement, the Mortgages, any guaranties executed by any Loan Party, any note or notes executed by any Borrower in connection with the Agreement and payable to any member of the Lender Group, and any other instrument or agreement entered into, now or in the future, by Parent or any of its Subsidiaries and any member of the Lender Group in connection with the Agreement. For the avoidance of doubt, any agreements evidencing Bank Products shall not constitute Loan Documents.

"Loan Parties" means the US Loan Parties and/or the Canadian Loan Parties, as the context requires.

"Management Services Agreement" means that certain Amended and Restated Management Services Agreement, dated as of the June 9, 2017, by and between Parent and Sponsor, as the same may be amended in accordance with the terms hereof.

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

"Material Adverse Effect" means any event, circumstance or condition that has had or would reasonably be expected to have a material and adverse effect on (a) the business or financial condition of the Loan Parties and their Subsidiaries, taken as a whole, (b) the ability of Loan Parties, taken as a whole, to perform their payment obligations under the Loan Documents, or (c) the rights and remedies of Agent and the Lenders under the Loan Documents, taken as a whole, in each case, except for the commencement of the Bankruptcy Cases and the Recognition Proceedings and the events that customarily and reasonably result from the commencement of the Bankruptcy Cases and the Recognition Proceedings.

"Maturity Date" means the earliest of (a) the date that is one hundred fifty (150) days after the Filing Date, (b) the consummation of a sale of all or substantially all of the Debtors' assets, (c) if the Final Financing Order has not been entered, the date that is forty (40) days after the date of the First Day Hearing, (d) the Plan Effective Date of a Plan and (e) the Maturity Date (under and as defined in the Term Loan Credit Agreement).

"Maximum Borrowing Amount" means at any time the lesser of (a) the US Maximum Revolver Amount and (b) the sum of the US Borrowing Base and the Canadian Borrowing Base.

"Milestones" has the meaning specified therefor in Section 5.21 of the Agreement.

"Minimum Excess Availability" has the meaning specified therefor in Section 7(b) of the Agreement.

"Moody's" has the meaning specified therefor in the definition of Cash Equivalents.

"Mortgages" means, individually and collectively, one or more mortgages, deeds of trust, or deeds to secure debt, executed and delivered by Parent or one of its Subsidiaries in favor of Agent, in form and substance reasonably satisfactory to Agent, that encumber any Real Property.

"Multiemployer Plan" means any multiemployer plan within the meaning of Section 3(37) or 4001(a)(3) of ERISA with respect to which any Loan Party has an obligation to contribute or has any liability, (including on behalf of an ERISA Affiliate) or could be assessed Withdrawal Liability assuming a complete withdrawal from any such multiemployer plan.

"Net Cash Proceeds" means, with respect to any sale or disposition by Parent or any of its Subsidiaries of assets, the amount of cash proceeds received (directly or indirectly) from time to time (whether as initial consideration or through the payment of deferred consideration) by or on behalf of Parent or such Subsidiary, in connection therewith after deducting therefrom only (i) the amount of any Indebtedness secured by any Permitted Lien on any asset (other than (A) Indebtedness owing to Agent or any Lender under this Agreement or the other Loan Documents or the Existing Credit Agreement or Existing Loan Documents and (B) Indebtedness assumed by the purchaser of such asset) which (subject to the Intercreditor Agreement and the Financing Order) is required to be, and is, repaid in connection with such sale or disposition, (ii) reasonable fees, commissions, and expenses related thereto and required to be paid by Parent or such Subsidiary in connection with such sale or disposition, excluding amounts payable to a Loan Party or Affiliate thereof, (iii) taxes paid or payable to any taxing authorities by Parent or such Subsidiary in connection with such sale or disposition, in each case to the extent, but only to the extent, that the amounts so deducted are actually paid or anticipated to be payable, and are properly attributable to such transaction, and (iv) all amounts that are set aside as a reserve (A) for adjustments in respect of the purchase price of such assets, (B) for any liabilities associated with such sale or casualty, to the extent such reserve is required by GAAP, and (C) for the payment of unassumed liabilities relating to the assets sold or otherwise disposed of at the time of, or within 90 days after, the date of such sale or other disposition, to the extent that in each case the funds described above in this clause (iv) are (x) deposited into escrow with a third party escrow agent or set aside in a separate Deposit Account that is subject to a Control Agreement in favor of Agent and (y) paid to Agent as a prepayment of the applicable Obligations and Existing Secured Obligations in accordance with Section 2.4(e) of this Agreement at such time when such amounts are no longer required to be set aside as such a reserve.

"Net Recovery Percentage" means, as of any date of determination, the percentage of the book value of Canadian Loan Parties' or US Borrowing Base Companies', as applicable, Eligible 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 appraisal received by Agent from an appraisal company selected by Agent.

"Non-Base Rate Deadline" has the meaning specified therefor in Section 2.12(b)(i) of the Agreement.

"Non-Base Rate Notice" means a written notice in the form of Exhibit L-1.

"Non-Base Rate Option" has the meaning specified therefor in Section 2.12(a) of the Agreement.

"Non-Base Rate" means the US LIBOR Rate.

"Non-Base Rate Loan" means each portion of a Loan that bears interest at a rate determined by reference to the applicable Non-Base Rate.

"Non-Base Rate Margin" has the meaning specified therefor in the definition of Applicable Margin.

"Non-Consenting Lender" has the meaning specified therefor in Section 14.2(a) of the Agreement.

"Non-Defaulting Lender" means each Lender other than a Defaulting Lender.

"Notification Event" means (a) the occurrence of a "reportable event" described in Section 4043(c) of ERISA with respect to a Pension Plan for which the 30-day notice requirement has not been waived by applicable regulations issued by the PBGC, (b) the withdrawal of any Loan Party or ERISA Affiliate from a Pension Plan during a plan year in which it was a "substantial employer" as defined in Section 4001(a)(2) of ERISA, (c) the termination of a Pension Plan, the filing of a notice of intent to terminate a Pension Plan or the treatment of a Pension Plan amendment as a termination, under Section 4041 of ERISA, if the plan assets are not sufficient to pay all plan liabilities, (d) the institution of proceedings to terminate, or the appointment of a trustee with respect to, any Pension Plan by the PBGC or any Pension Plan or Multiemployer Plan administrator, (e) any other event or condition that would constitute grounds under Section 4042(a) of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan, (f) the imposition of a Lien pursuant to the IRC or ERISA in connection with any Employee Benefit Plan or the existence of any facts or circumstances that could reasonably be expected to result in the imposition of a Lien, (g) the partial or complete withdrawal of any Loan Party or ERISA Affiliate from a Multiemployer Plan (other than any withdrawal that would not constitute an Event of Default under Section 8.12), (h) any event or condition that results in the insolvency of a Multiemployer Plan under Section 4245 of ERISA, (i) any event or condition that results in the termination of a Multiemployer Plan under Section 4041A of ERISA or the institution by the PBGC of proceedings to terminate or to appoint a trustee to administer a Multiemployer Plan under ERISA, (j) any Pension Plan being in "at risk status" within the meaning of IRC Section 430(i), (k) any Multiemployer Plan being in "endangered status" or "critical status" within the meaning of IRC Section 432(b) or the determination that any Multiemployer Plan is or is expected to be insolvent within the meaning of Title IV of ERISA, (l) with respect to any Pension Plan, any Loan Party or ERISA Affiliate incurring a substantial cessation of operations within the meaning of ERISA Section 4062(e), (m) an "accumulated funding deficiency" within the meaning of the IRC or ERISA (including Section 412 of the IRC or Section 302 of ERISA) or the failure of any Pension Plan or Multiemployer Plan to meet the minimum funding standards within the meaning of the IRC or ERISA (including Section 412 of the IRC or Section 302 of ERISA), in each case, whether or not waived, (n) the filing of an application for a waiver of the minimum funding standards within the meaning of the IRC or ERISA (including Section 412 of the IRC or Section 302 of ERISA) with respect to any Pension Plan or Multiemployer Plan, (o) the failure to make by its due date a required payment or contribution with respect to any Pension Plan or Multiemployer Plan, or (p) any event that results in or could reasonably be expected to result in a liability by a Loan Party pursuant to Title I of ERISA or the excise tax provisions of the IRC relating to Employee Benefit Plans or any event that results in or could reasonably be expected to result in a liability to any Loan Party or ERISA Affiliate pursuant to Title IV of ERISA or Section 401(a)(29) of the IRC.

"Obligations" means the US Obligations and/or the Canadian Obligations, as the context requires.

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

"Originating Lender" has the meaning specified therefor in Section 13.1(e) of the Agreement.

"Other Taxes" has the meaning specified therefor in Section 16.1 of the Agreement.

"Overadvance" means a US Overadvance and/or a Canadian Overadvance, as the context requires.

"Parent" has the meaning specified therefor in the preamble to the Agreement.

"Participant" has the meaning specified therefor in Section 13.1(e) of the Agreement.

"Participant Register" has the meaning set forth in Section 13.1(i) of the Agreement.

"Participation Agreement" means that certain Subordinated Participation Agreement, dated as of the date hereof but effective upon entry of the Final Financing Order by and among SENTINEL CAPITAL PARTNERS V, L.P., SENTINEL DREAM BLOCKER, INC., SENTINEL CAPITAL INVESTORS V, L.P. and Lenders.

"Participation Put Agreement" means that certain Put Agreement, dated as November 27, 2018, by and among SENTINEL CAPITAL PARTNERS V, L.P., SENTINEL DREAM BLOCKER, INC., SENTINEL CAPITAL INVESTORS V, L.P. and Agent.

"Patriot Act" has the meaning specified therefor in Section 4.13 of the Agreement.

"PBGC" means the Pension Benefit Guaranty Corporation or any successor agency.

"PCF" has the meaning specified therefor in the preamble to this Agreement.

"PCF Acquisition Agreement" means that certain Stock Purchase Agreement, dated as of the June 9, 2017, among HSP, PCF, each of the shareholders of PCF listed on the signature pages thereto and Joseph T. Crawford, as agent for the sellers.

"Pension Plan" means any Employee Benefit Plan, other than a Multiemployer Plan, which is subject to the provisions of Title IV or Section 302 of ERISA or Sections 412 or 430 of the Code sponsored, maintained, or contributed to by any Loan Party or which any Loan Party has any liability (including on behalf of an ERISA Affiliate), excluding any Canadian Pension Plan.

"Permitted Discretion" means a determination made by Agent in good faith, in its commercially reasonable judgment and in accordance with its regular business practices and

policies (as in effect from time to time) generally applicable to asset-based credit facilities with advance rates based on current assets.

"Permitted Dispositions" means:

(a) sales, abandonment, or other dispositions of Equipment that is substantially worn, damaged, or obsolete or no longer used or useful in the ordinary course of business and leases or subleases (or the termination or abandonment thereof) of Real Property not useful in any material respect in the conduct of the business of Parent and its Subsidiaries,

(b) sales of Inventory to buyers in the ordinary course of business,

(c) the use or transfer of money or Cash Equivalents in a manner that is not prohibited by the terms of the Agreement or the other Loan Documents,

(d) the non-exclusive licensing or sub-licensing of patents, trademarks, copyrights, or other intellectual property rights in the ordinary course of business,

(e) [reserved],

(f) the making of Permitted Investments that are expressly permitted to be made pursuant to the Agreement,

(g) sales or dispositions between or among Loan Parties,

(h) voluntary terminations of any Hedging Agreements,

(i) [reserved],

(j) the sale or disposition of shares of Equity Interests of any Subsidiary of any Borrower (i) in order to qualify members of the governing body of the Subsidiary if and to the extent required by applicable law or (ii) to nationals of the jurisdiction of organization of any Subsidiary to the extent required by applicable law,

(k) the granting of Permitted Liens,

(l) any involuntary loss, damage or destruction of property,

(m) any involuntary condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, or confiscation or requisition of use of property,

(n) the leasing or subleasing of assets of Parent or its Subsidiaries in the ordinary course of business,

(o) the expiration, abandonment or lapse of patents, trademarks, copyrights, domain names or other intellectual property of Parent and its Subsidiaries (i) to the extent immaterial or not economically desirable in the conduct of their business (ii) in accordance with their respective statutory terms, or (iii) in the ordinary course of business, and

(p) so long as no Event of Default has occurred and is continuing at the time of such disposition, sales of fixed assets of the Canadian Borrower located in Toronto for fair value and for 100% cash consideration in an amount not to exceed \$500,000 in the aggregate for all such sales.

"Permitted Indebtedness" means, without duplication:

(a) the Obligations, including Indebtedness evidenced by the Agreement or the other Loan Documents, as well as Indebtedness owed to any Issuing Lender with respect to Letters of Credit,

(b) Indebtedness outstanding on the Filing Date and set forth on Schedule 4.14 to the Agreement,

(c) [reserved],

(d) endorsement of instruments or other payment items for deposit, and Indebtedness of the Parent or any of its Subsidiaries arising from the honoring of a check, draft or similar instrument of such Person drawn against insufficient funds in the ordinary course of business, provided that such Indebtedness is extinguished within five Business Days of its incurrence,

(e) Existing Secured Obligations, including any Indebtedness reinstated by the Bankruptcy Court or the Canadian Court and constituting Reinstated Existing Secured Obligations,

(f) [reserved,]

(g) [reserved],

(h) [reserved],

(i) Indebtedness incurred in the ordinary course of business in respect of credit cards, credit card processing services, debit cards, stored value cards, purchase cards (including so-called "procurement cards" or "P-cards"), or Cash Management Services,

(j) Indebtedness representing deferred compensation or similar obligations to employees incurred in the ordinary course of business,

(k) Indebtedness constituting Permitted Investments,

(l) Indebtedness outstanding under the Existing Term Loan Documents in accordance with the Financing Order, together with any Refinancing (as defined in the Existing Intercreditor Agreement) thereof in accordance with the Existing Intercreditor Agreement;

(m) Indebtedness under the Term Loan Documents in accordance with the Financing Order, together with any Refinancing (as defined in the Intercreditor Agreement) thereof in accordance with the Intercreditor Agreement,

(n) unsecured Indebtedness (subject to customary rights of setoff) incurred in respect of netting services, overdraft protection, and other like services, in each case, incurred in the ordinary course of business,

(o) accrual of interest, accretion or amortization of original issue discount, or the payment of interest in kind, in each case, on Indebtedness that otherwise constitutes Permitted Indebtedness,

(p) to the extent constituting Indebtedness, unsecured Indebtedness consisting of take-or-pay obligations contained in supply agreements entered into by any Loan Party in the ordinary course of business consistent with past practices, in an aggregate principal amount not to exceed \$500,000,

(q) Indebtedness in respect of workers' compensation claims, self-insurance obligations, export or import indemnities or similar instruments, customs bonds, governmental contracts and leases provided a by Loan Party in the ordinary course of its business and under any letters of credit, bank guarantees or similar instruments supporting the same,

(r) Indebtedness in respect of taxes, assessments or governmental charges to the extent that payment thereof shall not at the time be required to be made in accordance with Section 5.5,

(s) [reserved],

(t) [reserved],

(u) [reserved],

(v) [reserved],

(w) Indebtedness incurred in the ordinary course of business owed to any Person providing property, casualty, liability, or other insurance to Parent or any of its Subsidiaries, so long as the amount of such Indebtedness is not in excess of the amount of the unpaid cost of, and shall be incurred only to defer the cost of, such insurance for the year in which such Indebtedness is incurred and such Indebtedness is outstanding only during such year, and

(x) unsecured guarantees issued by (x) Loan Parties to guaranty the underlying Indebtedness of another Loan Party and (y) a Subsidiary of Parent that is not a Loan Party to guaranty the underlying indebtedness of any other Subsidiary of Parent to the extent that such Subsidiary is a party to an Intercompany Subordination Agreement, in each case to the extent that such Indebtedness is permitted under this Agreement (other than guaranties by US Borrower or any US Guarantor of any Indebtedness of any Canadian Loan Party, except for the US Guaranty), and

(y) Indebtedness of a Foreign Subsidiary (other than Canadian Borrower or any Subsidiary organized under the laws of Canada or a province thereof) in an aggregate principal amount not to exceed \$1,000,000 at any time.

"Permitted Intercompany Advances" means loans and other Investments made by (a) a Loan Party to another Loan Party, (b) a Subsidiary of Parent that is not a Loan Party to another Subsidiary of Parent that is not a Loan Party, (c) a Subsidiary of Parent that is not a Loan Party to a Loan Party, so long as the parties thereto are party to the Intercompany Subordination Agreement, and (d) a Loan Party to a Subsidiary of Parent that is not a Loan Party so long as (i) the aggregate amount of all such loans and other Investments after the Closing Date does not exceed \$1,000,000 at any time outstanding and is permitted to be made as "other payables" under the Approved Budget, and (ii) at the time of the making of such Loan or other Investment, no Default or Event or Default has occurred and is continuing or would result therefrom.

"Permitted Investments" means:

- (a) Investments in cash and Cash Equivalents,
- (b) Investments in negotiable instruments deposited or to be deposited for collection in the ordinary course of business,
- (c) extensions of trade credit made in connection with sales of goods or services in the ordinary course of business and consistent with past practices,
- (d) Investments received in settlement of amounts due to any Loan Party or any of its Subsidiaries effected in the ordinary course of business or owing to any Loan Party or any of its Subsidiaries as a result of Insolvency Proceedings involving an Account Debtor, upon the foreclosure or enforcement of any Lien in favor of a Loan Party or its Subsidiaries or in connection with an out-of-court restructuring of an Account Debtor,
- (e) Investments owned by any Loan Party or any of its Subsidiaries on the Closing Date and set forth on Schedule P-1 to the Agreement,
- (f) deposits of cash outstanding on the Filing Date made in the ordinary course of business to secure performance of operating leases,
- (g) Permitted Intercompany Advances,
- (h) guarantees permitted under the definition of Permitted Indebtedness,
- (i) Equity Interests or other securities acquired in connection with the satisfaction or enforcement of Indebtedness or claims due or owing to a Loan Party or its Subsidiaries (in bankruptcy of customers or suppliers or otherwise outside the ordinary course of business) or as security for any such Indebtedness or claims,
- (j) [reserved],
- (k) [reserved],
- (l) [reserved],
- (m) [reserved],

(n) so long as no Event of Default has occurred and is continuing at the time such Investment is made or would result therefrom, any other Investments in an aggregate amount not to exceed the lesser of \$250,000 outstanding at any time and the amounts therefor permitted in compliance with the Approved Budget,

(o) [reserved],

(p) Investments (i) by any Borrower or any Subsidiary that is a Loan Party in any Borrower or any Subsidiary that is a Loan Party, (ii) by any non-Loan Party in any other non-Loan Party that is a Subsidiary and (iii) by any non-Loan Party in any Borrower or any Subsidiary that is a Loan Party,

(q) [reserved],

(r) [reserved],

(s) advances in connection with purchases of goods or services in the ordinary course of business and consistent with past practice and to the extent set forth in Approved Budget,

(t) Indebtedness owing to a landlord arising under a lease of Real Property as a result of an ordinary course "build out" provision in connection with the financing by such landlord of leasehold improvements,

(u) [reserved], and

(v) advances of payroll payments to employees in the ordinary course of business to the extent set forth in the Approved Budget.

"Permitted Liens" means

(a) Liens granted to, or for the benefit of, Agent to secure any of the Obligations,

(b) Liens for unpaid taxes, assessments, or other governmental charges or levies, and other statutory inchoate Liens, in each case that either (i) are not more than thirty (30) days past due (provided that Agent may establish a reserve in its Permitted Discretion with respect to such Liens immediately) or (ii) the underlying taxes, assessments, charges, levies or other obligations are the subject of Permitted Protests,

(c) judgment Liens arising solely as a result of the existence of judgments, orders, or awards that do not constitute an Event of Default under Section 8.3 of the Agreement so long as such judgments are stayed during the pendency of the Bankruptcy Cases and the Recognition Proceedings,

(d) Liens set forth on Schedule P-2 to the Agreement; provided, that to qualify as a Permitted Lien, any such Lien described on Schedule P-2 to the Agreement shall only secure the Indebtedness that it secures on the Closing Date,

(e) the interests of lessors and sublessors under operating leases and subleases and non-exclusive licensors and sublicensors under license agreements and sublicense agreements, in each case, incurred in the ordinary course of business,

(f) [reserved],

(g) Liens arising by operation of law in favor of warehousemen, landlords, carriers, mechanics, materialmen, laborers, contractor, or suppliers, construction liens and other like liens, in each case incurred in the ordinary course of business and not in connection with the borrowing of money, and which Liens either (i) are for sums not more than thirty days past due (provided that Agent may establish a reserve in its Permitted Discretion with respect to such Liens immediately), or (ii) are the subject of Permitted Protests,

(h) Liens on amounts deposited to secure Parent's and its Subsidiaries obligations in connection with worker's compensation or other unemployment insurance and other social security legislation or other insurance related obligations (including obligations in respect of letters of credit, bank guarantees or similar instruments) securing the same,

(i) Liens on amounts or Cash Equivalents deposited to secure Parent's and its Subsidiaries obligations in connection with the making or entering into of bids, tenders, contracts, or leases in the ordinary course of business, or statutory obligations and, in each case, not in connection with the borrowing of money,

(j) Liens on amounts deposited to secure Parent's and its Subsidiaries' reimbursement obligations with respect to surety, performance, bid or appeal bonds, completion guaranties and similar obligations in the ordinary course of business,

(k) with respect to any Real Property, (i) easements, covenants, conditions, reservations, declarations, rights of way, and zoning restrictions (including deed restrictions utilized in connection with any Remedial Actions required under Environmental Laws) and other similar matters of record affecting title to such Real Property, (ii) any state of facts that a current accurate survey and visual inspection would disclose, in either case, that do not materially interfere with or impair the use or operation thereof and (iii) all Liens and other matters disclosed in any Mortgage title insurance policy,

(l) licenses and sublicenses of patents, trademarks, copyrights, or other intellectual property rights in existence as of the Filing Date in the ordinary course of business,

(m) Liens granted or authorized by the Financing Order, including, without limitation, replacement Liens granted to Existing Agent,

(n) Liens on Collateral securing the Existing Term Loan Debt subject to the Intercreditor Agreement,

(o) Liens on Collateral securing the Indebtedness under the Term Loan Documents subject to the Intercreditor Agreement,

(p) (i) rights of setoff or bankers' liens upon deposits of funds in favor of banks or other depository institutions, solely to the extent incurred in connection with the maintenance of Deposit Accounts in the ordinary course of business, (ii) Liens of a collection bank arising under Section 4-208 of the Uniform Commercial Code on the items in the course of collection, and (iii) Liens attaching to commodity trading accounts or other commodities brokerage accounts incurred in the ordinary course of business and not for speculative purposes,

(q) Liens granted in the ordinary course of business on the unearned portion of insurance premiums securing the financing of insurance premiums to the extent the financing is expressly permitted under Section 6.1,

(r) Liens in favor of customs and revenue authorities on or prior to the Filing Date arising as a matter of law to secure payment of customs duties not yet delinquent in connection with the importation of goods,

(s) Liens granted to, or for the benefit of, Agent to secured the Existing Secured Obligations,

(t) Liens on amounts deposited to secure amounts incurred in the ordinary course of business owing to public utilities or to any municipalities or Governmental Authorities or other public authority when required by the utility, municipality or Governmental Authorities or other public authority in connection with the supply of services or utilities to any Loan Party,

(u) Liens on specific items of inventory or other goods and proceeds thereof of any Person securing such Person's obligations in respect of bankers' acceptances or letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or such other goods in the ordinary course of business,

(v) Liens in the nature of precautionary UCC or PPSA filings (or similar filings) by lessors under operating leases,

(w) any interest of a lessee or sublessee or licensee under any lease or license of excess office, warehouse or other space by a Loan Party in the ordinary course of business consistent with past practices,

(x) the Administration Charge,

(y) [reserved],

(z) [reserved],

(aa) Liens in favor of Canadian Borrower on the assets of US Loan Parties constituting ABL Priority Collateral, which are junior and subordinate to the Agent's Liens but are senior to the Liens securing the Term Loan Debt, to secure the repayment of Permitted Intercompany Advances that are made following the Closing Date by Canadian Borrower to one or more US Loan Parties with proceeds of Canadian Revolving Loans advanced hereunder following the Closing Date, in each case pursuant to and subject to the Financing Order and the applicable DIP Recognition Order (it being agreed that notwithstanding anything herein to the

contrary, the Canadian Intercompany Superpriority Administrative Claims (as defined in the Financing Order) shall not be deemed to violate any provision of this Agreement,

(bb) contractual rights of set-off relating to purchase orders and other agreements entered into in the ordinary course of business, and

(cc) inchoate Liens and Liens for which a Canadian Priority Payables Reserve for the amount of such Lien has been established.

"Permitted Priority Liens" means all Liens permitted to have priority over the Liens in favor of Agent, solely to the extent that such Liens are valid, perfected and non-avoidable as of the Filing Date (or as may be permitted to be perfected after the Filing Date pursuant to section 546 of the Bankruptcy Code) and were not subordinated by agreement or applicable law, subject to the terms of the Financing Order, the DIP Recognition Order and otherwise agreed to by Agent.

"Permitted Protest" means the right of Parent or any of its Subsidiaries to protest any Lien (other than any Lien that secures the Obligations), Taxes, or rental or other lease payment, provided that (a) a reserve with respect to such obligation is established on Parent's or its Subsidiaries' books and records in such amount as is required under GAAP, (b) any such protest is instituted promptly and prosecuted in accordance with applicable law diligently by Parent or its Subsidiary, as applicable, in good faith, and (c) Agent is reasonably satisfied that, while any such protest is pending, there will be no impairment of the enforceability, validity, or priority of any of Agent's Liens.

"Permitted Variances" means, with respect to determining compliance with Section 7(a) relating to the Borrowers' cash receipts, cash disbursements and net cash flow, (i) all variances favorable to the Borrowers and their Subsidiaries; (ii) with respect to determining compliance with Section 7(a)(v) or 7(a)(vi) as of the end of any Testing Period, an unfavorable cumulative variance of 10.0% (in each case compared to the relevant amounts forecast for the same period in the Approved Budget); and (iii) with respect to determining compliance with Section 7(a)(vii) as of the end of any Testing Period, an unfavorable cumulative variance of 15.0% (in each case compared to the amount forecast for the same period in the Approved Budget).

"Person" means natural persons, corporations, limited liability companies, limited partnerships, unlimited liability companies, general partnerships, limited liability partnerships, joint ventures, trusts, land trusts, business trusts, or other organizations, irrespective of whether they are legal entities, and governments and agencies and political subdivisions thereof.

"Plan" means a plan of reorganization in form and substance satisfactory to Agent in its sole discretion with respect to the economic and non-economic treatment of the Obligations (other than the Last Out Obligations), the Existing Secured Obligations (other than the Existing Last Out Obligations), Agent, Existing Agent, Lenders and Existing Lenders, and in form and substance satisfactory to Agent in its reasonable discretion as to all other matters (it being agreed that the Proposed Plan is satisfactory to the Agent).

"Plan Effective Date" means the date in which all conditions precedent to the effectiveness of a Plan have been satisfied or waived in accordance with such Plan.

"Platform" has the meaning specified therefor in Section 17.9(c) of the Agreement.

"PPSA" means the *Personal Property Security Act (Ontario)*, and the regulations promulgated thereunder and other applicable personal property security legislation of Canada or any applicable Canadian province or provinces in respect of the Canadian Loan Parties or Collateral (including the Civil Code of Quebec and the regulation respecting the register of personal and movable real rights promulgated thereunder) as all such legislation now exists or may from time to time hereafter be amended, modified, supplemented or replaced, together with all rules, regulations and interpretations thereunder or related thereto.

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

"Pro Rata Share" means, as of any date of determination:

(a) with respect to a Lender's obligation to make all or a portion of the US Revolving Loans, with respect to such Lender's right to receive payments of interest, fees, and principal with respect to the US Revolving Loans, and with respect to all other computations and other matters related to the US Revolver Commitments or the US Revolving Loans, the percentage obtained by dividing (i) the US Revolving Loan Exposure of such Lender by (ii) the aggregate US Revolving Loan Exposure of all Lenders,

(b) with respect to a Lender's obligation to make all or a portion of the Canadian Revolving Loans, with respect to such Lender's right to receive payments of interest, fees, and principal with respect to the Canadian Revolving Loans, and with respect to all other computations and other matters related to the Canadian Revolver Commitments or the Canadian Revolving Loans, the percentage obtained by dividing (i) the Canadian Revolving Loan Exposure of such Lender by (ii) the aggregate Canadian Revolving Loan Exposure of all Lenders,

(c) with respect to a Lender's obligation to participate in the US Letters of Credit, with respect to such Lender's obligation to reimburse US Issuing Lender, and with respect to such Lender's right to receive payments of US Letter of Credit fees, and with respect to all other computations and other matters related to the US Letters of Credit, the percentage obtained by dividing (i) the US Revolving Loan Exposure of such Lender by (ii) the aggregate US Revolving Loan Exposure of all Lenders; provided, that if all of the US Revolving Loans have been repaid in full and all US Revolver Commitments have been terminated, but US Letters of Credit remain outstanding, Pro Rata Share under this clause shall be determined as if the US Revolver Commitments had not been terminated and based upon the US Revolver Commitments as they existed immediately prior to their termination,

(d) with respect to a Lender's obligation to participate in the Canadian Letters of Credit, with respect to such Lender's obligation to reimburse Canadian Issuing Lender, and

with respect to such Lender's right to receive payments of Canadian Letter of Credit fees, and with respect to all other computations and other matters related to the Canadian Letters of Credit, the percentage obtained by dividing (i) the Canadian Revolving Loan Exposure of such Lender by (ii) the aggregate Canadian Revolving Loan Exposure of all Lenders; provided, that if all of the Canadian Revolving Loans have been repaid in full and all Canadian Revolver Commitments have been terminated, but Canadian Letters of Credit remain outstanding, Pro Rata Share under this clause shall be determined as if the Canadian Revolver Commitments had not been terminated and based upon the Canadian Revolver Commitments as they existed immediately prior to their termination,

(e) with respect to all other matters and for all other matters as to a particular Lender (including the indemnification obligations arising under Section 15.7 of the Agreement), the Dollar Equivalent of the percentage obtained by dividing (i) the Revolving Loan Exposure of such Lender by (ii) the aggregate Revolving Loan Exposure of all Lenders, in any such case as the applicable percentage may be adjusted by assignments permitted pursuant to Section 13.1; provided, that if all of the Loans have been repaid in full, all Letters of Credit have been made the subject of Letter of Credit Collateralization, and all Commitments have been terminated, Pro Rata Share under this clause shall be determined as if the Revolving Loan Exposures had not been repaid, collateralized, or terminated and shall be based upon the Revolving Loan Exposures as they existed immediately prior to their repayment, collateralization, or termination.

"Proposed Plan" means (a) as of the date hereof, the chapter 11 plan of reorganization attached to the Restructuring Support Agreement as in effect on the date hereof, and (b) upon any such modification, such chapter 11 plan of reorganization as such chapter 11 plan of reorganization may be modified from time to time with the consent of Agent in Agent's sole discretion with respect to the economic and non-economic treatment of the Obligations (other than the Last Out Obligations), the Existing Secured Obligations (other than the Existing Last Out Obligations), and the Agent, Existing Agent, Lenders and Existing Lenders, and with the consent of Agent in Agent's reasonable discretion with respect to all other matters.

"Protective Advances" means the US Protective Advances and/or the Canadian Protective Advances, as the context requires.

"Public Lender" has the meaning specified therefor in Section 17.9(c) of the Agreement.

"Qualified Equity Interests" means and refers to any Equity Interests issued by Parent (and not by one or more of its Subsidiaries) that is not a Disqualified Equity Interest.

"Qualified Investment Banker Engagement" means the engagement and retention by the Borrowers of an investment banker reasonably satisfactory to Agent, at Borrowers' sole cost and expense and on terms and conditions reasonably satisfactory to Agent, for purposes of preparing, marketing, and consummating the sale of all or substantially all of the assets of the Borrowers, and such other potential strategic alternatives (including, without limitation, potential equity sales, refinancing transactions, capital investment raise transactions, and other transactions) as may be acceptable to the Borrowers and the Agent, the consummation of each of which shall be subject to the terms and provisions of this Agreement.

"Quebec Security Documents" means the Deed of Hypothec (as such term is defined in Section 15.19 of the Agreement) in form and substance reasonably satisfactory to Agent and all other documents contemplated thereby or delivered in connection therewith, each executed and delivered by any of the Borrowers or Guarantors that is existing pursuant to the laws of the Province of Quebec or that has its registered office, chief executive office, head office or a place of business or any movable property or assets or Real Property Collateral located in the Province of Quebec, and each as amended or modified from time to time.

"Reaffirmation Agreement" means that certain Reaffirmation of Prepetition Loan Documents, dated as of the Closing Date, by and among the Loan Parties and the Agent.

"Real Property" means any estates or interests in real property now owned or hereafter acquired by Parent or one of its Subsidiaries and the improvements thereto.

"Real Property Collateral" means the Real Property identified on Schedule R-1 to the Agreement and any Real Property hereafter acquired to the extent any mortgage is granted to secure the Term Loan Debt (or, if the Term Loan Debt has been paid in full, to the extent owned by any Loan Party in fee simple with a fair market value greater than \$1,000,000).

"Receivable Reserves" means, as of any date of determination, those reserves that Agent deems necessary or appropriate, in its Permitted Discretion and subject to Section 2.1(c), to establish and maintain (including reserves for rebates, discounts, warranty claims, and returns) with respect to the US Eligible Accounts, Canadian Eligible Accounts, US Maximum Revolver Amount and/or the Canadian Maximum Revolver Amount.

"Recognition Proceedings" has the meaning specified in the recitals to this Agreement.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Recovery Event" means any settlement of or payment in respect of any property or casualty insurance claim or any condemnation proceeding relating to any asset of any Loan Party giving rise to Net Cash Proceeds to such Loan Party, as the case may be, to the extent that such settlement or payment does not constitute reimbursement or compensation for amounts previously paid by the Borrower or any other Loan Party in respect of such casualty or condemnation.

"Register" has the meaning set forth in Section 13.1(h) of the Agreement.

"Registered Loan" has the meaning set forth in Section 13.1(h) of the Agreement.

"Reinstated Existing Secured Canadian Obligations" means any Reinstated Existing Secured Obligations in respect of Canadian Obligations (as defined in the Existing Credit Agreement).

"Reinstated Existing Secured Obligations" means any Existing Secured Obligations constituting Avoided Payments, to the extent such obligations have been reinstated, in each case, pursuant to, and subject to the requirements and terms of the Bankruptcy Court.

"Reinstated Existing Secured US Obligations" means any Reinstated Existing Secured Obligations in respect of US Obligations (as defined in the Existing Credit Agreement).

"Related Fund" means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course and that is administered, advised or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages a Lender.

"Related Transactions" means (a) the execution, delivery and performance by the Loan Parties of this Agreement and each other Loan Document to which they are a party, the borrowing hereunder of the Loans and the use of the proceeds thereof, and the grant of DIP Liens by the Borrower on the Collateral pursuant to this Agreement, the Financing Order and the Security Agreements, (b) the commencement and filing of the Bankruptcy Cases and (c) the payment of all fees, costs and expenses associated with all of the foregoing.

"Remedial Action" means all actions taken to (a) clean up, remove, remediate, contain, treat, monitor, assess, evaluate, or in any way address Hazardous Materials in the environment, (b) prevent or minimize a release or threatened release of Hazardous Materials so they do not migrate or endanger or threaten to endanger public health or welfare or the environment, (c) restore or reclaim natural resources or the environment, (d) perform any pre-remedial studies, investigations, or post-remedial operation and maintenance activities, or (e) conduct any other actions with respect to Hazardous Materials required by Environmental Laws.

"Replacement Lender" has the meaning specified therefor in Section 2.13(b) of the Agreement.

"Report" has the meaning specified therefor in Section 15.16 of the Agreement.

"Required Lenders" means, at any time, Lenders having or holding more than 50% of the sum of the aggregate Dollar Equivalent of Revolving Loan Exposure of all Lenders; provided, that (i) the Revolving Loan Exposure of any Defaulting Lender shall be disregarded in the determination of the Required Lenders, and (ii) at any time there are 2 or more Lenders, "Required Lenders" must include at least 2 Lenders (who are not Affiliates of one another).

"Reserves" means, as of any date of determination, those reserves (other than Receivable Reserves, Bank Product Reserves, and Inventory Reserves) that 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 Parent or its Subsidiaries are required to pay under any Section of the Agreement or any other Loan 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, (b) amounts owing by Parent or its Subsidiaries to any Person to the extent secured by a Lien on, or trust over, any of the Collateral (other than a Permitted Lien), which Lien or trust, in the Permitted Discretion of Agent likely would have a

priority superior to 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, (c) fluctuations in the currency exchange rates, and (d) amounts owing to freight forwarders and customs brokers) with respect to the US Borrowing Base or Canadian Borrowing Base. Without limiting the foregoing, Agent may, in its Permitted Discretion, establish Canadian Priority Payables Reserves (without duplication of any amount referred to in the immediately preceding sentence) with respect to the Canadian Borrowing Base.

"Responsible Officer" of any Person means the chief executive officer, the president, executive vice president, any senior vice president, any vice president, the chief operating officer, the legal representative, the general manager or any Financial Officer of such Person and any other individual or similar official thereof responsible for the administration of the obligations of such Person in respect of the Agreement. Agent and each Lender shall be entitled to conclusively presume that (i) any document delivered hereunder that is signed by a Responsible Officer of a Loan Party has been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party, and (ii) such Responsible Officer has acted on behalf of such Loan Party.

"Restricted Payment" means to (a) declare or pay any dividend or make any other payment or distribution, directly or indirectly, on account of Equity Interests issued by Parent (including any such payment in connection with any merger, amalgamation or consolidation involving Parent) or to the direct or indirect holders of Equity Interests issued by Parent in their capacity as such (other than dividends or distributions payable in Qualified Equity Interests issued by Parent), or (b) purchase, redeem, make any sinking fund or similar payment, or otherwise acquire or retire for value (including in connection with any merger, amalgamation or consolidation involving Parent) any Equity Interests issued by Parent, and (c) make any payment to retire, or to obtain the surrender of, any outstanding warrants, options, or other rights to acquire Equity Interests of Parent now or hereafter outstanding.

"Restructuring Support Agreement" means that certain Restructuring Support Agreement dated as of or prior to the Filing Date, by and among certain Existing Term Lenders, Sponsor and the Loan Parties party thereto, as amended, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof.

"Revaluation Date" means (a) with respect to any Revolving Loan denominated in Canadian Dollars, each of the following: (i) each date of a Borrowing of such Revolving Loan, (ii) each date of a continuation of such Revolving Loan pursuant to Section 2.12, and (iii) such additional dates as Agent shall determine or the Required Lenders shall require, (b) with respect to any Letter of Credit denominated in Canadian Dollars, each of the following: (i) each date of issuance of such Letter of Credit, (ii) each date of an amendment of such Letter of Credit having the effect of increasing the amount thereof, (iii) each date of any payment by an Issuing Lender under such Letter of Credit, and (iv) such additional dates as Agent or an Issuing Lender shall determine or the Required Lenders shall require, and (c) with respect to any other Obligations denominated in Canadian Dollars, each date as Agent shall determine unless otherwise prescribed in this Agreement or any other Loan Documents.

"Revolver Commitments" means the US Revolver Commitments and/or the Canadian Revolver Commitments, as the context requires.

"Revolver Usage" means the US Revolver Usage and/or the Canadian Revolver Usage, as the context requires.

"Revolving Lender" means a Lender that has a Revolver Commitment or that has an outstanding Revolving Loan.

"Revolving Loan Exposure" means the US Revolving Loan Exposure and/or the Canadian Revolving Loan Exposure, as the context requires.

"Revolving Loans" means a US Revolving Loan and/or a Canadian Revolving Loan, as the context requires.

"RSA Termination Event" means the occurrence of any of the events set forth in Sections 9, 10 or 11 of the Restructuring Support Agreement (as in effect on the date hereof or as modified in accordance with the terms of this Agreement).

"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 or OFAC's consolidated Non-SDN list, (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 majority-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, (d) the Government of Canada or (e) any other Governmental Authority with jurisdiction over any member of Lender Group or any Loan Party or any of their respective Subsidiaries or Affiliates.

"S&P" has the meaning specified therefor in the definition of Cash Equivalents.

"SEC" means the United States Securities and Exchange Commission and any successor thereto.

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

"Securities Act" means the Securities Act of 1933, as amended from time to time, and any successor statute.

"Security Agreements" means the US Security Agreement and the Canadian Security Agreement.

"Settlement" has the meaning specified therefor in Section 2.3(e)(i) of the Agreement.

"Settlement Date" has the meaning specified therefor in Section 2.3(e)(i) of the Agreement.

"Sole Book Runner" has the meaning set forth in the preamble to the Agreement.

"Sole Lead Arranger" has the meaning set forth in the preamble to the Agreement.

"Specified Competitor" means those Persons that are competitors of Parent and its Subsidiaries identified by name in a writing (together with any holders of controlling Equity Interests of such Persons or Subsidiaries of such Persons that are clearly identifiable as such by virtue of their names, but excluding any direct or indirect owners constituting financial institutions, institutional funds or other institutional investors that own equity interests in a portfolio of companies) delivered by or on behalf of Parent to Agent prior to the date hereof that is clearly and conspicuously marked "Specified Competitor Listing" and that has been expressly acknowledged and agreed to in writing by Agent prior to the date hereof (it being agreed that no Specified Competitor shall exist if such list is not so delivered to or acknowledged by Agent).

"Specified Reserves" means a reserve in an amount equal to the sum of any claims under § 503(b)(9) of the Bankruptcy Code.

"Sponsor" means Sentinel Capital Partners, L.L.C.

"Sponsor Affiliated Entity" means Sponsor or any of its Affiliates (other than Loan Parties or their Subsidiaries and other than operating portfolio companies of Sponsor and its Affiliates).

"Spot Rate" means, for a currency, the rate determined by Agent to be the rate quoted by Wells Fargo acting in such capacity as the spot rate for the purchase by Wells Fargo of such currency with another currency through its principal foreign exchange trading office at approximately 11:00 a.m. (New York time) on the date two Business Days prior to the date as of which the foreign exchange computation is made; provided, that Agent may obtain such spot rate from another financial institution designated by Agent if Wells Fargo acting in such capacity does not have as of the date of determination a spot buying rate for any such currency.

"Standard Letter of Credit Practice" means, for an Issuing Lender, any domestic or foreign law or letter of credit practices applicable in the city in which such Issuing Lender

issued the applicable Letter of Credit or, for its branch or correspondent, such laws and practices applicable in the city in which it has advised, confirmed or negotiated such Letter of Credit, as the case may be, in each case, (a) which letter of credit practices are of banks that regularly issue letters of credit in the particular city, and (b) which laws or letter of credit practices are required or permitted under ISP or UCP, as chosen in the applicable Letter of Credit.

"Subsidiary" of a Person means a corporation, partnership, limited liability company, unlimited liability company or other entity in which that Person directly or indirectly owns or controls the Equity Interests having ordinary voting power to elect a majority of the Board of Directors of such corporation, partnership, limited liability company, unlimited liability company, or other entity.

"Superpriority Claim" has the meaning specified therefore in Section 4.4(c) of the Agreement.

"Swap Obligation" has the meaning specified therefor in the Security Agreement.

"Swing Lender" means the US Swing Lender and/or the Canadian Swing Lender, as the context requires.

"Swing Loan" means the US Swing Loan and/or the Canadian Swing Loan, as the context requires.

"Swing Loan Exposure" means the US Swing Loan Exposure and/or the Canadian Swing Loan Exposure, as the context requires.

"Taxes" means any taxes, levies, imposts, duties, fees, assessments or other charges of whatever nature now or hereafter imposed by any jurisdiction or by any political subdivision or taxing authority thereof or therein, and all interest, penalties or similar liabilities with respect thereto.

"Tax Lender" has the meaning specified therefor in Section 14.2(a) of the Agreement.

"Term Loan Agent" means "Term Loan Agent" as defined in the Intercreditor Agreement.

"Term Loan Credit Agreement" means the Debtor-in-Possession Credit Agreement, dated as of the date hereof, by and among Parent, HHFH and HSP, the lenders from time to time party thereto and Barings Finance LLC, as the administrative agent thereunder.

"Term Loan Debt" means the Indebtedness under the Term Loan Documents and the Pre-Petition Term Facility Documents (as defined in the Term Loan Credit Agreement as in effect on the date hereof).

"Term Loan Documents" means the "Term Loan Documents" as defined in the Intercreditor Agreement.

"Term Loan Lenders" means the lenders party to the Term Loan Credit Agreement.

"Term Loan Priority Collateral Sale" has the meaning specified therefor in Section 5.25.

"Term Loan Proceeds Account" means a special account established by HSP (or, prior to the establishment of such account pursuant to the Term Loan Credit Agreement, an existing account of US Borrowers at Wells Fargo that is not subject to a Control Agreement and does not hold other amounts other than pending payroll disbursements) into which the proceeds of the Indebtedness funded under the Term Loan Credit Agreement shall be deposited (with no other funds to be deposited in such account) until such proceeds are used in compliance with Section 7 hereof.

"Term Loan Priority Collateral" has the meaning specified therefor in the Intercreditor Agreement.

"Testing Period" means (x) as of end of the week that is the third Friday after the Filing Date, the period commencing with the first day of the first calendar week covered by the Approved Budget and ending with the last day of such week; and (y) as of the end of each consecutive two-week period ending thereafter (ending with the last such full two-week period ending during the Life of the Case), the period commencing with the first day of the first calendar week covered by the Approved Budget and ending with the last day of the applicable week referenced in this clause (y).

"Transactions" means, collectively, (a) commencement of the Bankruptcy Cases, and the Recognition Proceedings, (b) the funding of the Term Loans (as defined in the Term Loan Credit Agreement) on the Closing Date in accordance with the terms hereof and thereof, (c) the initial extensions of credit under this Agreement and (d) the payment of all fees, costs and expenses in connection with the foregoing to the extent set forth in the Approved Budget.

"UCP" means, with respect to any Letter of Credit, the Uniform Customs and Practice for Documentary Credits 2007 Revision, International Chamber of Commerce Publication No. 600 and any subsequent revision thereof adopted by the International Chamber of Commerce on the date such Letter of Credit is issued.

"Unasserted Contingent Indemnification Obligations" means contingent indemnification obligations to the extent no demand or claim has been made with respect thereto and no claim giving rise thereto has been asserted.

"United States" means the United States of America.

"Unused Line Fee" has the meaning specified therefor in Section 2.10(b) of the Agreement.

"US Availability" means, as of any date of determination, the amount that US Borrowers are entitled to borrow as US Revolving Loans under Section 2.1 of the Agreement (after giving effect to the then outstanding US Revolver Usage).

"US Bank Product" means any one or more of the following financial products or accommodations extended to Parent or its Subsidiaries (other than a Canadian Loan Party) by a Bank Product Provider: (a) credit cards (including commercial cards (including so-called "purchase cards", "procurement cards" or "p-cards")), (b) payment card processing services, (c) debit cards, (d) stored value cards, (e) Cash Management Services, or (f) transactions under Hedge Agreements.

"US Bank Product Agreements" means those agreements entered into from time to time by Parent or its Subsidiaries (other than a Canadian Loan Party) with a Bank Product Provider in connection with the obtaining of any of the US Bank Products.

"US Bank Product Obligations" means (a) all obligations, liabilities, reimbursement obligations, fees, or expenses owing by Parent or its Subsidiaries (other than a Canadian Loan Party) to any Bank Product Provider pursuant to or evidenced by a US Bank Product 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 US Hedge Obligations, and (c) all amounts that Agent or any Lender is obligated to pay to a Bank Product Provider as a result of Agent or such Lender purchasing participations from, or executing guarantees or indemnities or reimbursement obligations to, a Bank Product Provider with respect to the US Bank Products provided by such Bank Product Provider to Parent or its Subsidiaries (other than a Canadian Loan Party).

"US Bank Product Reserves" means, as of any date of determination, those reserves that Agent deems necessary or appropriate to establish (based upon the Bank Product Providers' determination of the liabilities and obligations of Parent and its Subsidiaries (other than any Canadian Loan Party) in respect of US Bank Product Obligations after notice by US Bank Product Providers to, and with the consent of Agent) in respect of US Bank Products then provided or outstanding.

"US Base Rate" means the greatest of (a) the Federal Funds Rate plus ½%, (b) the Non-Base Rate (which rate shall be calculated based upon an Interest Period of one month and shall be determined on a daily basis), plus 1.50 percentage points, and (c) the rate of interest announced, from time to time, within Wells Fargo at its principal office in San Francisco as its "prime rate", with the understanding that the "prime rate" is one of Wells Fargo's base rates (not necessarily the lowest of such rates) and serves as the basis upon which effective rates of interest are calculated for those loans making reference thereto and is evidenced by the recording thereof after its announcement in such internal publications as Wells Fargo may designate (and, if any such announced rate is below zero, then the rate determined pursuant to this clause (c) shall be deemed to be zero)

"US Borrowing" means a borrowing consisting of US Revolving Loans made on the same day by the Lenders (or Agent on behalf thereof), or by US Swing Lender in the case of a US Swing Loan, or by Agent in the case of an US Extraordinary Advance.

"US Borrowing Base" means, as of any date of determination, the result of:

(a) 85% of the amount of US Eligible Accounts, less the amount, if any, of the US Dilution Reserve, *plus*

(b) *the lower of*

(i) the product of 75% multiplied by the value (calculated at the lower of cost or market on a basis consistent with US Borrowing Base Companies' historical accounting practices) of US Eligible Inventory at such time,

(ii) the product of 85% multiplied by the Net Recovery Percentage identified in the most recent inventory appraisal ordered and obtained by Agent multiplied by the value (calculated at the lower of cost or market on a basis consistent with the US Borrowing Base Companies' historical accounting practices) of US 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 (A) \$37,500,000, minus (B) the amount of the contribution of Canadian Eligible Inventory to the Canadian Borrowing Base under clause (b) of the definition of Canadian Borrowing Base, *minus*

(c) the aggregate amount of reserves, if any, established by Agent under Section 2.1(c) of the Agreement;

provided, that US Availability attributable to US Eligible Inventory consisting of US Eligible In-Transit Inventory shall not exceed \$15,000,000.

"US Borrowing Base Company" means HSP, PCF, Cushion and each US Guarantor other than Parent or HHFH.

"US Copyright Security Agreement" has the meaning specified therefor in the US Security Agreement.

"US Designated Account" means the US Deposit Account identified on Schedule D-2 to the Agreement (or such other Deposit Account located at US Designated Account Bank that has been designated as such, in writing, by Administrative Borrower to Agent).

"US Designated Account Bank" has the meaning specified therefor in Schedule D-2 to the Agreement (or such other bank that is located within the United States that has been designated as such, in writing, by Administrative Borrower to Agent).

"US Dilution" means, as of any date of determination, a percentage, based upon the experience of the immediately prior 12 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 all US Borrowing Base Companies' Accounts during such period, by (b) all

US Borrowing Base Companies' billings with respect to all US Borrowing Base Companies' Accounts during such period.

"US Dilution Reserve" means, as of any date of determination, an amount sufficient to reduce the advance rate against US Eligible Accounts by 1 percentage point for each percentage point by which US Dilution is in excess of 5%. If the US Dilution does not exceed 5%, the US Dilution Reserve shall be zero.

"US Eligible Accounts" means those Accounts created by a US Borrowing Base Company in the ordinary course of its business, that arise out of such US Borrowing Base Company's sale of goods or rendition of services, that comply with each of the representations and warranties respecting US Eligible Accounts made in the Loan Documents, and that are not excluded as ineligible by virtue of one or more of the excluding criteria set forth below; provided, that such criteria may be revised from time to time by Agent in Agent's Permitted Discretion to address the results of any field examination performed by (or on behalf of) Agent from time to time after the Closing Date. In determining the amount to be included, US Eligible Accounts shall be calculated net of customer deposits, unapplied cash, taxes, discounts, credits, allowances, and rebates. US Eligible Accounts shall not include the following:

(a) Accounts that the Account Debtor has failed to pay within ninety (90) days of original invoice date or within sixty (60) days of original due date,

(b) Accounts owed by an Account Debtor (or its Affiliates) where 50% or more of all Accounts owed by that Account Debtor (or its Affiliates) are deemed ineligible under clause (a) above,

(c) Accounts with respect to which the Account Debtor is an Affiliate of a Borrower or an employee or agent of a Borrower or any Affiliate of a Borrower, excluding, however, any Account Debtor that is an Affiliate of a Loan Party, solely because such Affiliate is owned or controlled by the Sponsor or its Affiliates so long as such transactions are on terms no less favorable than similar transactions with independent third parties,

(d) Accounts arising in a transaction wherein goods are placed on consignment or are sold pursuant to a guaranteed sale, a sale or return, a sale on approval, a bill and hold, or any other terms by reason of which the payment by the Account Debtor may be conditional,

(e) Accounts that are not payable in Dollars,

(f) Accounts with respect to which the Account Debtor either (i) does not maintain its chief executive office in the United States or any territory thereof, or (ii) is not organized under the laws of the United States or any state or territory thereof, or (iii) is the government of any foreign country or sovereign state (for greater certainty, other than the United States), or of any state, province, municipality, or other political subdivision thereof, or of any department, agency, public corporation, or other instrumentality thereof, unless (A) the Account is supported by an irrevocable letter of credit reasonably satisfactory to Agent (as to form, substance, and issuer or domestic confirming bank) that has been delivered to Agent and is

directly drawable by Agent, or (B) the Account is covered by credit insurance in form, substance, and amount, and by an insurer, reasonably satisfactory to Agent,

(g) Accounts with respect to which the Account Debtor is either (i) the United States or any department, agency, or instrumentality of the United States (exclusive, however, of Accounts with respect to which the applicable US Borrowing Base Company has complied, to the reasonable satisfaction of Agent, with the Assignment of Claims Act, 31 USC §3727), or (ii) any state of the United States,

(h) Accounts with respect to which the Account Debtor is a creditor of a Loan Party, has or has asserted a right of recoupment or setoff, or has disputed its obligation to pay all or any portion of the Account, to the extent of such claim, right of recoupment or setoff, or dispute,

(i) Accounts with respect to an Account Debtor whose total obligations owing to US Borrowing Base Companies exceeds 15% of all US Eligible Accounts (or, if the Account Debtor is (A) Wal-Mart, 50% of all US Eligible Accounts, (B) Kohl's, 50% of all US Eligible Accounts (or during April 1 through September 30 of any year, 25% of all US Eligible Accounts), (C) Costco, 25% of all US Eligible Accounts, and (D) Bed, Bath & Beyond, 25% of all US Eligible Accounts), to the extent of the obligations owing by such Account Debtor in excess of such percentage; provided, that, in each case, the amount of US Eligible Accounts that are excluded because they exceed the foregoing percentage shall be determined by Agent based on all of the otherwise US Eligible Accounts prior to giving effect to any eliminations based upon the foregoing concentration limit,

(j) to Borrowers' knowledge, Accounts with respect to which the Account Debtor is subject to an Insolvency Proceeding, is not Solvent, has gone out of business, or as to which a Borrower has received notice of an imminent Insolvency Proceeding or a material impairment of the financial condition of such Account Debtor,

(k) Accounts, the collection of which, Agent, in its Permitted Discretion, believes to be doubtful, including by reason of the Account Debtor's financial condition,

(l) Accounts that are not subject to a valid and perfected first priority Agent's Lien (subject to Permitted Liens having priority under applicable law for which reserves have been established pursuant to Section 2.1(c)),

(m) Accounts with respect to which (i) the goods giving rise to such Account have not been shipped and billed to the Account Debtor, or (ii) the services giving rise to such Account have not been performed and billed to the Account Debtor,

(n) Accounts with respect to which the Account Debtor is a Sanctioned Person or Sanctioned Entity, or

(o) Accounts that represent the right to receive progress payments or other advance billings that are due prior to the completion of performance by Loan Parties of the subject contract for goods or services.

"US Eligible In-Transit Inventory" means Eligible In-Transit Inventory owned by a US Borrowing Base Company.

"US Eligible Inventory" means Inventory of a US Borrowing Base Company consisting of raw materials and finished goods, that complies with each of the representations and warranties respecting US Eligible Inventory made in the Loan Documents, and that is not excluded as ineligible by virtue of one or more of the excluding criteria set forth below; provided, that such criteria may be revised from time to time by Agent in Agent's Permitted Discretion to address the results of any field examination or appraisal performed by Agent from time to time after the Closing Date. In determining the amount to be so included, Inventory shall be valued at the lower of cost or market on a basis consistent with the applicable US Borrowing Base Company's historical accounting practices. An item of Inventory shall not be included in US Eligible Inventory if:

- (a) the applicable US Borrowing Base Company does not have good, valid, and marketable title thereto,
- (b) the applicable US Borrowing Base Company does not have actual and exclusive possession thereof (either directly or through a bailee or agent of such US Borrowing Base Company),
- (c) it is not located at one of the locations in the continental United States set forth on Schedule E-1 (as such schedule may be updated pursuant to Section 5.14) to the Agreement (or in-transit from one such location to another such location),
- (d) it is in-transit to or from a location of the applicable US Borrowing Base Company (other than in-transit from one location set forth on Schedule E-1 to the Agreement to another location set forth on Schedule E-1 to the Agreement), unless it is US Eligible In-Transit Inventory,
- (e) it is located on real property leased by the applicable US Borrowing Base Company or in a contract warehouse, in each case, unless either (i) it is subject to a Collateral Access Agreement executed by the lessor or warehouseman, as the case may be, and it is segregated or otherwise separately identifiable from goods of others, if any, stored on the premises or (ii) Agent has established a Landlord Reserve with respect to such location,
- (f) it is the subject of a bill of lading or other document of title, unless it is US Eligible In-Transit Inventory,
- (g) it is not subject to a valid and perfected first priority Agent's Lien (subject to Permitted Liens having priority under applicable law for which reserves have been established pursuant to Section 2.1(c)),
- (h) it consists of goods returned or rejected by a US Borrowing Base Company's customers unless such goods are in salable condition and may be sold as new and unused Inventory by US Loan Parties in the ordinary course of their business to their customers,

(i) it consists of goods that are obsolete or slow moving, work-in-process, restrictive or custom items or goods that constitute spare parts, packaging and shipping materials, supplies used or consumed in a US Borrowing Base Company's business, bill and hold goods, defective goods, "seconds," or Inventory acquired on consignment, or

(j) it is subject to third party trademark, or other intellectual property or proprietary rights, unless Agent is reasonably satisfied that such Inventory can be freely sold by Agent on and after the occurrence of an Event of a Default, without Agent infringing any rights of, or incurring any liabilities to, any licensor or owner of such third party rights, other than royalties at the contractual rate with respect to Inventory subject to a third party license with a Loan Party.

"US Extraordinary Advances" has the meaning specified therefor in Section 2.3(d)(iii) of the Agreement.

"US Foreign Holdco" means any Subsidiary of Parent organized under the laws of a State of the United States or the District of Columbia and whose assets consist substantially of stock or other equity (or instruments treated as equity for U.S. federal income tax purposes) of one or more CFCs and other assets of *de minimis* value (including, without limitation, Canadian Borrower).

"US Guarantor" means (a) Parent and (b) each Subsidiary of Parent that is or becomes a guarantor of all or a part of the US Obligations or Canadian Obligations, or (c) such Persons that are debtors in the Bankruptcy Cases or as are required from time to time to become a US Guarantor pursuant to the terms hereof.

"US Guaranty" means that certain Guaranty dated as of the October 21, 2014, executed and delivered by the US Guarantors to Agent, with respect to the Canadian Obligations, as amended pursuant to the Reaffirmation Agreement.

"US Hedge Obligations" means any and all obligations or liabilities, whether absolute or contingent, due or to become due, now existing or hereafter arising, of Parent or its Subsidiaries (other than any Canadian Loan Party) arising under, owing pursuant to, or existing in respect of Hedge Agreements entered into with one or more of the Hedge Providers.

"US Issuing Lender" means Wells Fargo or any other Lender that, at the request of Administrative Borrower and with the consent of Agent (such consent not to be unreasonably withheld or delayed), agrees, in such Lender's sole discretion, to become a US Issuing Lender for the purpose of issuing US Letters of Credit pursuant to Section 2.11A of the Agreement and US Issuing Lender shall be a Lender.

"US Letter of Credit" means a letter of credit (as that term is defined in the Code) issued by US Issuing Lender for the account of a US Borrower.

"US Letter of Credit Disbursement" means a payment made by US Issuing Lender pursuant to a US Letter of Credit.

"US Letter of Credit Exposure" means, as of any date of determination with respect to any Lender, such Lender's Pro Rata Share of the US Letter of Credit Usage on such date.

"US Letter of Credit Fee" has the meaning specified therefor in Section 2.6(b) of the Agreement.

"US Letter of Credit Usage" means, as of any date of determination, the aggregate undrawn amount of all outstanding US Letters of Credit.

"US LIBOR Rate" means the rate *per annum* as published by ICE Benchmark Administration Limited (or any successor page or other commercially available source as the Agent may designate from time to time) as of 11:00 a.m., London time, two Business Days prior to the commencement of the requested Interest Period, for a term, and in an amount, comparable to the Interest Period and the amount of the Non-Base Rate Loan requested (whether as an initial Non-Base Rate Loan or as a continuation of a Non-Base Rate Loan or as a conversion of a Base Rate Loan to a Non-Base Rate Loan) by Borrowers in accordance with this Agreement (and, if any such published rate is below zero, the Non-Base Rate shall be deemed to be zero). Each determination of the US LIBOR Rate shall be made by Agent and shall be conclusive in the absence of manifest error.

"US Loan Account" has the meaning specified therefor in Section 2.9 of the Agreement.

"US Loan Party" means any US Borrower or any US Guarantor.

"US Maximum Revolver Amount" means \$90,000,000, as may be decreased by the amount of reductions in the US Revolver Commitments made in accordance with Section 2.4(c) of the Agreement.

"US Obligations" means (a) all loans (including the US Revolving Loans (inclusive of US Extraordinary Advances and US Swing Loans)), debts, principal, interest (including any interest that accrues after the commencement of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding), reimbursement or indemnification obligations with respect to US Letters of Credit (irrespective of whether contingent), premiums, liabilities (including all amounts charged to the US Loan Account pursuant to the Agreement), obligations (including indemnification obligations) of any US Loan Party, fees (including the fees provided for in the Fee Letter) of any US Loan Party, Lender Group Expenses (including any fees or expenses that accrue after the commencement of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding) of any US Loan Party, guaranties of any US Loan Party, and all covenants and duties of any other kind and description owing by any US Loan Party arising out of, under, pursuant to, in connection with, or evidenced by the Agreement or any of the other Loan Documents 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, and including all interest not paid when due and all other expenses or other amounts that any US Loan Party is required to pay or reimburse by the Loan Documents or by

law or otherwise in connection with the Loan Documents, (b) all debts, liabilities, or obligations (including reimbursement obligations, irrespective of whether contingent) owing by any US Borrower or any other US Loan Party to US Issuing Lender now or hereafter arising from or in respect of a US Letters of Credit, and (c) all US Bank Product Obligations; provided, that US Obligations shall not include Excluded Swap Obligations. Without limiting the generality of the foregoing, the US Obligations under the Loan Documents include the obligation to pay (i) the principal of the US Revolving Loans, (ii) interest accrued on the US Revolving Loans, (iii) the amount necessary to reimburse US Issuing Lender for amounts paid or payable pursuant to US Letters of Credit, (iv) Letter of Credit commissions, charges, expenses, and fees, in each case in respect of US Letters of Credit, (v) Lender Group Expenses of any US Loan Party, (vi) fees payable by any US Loan Party under the Agreement or any of the other Loan Documents, (vii) indemnities and other amounts payable by any US Loan Party under any Loan Document (excluding Excluded Swap Obligations), and (viii) any guaranties by any US Loan Party of all or any part of the Canadian Obligations. Any reference in the Agreement or in the Loan Documents to the Obligations shall include all or any portion thereof and any extensions, modifications, renewals, or alterations thereof, both prior and subsequent to any Insolvency Proceeding.

"US Overadvance" means, as of any date of determination, that the US Revolver Usage is greater than any of the limitations set forth in Section 2.1 or Section 2.11A.

"US Patent Security Agreement" has the meaning specified therefor in the US Security Agreement.

"US Person" means any Person that is organized under the laws of a State of the United States or the District of Columbia.

"US Protective Advances" has the meaning specified therefor in Section 2.3(d)(i) of the Agreement.

"US Revolver Commitment" means, with respect to each Revolving Lender, its US Revolver Commitment, and, with respect to all Revolving Lenders, their US Revolver Commitments, in each case as set forth beside such Revolving Lender's name under the applicable heading on Schedule C-1 to the Agreement or in the Assignment and Acceptance pursuant to which such Revolving Lender became a Revolving Lender under the Agreement, as such amounts may be reduced or increased from time to time pursuant to assignments made in accordance with the provisions of Section 13.1 of the Agreement.

"US Revolver Usage" means, as of any date of determination, the sum of (a) the amount of outstanding US Revolving Loans (inclusive of US Swing Loans and US Protective Advances but excluding, for the avoidance of doubt, the Last Out Loans), plus (b) the amount of the US Letter of Credit Usage.

"US Revolving Loan Exposure" means, with respect to any Revolving Lender, as of any date of determination (a) prior to the termination of the US Revolver Commitments, the amount of such Lender's US Revolver Commitment, and (b) after the termination of the US

Revolver Commitments, the aggregate outstanding principal amount of the US Revolving Loans of such Lender.

"US Revolving Loans" has the meaning specified therefor in Section 2.1(a) of the Agreement.

"US Security Agreement" means that certain Guaranty and Security Agreement, dated as of Closing Date, as the same may be further amended, executed and delivered by each Loan Party party thereto to Agent.

"US Swing Lender" means Wells Fargo or any other Lender that, at the request of US Administrative Borrower and with the consent of Agent agrees, in such Lender's sole discretion, to become the US Swing Lender under Section 2.3(b) of the Agreement.

"US Swing Loan" has the meaning specified therefor in Section 2.3(b) of the Agreement.

"US Swing Loan Exposure" means, as of any date of determination with respect to any Lender, such Lender's Pro Rata Share of the US Swing Loans on such date.

"US Trademark Security Agreement" has the meaning specified therefor in the US Security Agreement.

"Variance Report" has the meaning specified therefor in Section 5.2(a) of the Agreement.

"Vendor" means a Person that sells in-transit Inventory to a Borrower.

"Voidable Transfer" has the meaning specified therefor in Section 17.8 of the Agreement.

"Weekly Cash Flow Forecast" has the meaning specified therefore in Section 5.2(a) of the Agreement.

"Wells Fargo" means Wells Fargo Bank, National Association, a national banking association.

"WF Canada" means Wells Fargo Capital Finance Corporation Canada.

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

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

Exhibit C

DIP Term Loan Credit Agreement

DEBTOR-IN-POSSESSION

TERM LOAN CREDIT AGREEMENT

dated as of May __, 2019

by and among

DREAM II HOLDINGS, LLC

and

HOLLANDER HOME FASHIONS HOLDINGS, LLC,

as Parent Guarantors,

HOLLANDER SLEEP PRODUCTS, LLC,

as Borrower

THE LENDERS THAT ARE PARTIES HERETO,

as the Lenders, and

BARINGS FINANCE LLC,

as Administrative Agent

Table of Contents

	Page
1. DEFINITIONS AND CONSTRUCTION.....	1
1.1 Definitions.....	2
1.2 Accounting Terms.....	2
1.3 Code.....	2
1.4 Construction.....	2
1.5 Time References.....	3
1.6 Schedules and Exhibits.....	3
1.7 Divisions.....	3
2. DIP LOANS AND TERMS OF PAYMENT.	4
2.1 DIP Loans.....	4
2.2 [Intentionally Omitted].	4
2.3 Borrowing Procedures.	4
2.4 Payments; Prepayments.....	6
2.5 Promise to Pay; Promissory Notes.....	10
2.6 Interest Rates: Rates, Payments, and Calculations.	11
2.7 Crediting Payments.....	12
2.8 [Intentionally Omitted].....	12
2.9 [Intentionally Omitted].	12
2.10 Fees.....	12
2.11 [Intentionally Omitted].	12
2.12 LIBOR Option.	12
2.13 Capital Requirements.....	14
2.14 Superpriority Nature of DIP Facility Obligations and Agent' DIP Liens.	16
2.15 No Discharge; Survival of Claims.....	16
2.16 Waiver of any Priming Rights.....	17
3. CONDITIONS; TERM OF AGREEMENT.	17
3.1 Conditions Precedent to the Effective Date.....	17
3.2 Conditions Precedent to Funding on the Final Order Effective Date.....	20
3.3 Conditions to Each Extension of Credit.....	21
4. REPRESENTATIONS AND WARRANTIES.....	22
4.1 Due Organization and Qualification; Subsidiaries.....	22
4.2 Due Authorization; No Conflict.....	23
4.3 Governmental Consents.....	23
4.4 Binding Obligations.....	23
4.5 Title to Assets; No Encumbrances.....	24
4.6 Litigation.....	24
4.7 Compliance with Laws.....	24
4.8 No Material Adverse Effect.....	24
4.9 No Default.....	24
4.10 Employee Benefits.....	24

4.11	Environmental Condition.....	25
4.12	Complete Disclosure.....	26
4.13	Patriot Act; Foreign Corrupt Practices Act.....	27
4.14	Chapter 11 Cases.....	27
4.15	Payment of Taxes.....	27
4.16	Margin Stock.....	27
4.17	Governmental Regulation.....	27
4.18	OFAC.....	28
4.19	Employee and Labor Matters.....	28
4.20	[Reserved].....	28
4.21	Broker Fees.....	28
4.22	Suppliers and Customers.....	28
4.23	Security Interest.....	28
4.24	DIP Orders.....	29
4.25	Immaterial Subsidiaries.....	29
4.26	Intellectual Property.....	29
4.27	Insurance.....	29
4.28	Purpose of DIP Loans.....	29
5.	AFFIRMATIVE COVENANTS.....	30
5.1	Financial Statements.....	30
5.2	Reporting.....	30
5.3	Maintenance of Existence.....	33
5.4	Maintenance of Properties.....	33
5.5	Taxes.....	33
5.6	Insurance.....	33
5.7	Inspection.....	34
5.8	Compliance with Laws.....	34
5.9	Environmental.....	35
5.10	Disclosure Updates.....	35
5.11	[Reserved].....	36
5.12	Further Assurances.....	36
5.13	Compliance with ERISA and the IRC.....	37
5.14	Pre-Petition Credit Enhancements.....	37
5.15	Bankruptcy Covenants.....	38
5.16	Chapter 11 Cases.....	38
5.17	Accounting Changes.....	39
5.18	Use of Proceeds.....	39
5.19	TL Deposit Account.....	39
5.20	Budget Matters.....	39
6.	NEGATIVE COVENANTS.....	40
6.1	Indebtedness.....	40
6.2	Liens.....	40
6.3	Restrictions on Fundamental Changes.....	40
6.4	Disposal of Assets.....	41
6.5	Nature of Business.....	41

6.6	Prepayments and Amendments	41
6.7	Restricted Payments	41
6.8	Accounting Methods	42
6.9	Investments	42
6.10	Transactions with Affiliates	42
6.11	Use of Proceeds	43
6.12	Limitation on Issuance of Equity Interests	43
6.13	Parent Guarantors as Holding Companies	44
6.14	Sale and Leaseback Transactions	44
6.15	Employee Benefits	44
6.16	Burdensome Agreements	45
6.17	Sanctions	46
6.18	Chapter 11 Claims	46
6.19	Compliance with Approved Budget	46
6.20	[Reserved]	47
6.21	Use of DIP Collateral	47
6.22	Access to TL Deposit Account	48
7.	[RESERVED].	48
8.	EVENTS OF DEFAULT	48
8.1	Payments	48
8.2	Representations and Warranties	48
8.3	Loan Parties	49
8.4	Default Under Other Agreements	49
8.5	Material Adverse Effect	50
8.6	Change in Control	50
8.7	Security Documents	50
8.8	Loan Documents	50
8.9	Termination Events; Milestones	50
8.10	RSA. The termination of the RSA by any party thereto.	54
8.11	ERISA	54
8.12	Permitted Variances	54
8.13	ABL DIP Facility	55
9.	RIGHTS AND REMEDIES.	55
9.1	Rights and Remedies	55
10.	WAIVERS; INDEMNIFICATION.	55
10.1	Demand; Protest; etc.	55
10.2	The Lender Group's Liability for Collateral	56
10.3	Indemnification	56
11.	NOTICES	57
12.	CHOICE OF LAW AND VENUE; JURY TRIAL WAIVER; JUDICIAL REFERENCE PROVISION.	58

13.	ASSIGNMENTS AND PARTICIPATIONS; SUCCESSORS.....	59
13.1	Assignments and Participations	59
13.2	Successors	64
14.	AMENDMENTS; WAIVERS.....	65
14.1	Amendments and Waivers	65
14.2	Mitigation; Replacement of Certain Lenders.....	67
14.3	No Waivers; Cumulative Remedies.....	68
15.	AGENT; THE LENDER GROUP.....	68
15.1	Appointment and Authorization of Agent	68
15.2	Delegation of Duties	69
15.3	Liability of Agent.....	69
15.4	Reliance by Agent.....	69
15.5	Notice of Default or Event of Default.....	70
15.6	Credit Decision	70
15.7	Costs and Expenses; Indemnification	71
15.8	Agents in Individual Capacity	71
15.9	Successor Agent.....	72
15.10	Lender in Individual Capacity	72
15.11	Collateral Matters.....	72
15.12	Restrictions on Actions by Lenders; Sharing of Payments.....	74
15.13	Agency for Perfection	74
15.14	Payments by Agent to the Lenders	75
15.15	Concerning the Collateral and Related Loan Documents.....	75
15.16	[Intentionally Omitted]	75
15.17	Several Obligations; No Liability	75
15.18	[Reserved]	75
16.	WITHHOLDING TAXES.....	75
16.1	Payments.....	75
16.2	Exemptions	76
16.3	Reductions.....	78
16.4	Refunds	79
17.	GENERAL PROVISIONS.	79
17.1	Effectiveness	79
17.2	Section Headings	79
17.3	Interpretation.....	79
17.4	Severability of Provisions	79
17.5	[Intentionally Omitted]	80
17.6	Debtor-Creditor Relationship.....	80
17.7	Counterparts; Electronic Execution	80
17.8	Revival and Reinstatement of DIP Facility Obligations; Certain Waivers.....	80
17.9	Confidentiality	80
17.10	Survival	82
17.11	Patriot Act	82
17.12	Integration	82

17.13	[Intentionally Omitted]	82
17.14	Judgment Currency	83
17.15	No Setoff	83
17.16	Acknowledgement and Consent to Bail-In of EEA Financial Institutions	83

EXHIBITS AND SCHEDULES

Exhibit 2.3(a)	Form of Notice of Borrowing
Exhibit 3.1	Form of Officer's Certificate
Exhibit 5.2(b)	Form of Compliance Certificate
Exhibit A-1	Form of Assignment and Acceptance
Exhibit I-1	Form of Initial Approved Budget
Exhibit I-2	Form of Interim DIP Order
Exhibit L-1	Form of LIBOR Notice
Schedule A-1	Agent's Account
Schedule D-1	DIP Loan Commitments
Schedule P-1	Permitted Investments
Schedule R-1	Real Property Collateral
Schedule 1.1	Definitions
Schedule 1.1A	Permitted Liens
Schedule 4.1(b)	Subscriptions, Options, Warrants, Calls of Parent
Schedule 4.1(c)	Capitalization of Parent's Subsidiaries
Schedule 4.1(d)	Subscriptions, Options, Warrants, Calls of Parent's Subsidiaries
Schedule 4.6(a)	Litigation
Schedule 4.10	Benefit Plans
Schedule 4.11	Environmental Matters
Schedule 4.14	Permitted Indebtedness
Schedule 4.25	Immaterial Subsidiaries
Schedule 4.26	Intellectual Property
Schedule 4.27	Insurance
Schedule 6.10	Affiliate Transactions

DEBTOR-IN-POSSESSION TERM LOAN CREDIT AGREEMENT

THIS DEBTOR-IN-POSSESSION TERM LOAN CREDIT AGREEMENT (this “Agreement”), is entered into as of May [___], 2019, by and among the lenders identified on the signature pages hereof (each of such lenders, together with its successors and permitted assigns, is referred to hereinafter as a “Lender”, as that term is hereinafter further defined), **BARINGS FINANCE LLC**, as administrative agent for each member of the Lender Group (in such capacity, together with its successors and assigns in such capacity, “Agent”), **DREAM II HOLDINGS, LLC**, a Delaware limited liability company (“Parent”), **HOLLANDER HOME FASHIONS HOLDINGS, LLC**, a Delaware limited liability company (“HHFH” or “Holdings” and together with Parent, the “Parent Guarantors”) and **HOLLANDER SLEEP PRODUCTS, LLC**, a Delaware limited liability company (“HSP” or the “Borrower”).

WHEREAS, on May [___], 2019 (the “Petition Date”), the Borrower and the Guarantors commenced Chapter 11 case numbers [___] through [___], as jointly administered for procedural purposes at Chapter 11 case number [___] (each a “Chapter 11 Case” and collectively, the “Chapter 11 Cases”) by filing with the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the “Bankruptcy Code”).

WHEREAS, each of the Loan Parties is continuing in the possession of its assets and in the management of its business as a debtor-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

WHEREAS, the Borrower has requested the Lenders to extend credit to the Borrower in form of term loans consisting of a superpriority debtor-in-possession secured credit facility in an aggregate principal amount not to exceed \$28,000,000 (the “DIP Facility”) subject to this Agreement and, when entered, the Interim DIP Order, and the Final DIP Order, as applicable, which will be used in accordance with the Approved Budget and the terms of this Agreement.

WHEREAS, the Borrower has requested the ABL DIP Lenders to extend credit to the Borrower in the form of revolving credit commitments in an aggregate of \$90,000,000 (the “ABL DIP Facility”) pursuant to the terms of that certain ABL DIP Facility Agreement.

WHEREAS, to provide security for the repayment of the loans made available pursuant hereto and payment of the other obligations of the Borrower hereunder, the Borrower has agreed to provide the Agent and the Lenders, in each case subject to the Carve-Out, with DIP Liens on the DIP Collateral; and

WHEREAS, the Lenders are willing to make the requested DIP Facility available to the Borrower on the terms and conditions set forth in this Agreement and the Interim DIP Order and the Final DIP Order, as applicable:

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

1. DEFINITIONS AND CONSTRUCTION.

1.1 **Definitions.** Capitalized terms used in this Agreement (including the preamble) shall have the meanings specified therefor on Schedule 1.1.

1.2 **Accounting Terms.** All accounting terms not specifically defined herein shall be construed in accordance with GAAP; provided, that if Borrower notifies Agent that Borrower requests an amendment to any provision hereof to eliminate the effect of any Accounting Change occurring after the Effective Date or in the application thereof on the operation of such provision (or if Agent notifies Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such Accounting Change or in the application thereof, then Agent and Borrower agree that they will negotiate in good faith amendments to the provisions of this Agreement that are directly affected by such Accounting Change with the intent of having the respective positions of the Lenders and Borrower after such Accounting Change conform as nearly as possible to their respective positions before such Accounting Change and, until any such amendments have been agreed upon and agreed to by the Required Lenders, the provisions in this Agreement shall be calculated as if no such Accounting Change had occurred; provided, further, that notwithstanding any Accounting Change after the Effective Date that would require lease obligations that would be treated as operating leases as of the Effective Date to be classified and accounted for as capital leases or otherwise reflected on Parent and its Subsidiaries' consolidated balance sheet, for the purposes of determining compliance with any covenant contained herein, such obligations shall be treated in the same manner as operating leases are treated as of the Effective Date. When used herein, the term "financial statements" shall include the notes and schedules thereto. Whenever the term "Parent" is used in respect of a financial covenant or a related definition, it shall be understood to mean Parent and its Subsidiaries on a consolidated basis, unless the context clearly requires otherwise. Notwithstanding anything to the contrary contained herein, all financial statements delivered hereunder shall be prepared, and all financial covenants contained herein shall be calculated, without giving effect to any election under the Statement of Financial Accounting Standards No. 159 (or any similar accounting principle) permitting a Person to value its financial liabilities or Indebtedness at the fair value thereof.

1.3 **Code.** Any terms used in this Agreement that are defined in the Code shall be construed and defined as set forth in the Code unless otherwise defined herein; provided, however, that to the extent that the Code is used to define any term herein and such term is defined differently in different Articles of the Code, the definition of such term contained in Article 9 of the Code shall govern.

1.4 **Construction.** Unless the context of this Agreement or any other Loan Document clearly requires otherwise, references to the plural include the singular, references to the singular include the plural, the terms "includes" and "including" are not limiting, and the term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or." The words "hereof," "herein," "hereby," "hereunder," and similar terms in this Agreement or any other DIP Loan Document refer to this Agreement or such other DIP Loan Document, as the case may be, as a whole and not to any particular provision of this Agreement or such other DIP Loan Document, as the case may be. Unless the context of this Agreement or any other DIP Loan Document clearly requires otherwise, references to "law" means all international, foreign, federal, state, provincial and local statutes, treaties, rules, guidelines, regulations, by-laws, ordinances, decrees, codes and administrative or judicial or arbitral or

administrative or ministerial or departmental or regulatory precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case, whether or not having the force of law. Section, subsection, clause, schedule, and exhibit references herein are to this Agreement unless otherwise specified. Any reference in this Agreement or in any other DIP Loan Document to any agreement, instrument, or document shall include all alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, joinders, and supplements, thereto and thereof, as applicable (subject to any restrictions on such alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, joinders, and supplements set forth herein). The words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties. Any reference herein or in any other DIP Loan Document to the satisfaction, repayment, or payment in full of the DIP Facility Obligations shall mean (a) the payment or repayment in full in immediately available funds in Dollars of (i) the principal amount of, and interest accrued and unpaid with respect to, all outstanding DIP Loans, (ii) all Lender Group Expenses that have accrued and are unpaid regardless of whether demand has been made therefor, (iii) all fees or charges that have accrued hereunder or under any other DIP Loan Document and are unpaid, (b) the receipt by Agent of cash collateral in Dollars in order to secure any other contingent DIP Facility Obligations for which a claim or demand for payment has been made on or prior to such time or in respect of matters or circumstances known to Agent or a Lender at such time that are reasonably expected to result in any loss, cost, damage, or expense (including attorneys’ fees and legal expenses), such cash collateral to be in such amount as Agent reasonably determines is appropriate to secure such contingent DIP Facility Obligations, (c) the payment or repayment in full in immediately available funds in Dollars of all other outstanding DIP Facility Obligations other than in each case of clauses (a) to (c) hereof, Unasserted Contingent Indemnification Obligations, and (d) the termination of all of the DIP Loan Commitments of the Lenders. Any reference herein to any Person shall be construed to include such Person’s permitted successors and assigns. Any requirement of a writing contained herein or in any other DIP Loan Document shall be satisfied by the transmission of a Record.

1.5 Time References. Unless the context of this Agreement or any other DIP Loan Document clearly requires otherwise, all references to time of day refer to Eastern Standard Time or Eastern daylight saving time, as in effect in New York City, New York on such day. For purposes of the computation of a period of time from a specified date to a later specified date, the word “from” means “from and including” and the words “to” and “until” each means “to and including”; provided that, with respect to a computation of fees or interest payable to Agent or any Lender, such period shall in any event consist of at least one full day.

1.6 Schedules and Exhibits. All of the schedules and exhibits attached to this Agreement shall be deemed incorporated herein by reference.

1.7 Divisions. For all purposes under the DIP Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction’s laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred

from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

2. DIP LOANS AND TERMS OF PAYMENT.

2.1 DIP Loans.

(a) On the Effective Date, each Lender, subject to, and in accordance with, this Agreement, agrees to severally, and not jointly or jointly and severally, make an Interim DIP Loan to and for the account of the Borrower as provided herein, in the amount of such Lender's Interim DIP Loan Commitment (subject to any limitations contained within the Interim DIP Order or the Final DIP Order, as applicable). The Interim DIP Loans shall be made in one draw on the Effective Date, and the Interim DIP Loan Commitments shall be immediately terminated after the funding of the Interim DIP Loans. Once repaid, no part of the Interim DIP Loans may be reborrowed.

(b) On the Final Order Effective Date, each Lender, subject to, and in accordance with, this Agreement, agrees to severally, and not jointly or jointly and severally, make a Final DIP Loan to and for the account of the Borrower as provided herein, in the amount of such Lender's Final DIP Loan Commitment (subject to any limitations contained within the Interim DIP Order or the Final DIP Order, as applicable). The Final DIP Loans shall be made in one draw on the Final Order Effective Date, and the Final DIP Loan Commitments shall be immediately terminated after the funding of the Final DIP Loans. Once repaid, no part of the Final DIP Loans may be reborrowed.

(c) On the date that is the first Business Day of the last week of the Life of the Case (such earlier date, the "Budget Advance Date"), each Lender, subject to, and in accordance with, this Agreement, agrees to severally, and not jointly or jointly and severally, make a Budget Advance Date DIP Loan to and for the account of the Borrower as provided herein, in the amount of such Lender's Budget Advance Date Commitment (subject to any limitations contained within the DIP Orders). The Budget Advance Date DIP Loans shall be made in one draw on the Budget Advance Date, and the Budget Advance Date Commitments shall be immediately terminated after the funding of the Budget Advance Date Loans. Once repaid, no part of the Budget Advance Date DIP Loans may be reborrowed.

2.2 [Intentionally Omitted].

2.3 Borrowing Procedures.

(a) **Procedure for Borrowing DIP Loans.** Borrower shall deliver to Agent a notice of borrowing, in substantially the form set forth on Exhibit 2.3(a), not later than 12:00 p.m. one Business Day (or such shorter period as Agent may agree in its reasonable discretion) before (i) the anticipated Effective Date, requesting that the Lenders make the Interim DIP Loans on the Effective Date, (ii) the anticipated Final Order Effective Date, requesting that the Lenders make the Final DIP Loans on the Final Order Effective Date, and (iii) the anticipated Budget Advance Date, requesting that the Lenders make the Budget Advance Date DIP Loans on the Budget Advance Date. The notice of borrowing shall be irrevocable and shall specify (i) the

principal amount of the DIP Loans to be borrowed, (ii) the requested date of the borrowing (which shall be a Business Day), and (iii) the location and number of the accounts to which funds are to be disbursed. Requests for LIBOR Rate Loans will also be subject to Section 2.12.

(b) **Making of DIP Loans.** Upon receipt of such notice of borrowing, the Agent shall promptly notify each Lender thereof. Not later than 12:00 p.m. (or, if later, promptly following the satisfaction of the conditions precedent to the initial extension of credit hereunder set forth in Section 3), on (i) the Effective Date, each Lender shall make available to Borrower an amount (through the Agent) in immediately available funds equal to such Lender's Pro Rata Share of the requested Interim DIP Loans, (ii) the Final Order Effective Date, each Lender shall make available to Borrower an amount (through the Agent) in immediately available funds equal to such Lender's Pro Rata Share of the requested Final DIP Loans, and (iii) the Budget Advance Date, each Lender shall make available to Borrower an amount (through the Agent) in immediately available funds equal to such Lender's Pro Rata Share of the requested Budget Advance Date DIP Loans.

(c) **Independent Obligations.** All DIP Loans shall be made by the Lenders contemporaneously and in accordance with their Pro Rata Shares. It is understood that (i) no Lender shall be responsible for any failure by any other Lender to perform its obligation to make any DIP Loan hereunder, nor shall any DIP Loan Commitment of any Lender be increased or decreased as a result of any failure by any other Lender to perform its obligations hereunder, and (ii) no failure by any Lender to perform its obligations hereunder shall excuse any other Lender from its obligations hereunder.

(d) **Defaulting Lenders.** Notwithstanding anything to the contrary contained in this Agreement (including Section 2.4(b)(ii)), 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 applicable law, any payment of principal, interest, fees or other amounts received by Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 8 or otherwise) or received by Agent from a Defaulting Lender pursuant to any right of setoff shall be applied at such time or times as may be determined by Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to Agent hereunder; second, if Borrower requests (so long as no Default or Event of Default exists), to the funding of any DIP Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by Agent; third, if so determined by Agent and Borrower, to be held in a deposit account and released pro rata in order to satisfy such Defaulting Lender's potential future funding obligations with respect to DIP Loans under this Agreement; fourth, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by Agent or any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; fifth, 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 sixth, 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 DIP Loans in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such DIP Loans were made at a time when the conditions set forth in Section 3.1

were satisfied or waived in accordance with this Agreement, such payment shall be applied solely to pay the DIP Loans of all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any DIP Loans of such Defaulting Lender until such time as all DIP Loans are funded by the Lenders pro rata in accordance with the DIP Loan Commitments under the applicable tranche of DIP Loans. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender pursuant to this Section 2.3(d) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

2.4 Payments; Prepayments.

(a) Payments by Borrower.

(i) Except as otherwise expressly provided herein, all payments by Borrower shall be made to Agent's Account for the account of the Lender Group and shall be made in immediately available funds in Dollars, no later than 2:00 p.m. on the date specified herein. Any payment received by Agent later than 2:00 p.m. shall be deemed to have been received (unless Agent, in its sole discretion, elects to credit it on the date received) on the following Business Day and any applicable interest or fee shall continue to accrue until such following Business Day.

(ii) Unless Agent receives notice from Borrower prior to the date on which any payment is due to the Lenders that Borrower will not make such payment in full as and when required, Agent may assume that Borrower has made (or will make) such payment in full to Agent on such date in immediately available funds and Agent may (but shall not be so required), in reliance upon such assumption, distribute to each Lender on such due date an amount equal to the amount then due to such Lender. If and to the extent Borrower does not make such payment in full to Agent on the date when due, each Lender severally shall repay to Agent on demand such amount distributed to such Lender, together with interest thereon at applicable interest rate for the amount being repaid for each day from the date such amount is distributed to such Lender until the date repaid.

(b) Apportionment and Application.

(i) So long as no Application Event has occurred and is continuing, and except as otherwise provided herein with respect to Defaulting Lenders, all principal and interest payments received by Agent shall be apportioned ratably among the Lenders (according to the unpaid principal balance of the DIP Facility Obligations to which such payments relate held by each Lender) and all payments of fees and expenses received by Agent (other than fees or expenses that are for Agent's separate account) shall be apportioned ratably among the Lenders having a Pro Rata Share of the outstanding DIP Loans to which a particular fee or expense relates. Subject to Section 2.4(b)(iv) and Section 2.4(e), all payments in respect of DIP Facility Obligations to be made hereunder by Borrower shall be remitted to Agent and all such payments, and all proceeds of DIP Collateral securing DIP Facility Obligations received by Agent, shall be applied, so long as no Application Event has occurred and is continuing and except as otherwise provided herein with respect to Defaulting Lenders, to reduce the balance of the DIP Loans outstanding and, thereafter, to Borrower (to be wired to any account or accounts

located in the United States specified by Borrower) or such other Person entitled thereto under applicable law.

(ii) At any time that an Application Event has occurred and is continuing and except as otherwise provided herein with respect to Defaulting Lenders, all payments in respect of DIP Facility Obligations and all proceeds of DIP Collateral securing the DIP Facility Obligations received by Agent shall be applied as follows:

(A) first, to pay any Lender Group Expenses (including cost or expense reimbursements) or indemnities then due to Agent under the DIP Loan Documents in respect of the DIP Facility Obligations, until paid in full,

(B) second, to pay any fees then due to Agent under the DIP Loan Documents in respect of the DIP Facility Obligations, until paid in full,

(C) third, ratably, to pay any Lender Group Expenses (including cost or expense reimbursements) or indemnities then due to any of the Lenders under the DIP Loan Documents in respect of the DIP Facility Obligations, until paid in full,

(D) fourth, ratably, to pay any fees or premiums then due to any of the Lenders under the DIP Loan Documents in respect of the DIP Facility Obligations, until paid in full,

(E) fifth, ratably, to pay interest accrued in respect of the DIP Loans, until paid in full,

(F) sixth, ratably, to pay the principal of all DIP Loans, until paid in full,

(G) seventh, ratably to pay any other DIP Facility Obligations, and

(H) eighth, to Borrower (to be wired to any account or accounts in the United States specified by Borrower) or such other Person entitled thereto under applicable law.

(iii) Agent promptly shall distribute to each Lender, pursuant to the applicable wire instructions received from each Lender in writing, such funds as it may be entitled to receive.

(iv) In each instance, so long as no Application Event has occurred and is continuing, Section 2.4(b)(i) shall not apply to any payment made by Borrower to Agent and specified by Borrower to be for the payment of specific DIP Facility Obligations then due and payable (or prepayable) under any provision of this Agreement or any other DIP Loan Document.

(v) For purposes of Section 2.4(b)(ii), “paid in full” of a type of DIP Facility Obligation means payment in Dollars in cash or immediately available funds of all amounts owing on account of such type of DIP Facility Obligation.

(vi) In the event of a direct conflict between the priority provisions of this Section 2.4 and any other provision contained in this Agreement or any other DIP Loan Document (excluding the Intercreditor Agreement, which shall control and govern in any event), it is the intention of the parties hereto that such provisions be read together and construed, to the fullest extent possible, to be in concert with each other. In the event of any actual, irreconcilable conflict that cannot be resolved as aforesaid, if the conflict relates to the provisions of this Section 2.4, then the terms and provisions of this Section 2.4 shall control and govern.

(c) **Optional Prepayments.** Borrower may prepay the principal of the DIP Loans at any time in whole or in part upon written notice, subject to the payment of any fees, premiums or other amounts owed under the Fee Letter and subject to any Funding Losses pursuant to Section 2.12(b)(ii), to Agent prior to 1:00 P.M., New York City time three Business Days prior to the date of prepayment (in the case of LIBOR Rate Loans), or prior to 1:00 P.M., New York City time at least one Business Day prior to the date of prepayment (in the case of Base Rate Loans). Such notice shall specify, in the case of any prepayment of DIP Loans, the date and amount of prepayment and whether the prepayment is of LIBOR Rate Loans or Base Rate Loans or a combination thereof, and, in each case if a combination thereof, the principal amount allocable to each. Any such notice may state that such notice is conditioned upon the occurrence or non-occurrence of any event specified therein (including the effectiveness of other credit facilities), in which case such notice may be revoked by Borrower (by written notice to Agent on or prior to the specified effective date) if such condition is not satisfied. Upon the receipt of any such notice Agent shall promptly notify each affected Lender thereof. If any such notice is given and not revoked, the amount specified in such notice shall be due and payable on the date specified therein, together with (if a LIBOR Rate Loan is prepaid other than at the end of the Interest Period applicable thereto) any accrued and unpaid interest on the DIP Loans being repaid and amounts payable pursuant to Section 2.12(b)(ii). Any prepayment of LIBOR Rate Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof; and any prepayment of Base Rate Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof or, in each case, if less, the entire principal amount thereof then outstanding. Agent shall apply any such optional prepayment to the outstanding amount of DIP Loans.

(d) **Mandatory Prepayments.**

(i) **Repayment of DIP Loans.**

(A) Borrower hereby unconditionally promises to pay to Agent for the ratable account of each Lender the then unpaid principal amount of, and unpaid accrued interest on, each DIP Loan of such Lender made to Borrower, on the Maturity Date (or such earlier date on which the DIP Loans become due and payable pursuant to Section 9.1) in cash without further application to or order of the Bankruptcy

Court. Borrower hereby further agrees to pay interest in cash on the unpaid principal amount of such DIP Loans from time to time outstanding from the date hereof until payment in full thereof at the rates per annum, and on the dates, set forth herein.

- (B) Notwithstanding the foregoing Section 2.4(d)(i)(A), in lieu of any applicable portion of the cash payments otherwise owed to the Lenders with respect to the DIP Loans, the Lenders may receive non-cash consideration in the form of senior secured debt and equity in the reorganized Loan Parties on the Plan Effective Date of a confirmed Plan if a Plan as contemplated by the RSA is confirmed.

(ii) **Dispositions; Indebtedness; Extraordinary Receipts.** Subject to any provisions of the Intercreditor Agreement to the contrary, (x) Borrower shall, in accordance with Section 2.4(e), prepay the DIP Loans to the extent required by Section 2.4(b)(iii), (y) if on or after the Effective Date, Borrower or any of its Subsidiaries shall Incur Indebtedness for borrowed money (excluding Indebtedness permitted pursuant to Section 6.1), Borrower shall, in accordance with Section 2.4(e), prepay the DIP Loans in an amount equal to 100% of the Net Cash Proceeds thereof with such prepayment to be made on or before the fifth Business Day following notice given to each Lender of the Prepayment Date, as contemplated by Section 2.4(f), and (z) promptly upon receipt by any Loan Party of cash proceeds from any Extraordinary Receipt, Borrower shall prepay the DIP Loans in an aggregate amount equal to 100% of the Net Cash Proceeds of such Extraordinary Receipt in accordance with Section 2.4(e). Any prepayment pursuant to this Section 2.4(d)(ii) shall be accompanied by any accrued and unpaid interest on the DIP Loans being repaid and amounts payable pursuant to Section 2.12.

(iii) **Asset Dispositions.** Subject to any provisions of the Intercreditor Agreement to the contrary, in the event that on or after the Effective Date the Borrower or any Loan Party shall make an asset disposition of DIP Collateral that is not permitted by Section 6.4, or a Recovery Event in respect of DIP Collateral shall occur, an amount equal to 100% of the Net Cash Proceeds from such asset disposition or Recovery Event shall be applied by the Borrower (or any Loan Party, as the case may be) as follows: (x) to the extent such asset disposition or Recovery Event is an asset disposition or Recovery Event of assets that constitute DIP Collateral (other than ABL Priority Collateral), to prepay the DIP Loans in accordance with Section 2.4(d)(ii)(x) and (y) to the extent such asset disposition is an asset disposition of ABL Priority Collateral or assets that do not constitute DIP Collateral, subject to the terms of the DIP Orders and the Intercreditor Agreement, to prepay the DIP Loans in accordance with Section 2.4(d)(ii)(x); provided, however, that, so long as no Default or Event of Default has occurred and is continuing, Net Cash Proceeds from insurance or condemnation proceeds shall not be required to be applied to prepay the DIP Loans to the extent Borrower delivers to Agent a certificate stating that the Loan Parties intend to use such Net Cash Proceeds to acquire capital assets useful to the business of the Loan Parties within thirty (30) days of the receipt of such Net Cash Proceeds, it being expressly agreed that any Net Cash Proceeds not so reinvested shall be applied to prepay the DIP Loans immediately thereafter. Notwithstanding the foregoing, with respect to any Foreign Asset Sale, Borrower may elect in a written notice to Agent delivered not later than

when Borrower delivers the notice to Agent pursuant to Section 2.4(f) to reduce the amount of such prepayment by the amount of any Restricted Asset Sale Proceeds included in such Net Cash Proceeds; provided, that (i) if the amount of Restricted Asset Sale Proceeds is at any time, and from time to time, reduced either as a result of (x) the circumstances described in clause (a) of the definition thereof ceasing to apply, or (y) the elimination of a prohibition or a change in a restriction described in clause (b) of the definition thereof, Borrower shall repatriate the amount by which the Restricted Asset Sale Proceeds are reduced within five Business Days and apply such amount in accordance with this Section 2.4(d)(iii), and (ii) Borrower shall, and shall cause the applicable Foreign Subsidiary to, use its commercially reasonable efforts (including by taking all commercially reasonable actions required by the applicable law, rule, regulation or contract to permit such repatriation) to repatriate any amounts constituting Restricted Asset Sale Proceeds pursuant solely to clause (b) of the definition thereof as promptly as practicable following the date of such prepayment.

(e) **Mandatory Prepayment Application.** Each prepayment of DIP Loans pursuant to Section 2.4(d) shall be allocated pro rata among the DIP Loans. Amounts prepaid on account of DIP Loans pursuant to Sections 2.4(c) or (d) may not be reborrowed.

(f) **Mandatory Prepayment Notice.** Borrower shall give notice to Agent of any mandatory prepayment of the DIP Loans promptly (and in any event within five Business Days) upon becoming obligated to make such prepayment. Such notice shall state the date on which Borrower is offering to make or will make such mandatory prepayment (the “Prepayment Date”). Once given, such notice shall be irrevocable and all amounts subject to such notice shall be due and payable on the Prepayment Date. Upon receipt by Agent of such notice, Agent shall promptly give notice to each Lender of the prepayment and the Prepayment Date.

2.5 **Promise to Pay; Promissory Notes.**

(a) Subject to the DIP Order, Borrower agrees to pay the Lender Group Expenses owing by Borrower on the earlier of (i) the first Business Day of the month following the date on which the applicable Lender Group Expenses were first incurred or (ii) the date on which demand therefor is made by Agent. Borrower promises to pay all of the DIP Facility Obligations (including principal, interest, premiums, if any, fees, costs, and expenses (including Lender Group Expenses)) owing by Borrower in full on the Maturity Date or, if earlier, on the date on which such DIP Facility Obligations become due and payable pursuant to the terms of this Agreement. Borrower agrees that its obligations contained in the first sentence of this Section 2.5 shall survive payment or satisfaction in full of all other DIP Facility Obligations.

(b) Any Lender may request that any portion of its DIP Loans made by it be evidenced by one or more promissory notes. In such event, Borrower shall execute and deliver to such Lender the requested promissory notes payable to such Lender and its registered assigns in a form furnished by Agent and reasonably satisfactory to Borrower. Thereafter, the portion of the DIP Loans evidenced by such promissory notes and interest thereon shall at all times be represented by one or more promissory notes in such form payable to the payee named therein.

2.6 **Interest Rates: Rates, Payments, and Calculations.**

(a) **Interest Rates.** Except as provided in Section 2.6(c), (i) all LIBOR Rate Loans shall bear interest at a per annum rate equal to the LIBOR Rate plus 7.00% and (ii) all Base Rate Loans shall bear interest at a per annum rate equal to the Base Rate plus 6.00%.

(b) **[Intentionally Omitted].**

(c) **Default Rate.** Automatically upon the occurrence of an Event of Default described in Section 8.1, (x) all the DIP Loans shall bear interest at a default rate of interest equal to an additional 2.00% per annum over the rate otherwise applicable and (y) all other DIP Facility Obligations under the DIP Loan Documents that are past due shall bear interest at a default rate of interest equal to (I) in the case of past due interest, the default rate applicable to the DIP Loans giving rise to such interest and (II) in the case of all such other DIP Facility Obligations, the default rate applicable to Base Rate Loans whether or not such Base Rate Loans are actually outstanding at such time, and, in each case, all such interest will be payable on demand.

(d) **Payment.** Except to the extent provided to the contrary in Section 2.12(a), (i) all interest (other than interest due on LIBOR Rate Loans) shall be due and payable, in arrears, on the last Business Day of each calendar quarter, and (ii) all costs and expenses payable hereunder or under any of the other DIP Loan Documents and all Lender Group Expenses shall be due and payable on the earlier of (x) the first Business Day of the month following the date on which the applicable costs, expenses, or Lender Group Expenses were first incurred or (y) the date on which demand therefor is made by Agent. All interest in respect of LIBOR Rate Loans shall be due and payable as provided in Section 2.12(a)

(e) **Computation.** All interest and fees chargeable under the DIP Loan Documents shall be computed on the basis of a 360 day year, in each case, for the actual number of days elapsed in the period during which the interest or fees accrue; provided that Base Rate Loans shall be calculated on the basis of a 365 day year (or a 366 day year, in the case of a leap year). In the event the Base Rate is changed from time to time hereafter, the rates of interest hereunder based upon the Base Rate automatically and immediately shall be increased or decreased by an amount equal to such change in the Base Rate.

(f) **Intent to Limit Charges to Maximum Lawful Rate.** In no event shall the interest rate or rates payable under this Agreement, plus any other amounts paid in connection herewith, exceed the highest rate permissible under any law that a court of competent jurisdiction shall, in a final determination, deem applicable. Borrower and the Lender Group, in executing and delivering this Agreement, intend legally to agree upon the rate or rates of interest and manner of payment stated within it; provided, that, anything contained herein to the contrary notwithstanding, if such rate or rates of interest or manner of payment exceeds the maximum allowable under applicable law, then, ipso facto, as of the date of this Agreement, Borrower is and shall be liable only for the payment of such maximum amount as is allowed by law, and payment received from Borrower in excess of such legal maximum, whenever received, shall be applied to reduce the principal balance of the applicable DIP Facility Obligations to the extent of such excess.

2.7 **Crediting Payments.** The receipt of any payment item by Agent shall not be required to be considered a payment on account unless such payment item is a wire transfer of immediately available federal funds in Dollars made to Agent's Account or unless and until such payment item is honored when presented for payment. Should any payment item not be honored when presented for payment, then Borrower shall be deemed not to have made such payment and interest shall be calculated accordingly. Anything to the contrary contained herein notwithstanding, any payment item shall be deemed received by Agent only if it is received into Agent's Account on a Business Day on or before 4:30 p.m. If any payment item is received into Agent's Account on a non-Business Day or after 4:30 p.m. on a Business Day (unless Agent, in its sole discretion, elects to credit it on the date received), it shall be deemed to have been received by Agent as of the opening of business on the immediately following Business Day.

2.8 **[Intentionally Omitted].**

2.9 **[Intentionally Omitted].**

2.10 **Fees.**

(a) Borrower shall pay to Agent and each Lender, as and when due and payable under the terms of the Fee Letter, the fees set forth in the Fee Letter.

(b) Borrower agrees to pay to the Agent, for the ratable benefit of the Lenders having DIP Loan Commitment exposure, a fee calculated at a rate per annum equal to 0.50% on the average daily unused portion of the DIP Loan Commitments, payable in arrears on the last Business Day of each calendar quarter.

2.11 **[Intentionally Omitted].**

2.12 **LIBOR Option.**

(a) **Interest and Interest Payment Dates.** In lieu of having interest charged at the rate based upon the Base Rate, Borrower shall have the option, subject to Section 2.12(b) below (the "LIBOR Option"), to have interest on all or a portion of the DIP Loans be charged (whether at the time when made (unless otherwise provided herein), upon conversion from a Base Rate Loan to a LIBOR Rate Loan, or upon continuation of a LIBOR Rate Loan as a LIBOR Rate Loan) at a rate of interest based upon the LIBOR Rate. Interest on LIBOR Rate Loans shall be payable on the earliest of (i) the last day of the Interest Period applicable thereto; provided that, subject to the following clauses (ii) and (iii), in the case of any Interest Period greater than 3 months in duration, interest shall be payable at 3 month intervals after the commencement of the applicable Interest Period and on the last day of such Interest Period, (ii) the date on which all or any portion of the DIP Facility Obligations are accelerated pursuant to the terms hereof, or (iii) the date on which this Agreement is terminated pursuant to the terms hereof. On the last day of each applicable Interest Period, unless Borrower has properly exercised the LIBOR Rate Option with respect thereto, the interest rate applicable to such LIBOR Rate Loan automatically shall convert to the rate of interest then applicable to Base Rate Loans of the same type hereunder. At any time that an Event of Default has occurred and is continuing, at the written election of Agent or the Required Lenders, Borrower no longer shall have the option to request that DIP Loans bear interest at a rate based upon the LIBOR Rate.

(b) **LIBOR Election.**

(i) Borrower may, at any time and from time to time, so long as Borrower has not received a notice from Agent (which notice Agent may elect to give or not give in its discretion unless Agent is directed to give such notice by the Required Lenders, in which case, it shall give the notice to Borrower), after the occurrence and during the continuance of an Event of Default, exercising Lenders' rights to terminate the right of Borrower to exercise the LIBOR Option during the continuance of such Event of Default, elect to exercise the LIBOR Option by notifying Agent prior to 1:00 p.m. at least 3 Business Days prior to the commencement of the proposed Interest Period (the "LIBOR Deadline"). The election of the LIBOR Option by Borrower for a permitted portion of its DIP Loans and an Interest Period pursuant to this Section shall be made by delivery to Agent of a LIBOR Notice received by Agent before the LIBOR Deadline, or by telephonic notice received by Agent before the LIBOR Deadline (to be confirmed by delivery to Agent of a LIBOR Notice received by Agent prior to 5:00 p.m. on the same day). Promptly upon its receipt of each such LIBOR Notice, Agent shall provide a copy thereof to each of the affected Lenders.

(ii) Each LIBOR Notice shall be irrevocable and binding on Borrower. In connection with each LIBOR Rate Loan, Borrower shall indemnify, defend, and hold Agent and the Lenders harmless against any loss, cost, or expense actually incurred by Agent or any Lender as a result of (A) the payment of any principal of such LIBOR Rate Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (B) the conversion of such LIBOR Rate Loan other than on the last day of the Interest Period applicable thereto, or (C) the failure to borrow, convert, continue or prepay any LIBOR Rate Loan on the date specified in such LIBOR Notice delivered pursuant hereto (such losses, costs, or expenses, "Funding Losses"). A certificate of Agent or a Lender delivered to Borrower setting forth in reasonable detail any amount or amounts that Agent or such Lender is entitled to receive pursuant to this Section 2.12 shall be conclusive absent manifest error. Borrower shall pay such amount to Agent or the Lender, as applicable, within 30 days of the date of its receipt of such certificate.

(iii) Unless Agent, in its sole discretion, agrees otherwise, Borrower shall have not more than 10 LIBOR Rate Loans in effect at any given time. Borrower may only exercise the LIBOR Option for proposed LIBOR Rate Loans of at least \$1,000,000 (and in increments of \$500,000 in excess thereof).

(c) **Conversion.** Borrower may convert LIBOR Rate Loans to Base Rate Loans at any time by notifying Agent prior to 1:00 p.m. at least 3 Business Days prior to the date of the proposed conversion; provided that, in the event that LIBOR Rate Loans are converted or prepaid on any date that is not the last day of the Interest Period applicable thereto, including as a result of any prepayment through the required application by Agent of any payments or proceeds of Collateral in accordance with Section 2.4(b) or for any other reason, including early termination of the term of this Agreement or acceleration of all or any portion of the DIP Facility Obligations pursuant to the terms hereof, Borrower shall indemnify, defend, and hold Agent and the Lenders and their Participants harmless against any and all Funding Losses in accordance with Section 2.12 (b)(ii); provided, further, that any such conversions are subject to the minimum amounts set forth in clause (b)(iii) above.

(d) **Special Provisions Applicable to LIBOR Rate.**

(i) The LIBOR Rate may be adjusted by Agent with respect to any Lender on a prospective basis to take into account any additional or increased costs to such Lender of maintaining or obtaining any Eurodollar deposits or increased costs, in each case, due to a Change in Law (including any Change in Law that subjects any Recipient to any Taxes (other than (A) Indemnified Taxes and (B) Excluded Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto) occurring subsequent to the commencement of the then applicable Interest Period, including any changes in the reserve requirements imposed by the Board of Governors, which additional or increased costs would increase the cost of funding or maintaining loans bearing interest at the LIBOR Rate. In any such event, the affected Lender shall give Borrower and Agent notice of such a determination and adjustment and Agent promptly shall transmit the notice to each other Lender and, upon its receipt of the notice from the affected Lender, Borrower may, by notice to such affected Lender (A) require such Lender to furnish to Borrower a statement setting forth in reasonable detail the basis for adjusting such LIBOR Rate and the method for determining the amount of such adjustment, or (B) repay the LIBOR Rate Loans of such Lender with respect to which such adjustment is made (together with any amounts due under Section 2.12(b)(ii)).

(ii) In the event that any change in market conditions or any Change in Law shall, at any time after the date hereof in the reasonable opinion of any Lender, make it unlawful or impractical for such Lender to fund or maintain LIBOR Rate Loans or to continue such funding or maintaining, or to determine or charge interest rates at the LIBOR Rate, such Lender shall give notice of such changed circumstances to Agent and Borrower and Agent promptly shall transmit the notice to each other Lender and (y) in the case of any LIBOR Rate Loans of such Lender that are outstanding, the date specified in such Lender's notice shall be deemed to be the last day of the Interest Period of such LIBOR Rate Loans, and interest upon the LIBOR Rate Loans of such Lender thereafter shall accrue interest at the rate then applicable to Base Rate Loans, and (z) Borrower shall not be entitled to elect the LIBOR Option until such Lender determines that it would no longer be unlawful or impractical to do so.

(e) **No Requirement of Matched Funding.** Anything to the contrary contained herein notwithstanding, neither Agent, nor any Lender, nor any of their respective Participants, is required actually to acquire Eurodollar deposits to fund or otherwise match fund any DIP Facility Obligation as to which interest accrues at the LIBOR Rate.

2.13 **Capital Requirements.**

(a) If, after the date hereof, any Lender determines that (i) any Change in Law regarding capital or reserve requirements for banks or bank holding companies, or (ii) compliance by such Lender, or their respective parent bank holding companies, with any guideline, request or directive of any Governmental Authority regarding capital adequacy or liquidity (whether or not having the force of law), has the effect of reducing the return on such Lender's, or such holding companies' capital as a consequence of such Lender's commitments hereunder to a level below that which such Lender, or such holding companies could have achieved but for such Change in Law or compliance (taking into consideration such Lender's, or

such holding companies' then existing policies with respect to capital adequacy or liquidity and assuming the full utilization of such entity's capital) by any amount deemed by such Lender to be material, then such Lender may notify Borrower and Agent thereof. Following receipt of such notice, Borrower agrees to pay such Lender on demand the amount of such reduction of return of capital as and when such reduction is determined, payable within 30 days after presentation by such Lender of a statement in the amount and setting forth in reasonable detail such Lender's calculation thereof and the assumptions upon which such calculation was based (which statement shall be deemed true and correct absent manifest error). In determining such amount, such Lender may use any reasonable averaging and attribution methods. Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation; provided that Borrower shall not be required to compensate a Lender pursuant to this Section for any reductions in return incurred more than 180 days prior to the date that such Lender notifies Borrower of such Change in Law giving rise to such reductions and of such Lender's intention to claim compensation therefor; provided further that if such claim arises by reason of the Change in Law that is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(b) If any Lender requests additional or increased costs referred to in Section 2.12(d)(i) or amounts under Section 2.13(a) or sends a notice under Section 2.12(d)(ii) relative to changed circumstances (such Lender, an "Affected Lender"), then such Affected Lender shall use reasonable efforts to promptly designate a different one of its lending offices or to assign its rights and obligations hereunder to another of its offices or branches, if (i) in the reasonable judgment of such Affected Lender, such designation or assignment would eliminate or reduce amounts payable pursuant to Section 2.12(d)(i) or Section 2.13(a), as applicable, or would eliminate the illegality or impracticality of funding or maintaining LIBOR Rate Loans and (ii) in the reasonable judgment of such Affected Lender, such designation or assignment would not subject it to any material unreimbursed cost or expense and would not otherwise be materially disadvantageous to it. Borrower agrees to pay all reasonable and documented out-of-pocket costs and expenses incurred by such Affected Lender in connection with any such designation or assignment. If, after such reasonable efforts, such Affected Lender does not so designate a different one of its lending offices or assign its rights to another of its offices or branches so as to eliminate Borrower's obligation to pay any future amounts to such Affected Lender pursuant to Section 2.12(d)(i) or Section 2.13(a), as applicable, or to enable Borrower to obtain LIBOR Rate Loans, then Borrower (without prejudice to any amounts then due to such Affected Lender under Section 2.12(d)(i) or Section 2.13(a), as applicable), may, unless prior to the effective date of any such assignment the Affected Lender withdraws its request for such additional amounts under Section 2.12(d)(i) or Section 2.13(a), as applicable, or indicates that it is no longer unlawful or impractical to fund or maintain LIBOR Rate Loans, may designate a substitute Lender reasonably acceptable to Agent to purchase the DIP Facility Obligations owed to such Affected Lender (and its Affiliates) and such Affected Lender's (and its Affiliates') commitments hereunder (a "Replacement Lender"), and if such Replacement Lender agrees to such purchase, such Affected Lender (and its Affiliates) shall assign to the Replacement Lender its DIP Facility Obligations and commitments, and upon such purchase by the Replacement Lender, which such Replacement Lender shall be deemed to be a "Lender" for purposes of this Agreement and such Affected Lender (and its Affiliates) shall cease to be a "Lender" for purposes of this Agreement.

(c) Notwithstanding anything herein to the contrary, the protection of Section 2.13 shall be available to each Lender regardless of any possible contention of the invalidity or inapplicability of the Change in Law which shall have occurred or been imposed, so long as it shall be customary for lenders affected thereby to comply therewith. Notwithstanding any other provision no Lender shall demand compensation pursuant to this Section 2.13 if it shall not at the time be the general policy or practice of such Lender to demand such compensation in similar circumstances under comparable provisions of other credit agreements, if any.

2.14 Superpriority Nature of DIP Facility Obligations and Agent' DIP Liens.

(a) The priority of Lenders' DIP Liens on the DIP Collateral owned by the Loan Parties shall be set forth in the Interim DIP Order and the Final DIP Order.

(b) Subject to the Carve-Out, all DIP Facility Obligations shall constitute administrative expenses of Borrower and Guarantors in the Chapter 11 Cases pursuant to Section 364(c) of the Bankruptcy Code with priority over all other claims and administrative expenses of the kinds specified in, or ordered pursuant to, Sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 546(c), 726, 1114 or any other provision of the Bankruptcy Code, and shall at all times during the period that the DIP Loans remain outstanding, remain senior in priority to all other claims or administrative expenses (other than the Carve-Out and the ABL DIP Obligations, in each case to the extent as set forth in the DIP Orders) (the "DIP Superpriority Claim").

(c) The DIP Liens granted to Agent for the benefit of the Lenders on the DIP Collateral owned by Borrower and Guarantors shall be valid and perfected on the basis and with the priority set forth in the definition of "DIP Lien" herein and in the DIP Orders.

(d) The "Carve Out" has the meaning assigned to that term in the Interim DIP Order and the Final DIP Order, as applicable.

(e) Except as set forth herein or in the DIP Orders, no other claim having a priority superior or pari passu to that granted to the Agent and the Lenders by the DIP Orders shall be granted or approved while any DIP Facility Obligations under this Agreement remain outstanding. Except for the Carve-Out and subject to entry of the Final DIP Order, no costs or expenses of administration shall be imposed against the Agent, the Lenders or any of the DIP Collateral or any of the Pre-Petition Term Agent, the Pre-Petition Term Lenders or the Collateral (as defined in each of the Pre-Petition Term Facility Agreements) under Sections 105, 506(c) or 552 of the Bankruptcy Code, or otherwise, and each of the Loan Parties hereby waives for itself and on behalf of its estate in bankruptcy, any and all rights under sections 105, 506(c) or 552, or otherwise, to assert or impose or seek to assert or impose, any such costs or expenses of administration against Agent, Lenders or any of the DIP Collateral or any of the Pre-Petition Term Agent or the Pre-Petition Term Lenders.

2.15 No Discharge; Survival of Claims. Until payment in full of the DIP Loans and all other DIP Facility Obligations, each of the Borrower and the Guarantors agrees that (a) the DIP Facility Obligations hereunder shall not be discharged by the entry of an order confirming a plan of reorganization or liquidation in any Chapter 11 Case (and each of the Borrower and the Guarantors, pursuant to Section 1141(d)(4) of the Bankruptcy Code, hereby waives any such

discharge) and (b) the DIP Superpriority Claim and the DIP Liens granted to the Agent pursuant to the DIP Orders and described in this Section 2.15 shall not be affected in any manner by the entry of an order confirming a plan of reorganization or liquidation in any Chapter 11 Case.

2.16 **Waiver of any Priming Rights.** On and after the Effective Date, and on behalf of themselves and their estates, and for so long as any DIP Facility Obligations shall be outstanding, the Borrower and the Guarantors hereby irrevocably waive any right, pursuant to Sections 364(c) or 364(d) of the Bankruptcy Code or otherwise, to grant any Lien of equal or greater priority than the DIP Liens securing the DIP Facility Obligations, or to approve a claim of equal or greater priority than the DIP Facility Obligations, in each case other than as contemplated by the ABL DIP Facility Documents.

3. CONDITIONS; TERM OF AGREEMENT.

3.1 **Conditions Precedent to the Effective Date.** As a condition to the effectiveness of this Agreement and the availability of the Interim DIP Loan Commitment, each of the following documents (each in form and substance reasonably satisfactory to the Agent and the Required Lenders unless otherwise indicated) shall have been delivered to the Agent, and the following conditions shall have been satisfied:

(a) **Corporate Due Diligence.**

- (i) The Agent shall have received a certificate of corporate good standing issued by the Secretary of State of each State in which a Loan Party is organized dated as of a recent date prior to the Effective Date.
- (ii) The Agent shall have received a copy of the resolutions or equivalent action, in form and substance reasonably satisfactory to the Agent, of the Board of Directors of each Loan Party authorizing, as applicable, (i) the execution, delivery and performance of this Agreement and the other DIP Loan Documents to which it is or will be a party as of the Effective Date, (ii) the Extensions of Credit to such Loan Party (if any) contemplated hereunder and (iii) the granting by it of the DIP Liens to be created pursuant to the Security Documents to which it will be a party as of the Effective Date, certified by a Responsible Officer or other authorized representative of such Loan Party as of the Effective Date, and stating that the resolutions or other action thereby certified have not been amended, modified (except as any later such resolution or other action may modify any earlier such resolution or other action), superseded or revoked in any respect and are in full force and effect as of the Effective Date.
- (iii) The Agent shall have received a certificate of each Loan Party, dated as of the Effective Date, as to the incumbency and signature of the officers or other authorized signatories of such Loan Party

executing any DIP Loan Document with respect to such Loan Party on the Effective Date.

- (iv) The Agent shall have received copies of the Governing Documents of each Loan Party, in each case certified as of the Effective Date as true, correct and complete copies (as amended through the Effective Date) by (if applicable) the Secretary of State and a Responsible Officer.
- (v) The Agent shall have received the Initial Approved Budget attached hereto as Exhibit B-3.

(b) DIP Loan Documents. (A) All material documentation relating to the DIP Facility shall be in form and substance satisfactory to the Agent and the Lenders and their counsel and (B) the Agent shall have received the following DIP Loan Documents, executed and delivered as required below:

- (i) this Agreement, executed and delivered by a duly authorized officer of the Borrower;
- (ii) the Guaranty and Security Agreement;
- (iii) the Intercreditor Agreement; and
- (iv) the Fee Letter.

(c) Borrowing Notice. With respect to the Interim DIP Loans, the Agent shall have received a notice of such borrowing as required by Section 2.3(a) and an accompanying funds flow.

(d) The Related Transactions. The Related Transactions required to be performed on or prior to the Effective Date shall have been performed in a manner contemplated in the Related Agreements.

(e) Officers' Certificates. The Agent shall have received a certificate from the Borrower, dated the Effective Date, substantially in the form of Exhibit 3.1 hereto, with appropriate insertions and attachments.

(f) Representations and Warranties. Each of the representations made by or on behalf of the Loan Parties in this Agreement or in any of the other DIP Loan Documents or in any other report, statement, document, or paper provided by or on behalf of a Loan Party shall be true and complete in all material respects as of the date as of which such representation or warranty was made, except in the case of any representation and warranty qualified by materiality, they shall be true and correct in all respects.

(g) Litigation; Judgments. Other than the Chapter 11 Cases, or as stayed upon the commencement of the Chapter 11 Cases, there shall exist no action, suit, investigation, litigation or proceeding pending or threatened in any court or before any arbitrator or

Governmental Authority that (i) except as disclosed, if adversely determined, could reasonably be expected to result in a Material Adverse Effect or (ii) restrains, prevents, prohibits, restricts or imposes materially adverse conditions upon the DIP Facility, the DIP Collateral or the transactions contemplated hereby.

(h) Consents; Absence of Conflicts. Other than the DIP Orders, (i) all governmental and third party consents and approvals necessary in connection with the DIP Facility and the Related Transactions shall have been obtained (without the imposition of any conditions that are not acceptable to the Agent and the Required Lenders in their reasonable discretion) and shall remain in effect, and (ii) there shall not exist any law, regulation, ruling, judgment, order, injunction or other restraint that prohibits, restricts or imposes a materially adverse condition on the DIP Facility or the exercise by the Agent at the direction of the Required Lenders of its rights as a secured party with respect to the DIP Collateral.

(i) Cases. The Loan Parties shall have filed the Petitions with the Bankruptcy Court commencing the Chapter 11 Cases.

(j) Interim DIP Order and First Day Motions. The Agent shall have received a copy of the Interim DIP Order, which Interim DIP Order (i) shall have been entered on the docket of the Bankruptcy Court on or before the Effective Date and (ii) shall be in full force and effect and shall not have been vacated, stayed, reversed, modified or amended in any respect without the written consent of the Agent and the Required Lenders (such consent to be given in their sole discretion) and, if the Interim DIP Order is the subject of a pending appeal in any respect, neither the making of the Interim DIP Loans, nor the performance by the Loan Parties of any of their respective obligations hereunder, under the other DIP Loan Documents or under any other instrument or agreement referred to herein shall be the subject of a presently effective stay pending appeal. Such Interim DIP Order shall authorize and approve the DIP Loans, this Agreement and the DIP Loan Documents contemplated hereby and thereby. All “first day” motions to be filed with and submitted to the Bankruptcy Court on the Petition Date and related orders to be entered by the Bankruptcy Court shall be in form and substance reasonably satisfactory to the Agent and the Required Lenders.

(k) Motions and Documents. All material motions and other material documents to be filed with and submitted to the Bankruptcy Court related to the DIP Facility and the approval thereof shall be in form and substance reasonably satisfactory to the Agent and the Required Lenders.

(l) ABL DIP Facility Documents. The ABL DIP Facility Agreement and the other ABL DIP Facility Documents shall have been duly executed and delivered by the parties thereto, and shall be in full force and effect and shall be in form and substance reasonably satisfactory to the Agent and the Required Lenders.

(m) Validity and Priority of DIP Liens. Pursuant to the Interim DIP Order, the Agent, for the benefit of the Lenders, shall have a valid and perfected DIP Lien on and security interest in the DIP Collateral on the basis and with the priority set forth in the definition of “DIP Lien” herein and in the Interim DIP Order.

(n) Insurance. Upon request of the Agents, the Borrower shall obtain endorsements naming the Agent, on behalf of the Lenders, as an additional insured or loss payee, as applicable, under all insurance policies to be maintained with respect to the properties of the Loan Parties and their Subsidiaries forming part of the DIP Collateral, which endorsements shall provide for 30 days' (or 10 days for failure to pay premiums) prior notice of cancellation of such policies to be delivered to the Agent; provided that in the event such endorsements are not delivered on the Effective Date, Borrower shall provide such endorsements within thirty (30) days of the Effective Date.

(o) All Fees and Expenses Paid. All fees due at or immediately after the first funding under the DIP Facility and all reasonable and documented out-of-pocket costs, disbursements and expenses incurred by the Agent in connection with the establishment of the DIP Facility contemplated hereby, the Chapter 11 Cases and the Recognition Proceedings shall have been paid (to the extent then invoiced), including without limitation all reasonable and documented fees and out-of-pocket expenses of (i) the Agent's counsel, King & Spalding LLP, Agent's Canadian counsel, Blakes, Cassels & Graydon LLP, Agent's prior counsel, Winston & Strawn LLP, and, to the extent necessary, a firm of local counsel engaged by the Agent in connection with the Chapter 11 Cases, and (ii) any financial advisor retained by the Agent (if any).

(p) [reserved].

(q) RSA. The Agent shall have received an executed copy of the RSA, in form and substance satisfactory to the Agent and the Required Lenders.

(r) PATRIOT Act. The Agent and the Lenders shall have received at least one Business Day prior to the Effective Date all documentation and other information about the Loan Parties required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the PATRIOT Act that has been reasonably requested in writing at least 3 Business Days prior to the Effective Date.

(s) Investment Banker. The Loan Parties shall have filed an application seeking the retention of an investment banker reasonably acceptable to the Agent and the Required Lenders (it being understood that Houlihan Lokey is acceptable to the Agent and the Required Lenders).

3.2 Conditions Precedent to Funding on the Final Order Effective Date. As a condition to the availability of the Final DIP Loan Commitments on or after the Final Order Effective Date and the Budget Advance Date DIP Loans on the Budget Advance Date, the following conditions shall have been satisfied:

(a) Final DIP Order. The Agent and the Required Lenders shall have received a copy of the Final DIP Order, which Final DIP Order (i) shall have been entered on the docket of the Bankruptcy Court on or before the date that is 40 calendar days after the Petition Date and (ii) shall be in full force and effect and shall not have been vacated, stayed, reversed, modified or amended in any respect without the written consent of the Agent and the Required Lenders (such consent to be given in their sole discretion); and, if the Final DIP Order is the subject of a

pending appeal in any respect, neither the making of the Final DIP Loans, nor the performance by the Loan Parties of any of their respective obligations hereunder, under the other DIP Loan Documents or under any other instrument or agreement referred to herein shall be the subject of a presently effective stay pending appeal. Such Final DIP Order shall authorize and approve the DIP Loans, this Agreement and the DIP Loan Documents contemplated hereby and thereby. All material motions, material orders and other material documents to be filed with and submitted to the Bankruptcy Court in connection therewith shall be in form and substance reasonably satisfactory to the Agent and the Required Lenders.

(b) Insurance. The endorsements (if any) required under Section 3.1(n) shall have been delivered to the Agent.

3.3 Conditions to Each Extension of Credit. The agreement of each Lender to make any Extension of Credit requested to be made by it on any date (including the Effective Date, the Final Order Effective Date and the Budget Advance Date) is subject to the satisfaction or waiver of the following conditions precedent:

(a) Representations and Warranties. Each of the representations and warranties made by any Loan Party pursuant to this Agreement or any other DIP Loan Document (or in any amendment, modification or supplement hereto or thereto) to which it is a party, and each of the representations and warranties contained in any certificate furnished at any time by or on behalf of any Loan Party pursuant to this Agreement or any other DIP Loan Document shall, except to the extent that they relate to a particular date (in which case such representations and warranties shall be true and correct in all material respects on and as of such particular date), be true and correct in all material respects (without duplication of any materiality qualifier contained therein) on and as of such date as if made on and as of such date, in each case immediately prior to, and immediately after giving effect to, the funding of any DIP Loans.

(b) No Default. No Default or Event of Default shall have occurred and be continuing on such date or immediately after giving effect to the Extensions of Credit requested to be made on such date.

(c) Notice. The Agent shall have received a notice of borrowing as required by Section 2.3(a).

(d) Law. Other than the DIP Orders, there shall not exist any law, regulation, ruling, judgment, order, injunction or other restraint that prohibits, restricts or imposes a materially adverse condition on the DIP Facility or the exercise by the Agent at the direction of the Lenders of its rights as a secured party with respect to the DIP Collateral.

(e) No MAE. Other than the commencement and continuation of the Chapter 11 Cases, no Material Adverse Effect shall have occurred.

(f) No injunction. The making of such DIP Loan shall not (i) violate any (x) applicable laws, rules, regulations, executive orders, or codes that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect, or (y) result in or cause a default with respect to any final judgments, writs, injunctions, decrees, rules or regulations of any court or any federal, state, municipal or other governmental department,

commission, board, bureau, agency or instrumentality, domestic or foreign, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect and (ii) not be enjoined temporarily, preliminarily or permanently.

(g) Compliance with Approved Budget. The use of proceeds of such DIP Loan giving effect to the application thereof on the date of such funding complies with the Approved Budget, subject to Permitted Variances, or has otherwise been approved in writing by the Agent (at the direction of the Required Lenders, in their sole discretion).

(h) DIP Orders. The DIP Orders, as applicable, shall have been entered by the Bankruptcy Court and shall be in full force and effect.

Each borrowing of DIP Loans by the Borrower hereunder shall constitute a representation and warranty by the Borrower as of the date of such borrowing that the conditions contained in this Section 3.3 have been satisfied.

4. REPRESENTATIONS AND WARRANTIES.

In order to induce the Lender Group to enter into this Agreement and to make the Extensions of Credit requested to be made by it on the Effective Date and the Final Order Effective Date, each of Parent and Borrower makes, as of the Effective Date, each of following representations and warranties to the Lender Group:

4.1 Due Organization and Qualification; Subsidiaries.

(a) Each Loan Party (i) is duly organized or incorporated and existing and in good standing (or, if such jurisdiction does not provide for good standing status, the equivalent status provided for in such jurisdiction) under the laws of the jurisdiction of its organization or incorporation, (ii) is qualified or registered to do business in any state, province or territory where the failure to be so qualified could reasonably be expected to result in a Material Adverse Effect, and (iii) has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as proposed to be conducted, to enter into the DIP Loan Documents to which it is a party and to carry out the transactions contemplated thereby.

(b) Other than as described on Schedule 4.1(b), as of the Effective Date, there are no subscriptions, options, warrants, or calls relating to any shares of Parent's Equity Interests, including any right of conversion or exchange under any outstanding security or other instrument. As of the Effective Date, other than pursuant to any equity compensation plan or arrangement benefiting, or pursuant to any agreement with, any current or former employer, officer, director or consultant of any Loan Party, Parent is not subject to any obligation (contingent or otherwise) to repurchase or otherwise acquire or retire any shares of its Equity Interests or any security convertible into or exchangeable for any of its Equity Interests.

(c) As of the Effective Date, set forth on Schedule 4.1(c) is a complete and accurate list of Parent's Subsidiaries, showing: (i) the number of shares of each class of common and preferred Equity Interests authorized for each of such Subsidiaries, and (ii) the number and the percentage of the outstanding shares of each such class owned by Parent or a Subsidiary of

Parent. All of the outstanding Equity Interests of each such Subsidiary have been validly issued and are fully paid and non-assessable, to the extent applicable.

(d) As of the Effective Date, except as set forth on Schedule 4.1(d), there are no subscriptions, options, warrants, or calls relating to any shares of Parent's Subsidiaries' Equity Interests, including any right of conversion or exchange under any outstanding security or other instrument.

4.2 **Due Authorization; No Conflict.**

(a) Subject to the entry by the Bankruptcy Court of the Interim DIP Order and Final DIP Order, as applicable as to each Loan Party, the execution, delivery, and performance by such Loan Party of the DIP Loan Documents to which it is a party have been duly authorized by all necessary action on the part of such Loan Party.

(b) Subject to the entry by the Bankruptcy Court of the Interim DIP Order and Final DIP Order, as applicable, and as to each Loan Party, the execution, delivery, and performance by such Loan Party of the DIP Loan Documents to which it is a party do not and will not (i) violate any provision of federal, state, provincial, foreign or local law or regulation applicable to any Loan Party or its Subsidiaries or any order, judgment, or decree of any court or other Governmental Authority binding on any Loan Party or its Subsidiaries, where any such violation individually or in the aggregate could reasonably be expected to have a Material Adverse Effect, (ii) violate the Governing Documents of any Loan Party or its Subsidiaries, (iii) conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any agreement of any Loan Party or its Subsidiaries where any such conflict, breach or default could individually or in the aggregate reasonably be expected to have a Material Adverse Effect, (iv) result in or require the creation or imposition of any Lien of any nature whatsoever upon any assets of any Loan Party, other than Permitted Liens, or (v) require any approval of any holder of Equity Interests of a Loan Party or any approval or consent of any Person under any material agreement of any Loan Party, other than consents or approvals that have been obtained and that are still in force and effect and except, in the case of material agreements, for consents or approvals, the failure to obtain could not individually or in the aggregate reasonably be expected to cause a Material Adverse Effect.

4.3 **Governmental Consents.** Subject to the entry by the Bankruptcy Court of the Interim DIP Order and Final DIP Order, as applicable, the execution, delivery, and performance by each Loan Party of the DIP Loan Documents to which such Loan Party is a party do not and will not require any registration with, consent, or approval of, or notice to, or other action with or by, any Governmental Authority, other than registrations, consents, approvals, notices or actions (i) that have been obtained and that are in force and effect (other than for filings and recordings with respect to DIP Collateral to be made, or otherwise delivered to the Agent for filing or recordation, as of the Effective Date), (ii) are necessary or advisable in connection with releasing existing liens or filing Agent's DIP Liens, or (iii) the failure of which to receive would not reasonably be expected to cause a Material Adverse Effect.

4.4 **Binding Obligations.** Subject to the entry by the Bankruptcy Court of the Interim DIP Order and Final DIP Order, each DIP Loan Document has been duly executed and

delivered by each Loan Party that is a party thereto and is the legally valid and binding obligation of such Loan Party, enforceable against such Loan Party in accordance with its respective terms, except as enforcement may be limited by equitable principles or by bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or limiting creditors' rights generally.

4.5 **Title to Assets; No Encumbrances.** Each Loan Party has (a) good and sufficient legal title (in the case of any fee interest in Real Property), (b) valid leasehold interest in (in the case of leasehold interests in real or personal property), and (c) good and marketable title to (in the case of all other personal property) all of its material assets, in each case, free and clear of Liens except for Permitted Liens and, in the case of Real Property, minor defects in title that do not materially interfere with such Loan Party's ability to conduct its business or to utilize such assets for their intended purposes.

4.6 **Litigation.** Other than the filing, commencement and continuation of the Chapter 11 Cases and as listed on Schedule 4.6(a) and/or any litigation resulting therefrom, there are no actions, suits, or proceedings pending or, to the actual knowledge of Borrower or any Guarantor, threatened in writing against a Loan Party or any of its Subsidiaries that either individually or in the aggregate could reasonably be expected to result in a Material Adverse Effect.

4.7 **Compliance with Laws.** Except as otherwise permitted by an order of the Bankruptcy Court, no Loan Party nor any of its Subsidiaries (a) is in violation of any applicable laws, rules, regulations, executive orders, or codes that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect, or (b) is subject to or in default with respect to any final judgments, writs, injunctions, decrees, rules or regulations of any court or any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

4.8 **No Material Adverse Effect.** All financial statements (other than Projections, budgets, other forecasts and comparisons) relating to Loan Parties and their Subsidiaries that have been delivered by any Loan Party to the Lender Group have been prepared in accordance with GAAP (except, in the case of unaudited financial statements, for the lack of footnotes and being subject to year-end audit adjustments) and present fairly in all material respects, Loan Parties' and their Subsidiaries' (taken as a whole) financial condition as of the date thereof and results of operations for the period then ended. Except the filing, commencement and continuation of the Chapter 11 Cases and any litigation resulting therefrom, there has not been a Material Adverse Effect with respect to Loan Parties and their Subsidiaries since the Effective Date.

4.9 **No Default.** No Loan Party nor any of their Subsidiaries are in default under any of the DIP Loan Documents.

4.10 **Employee Benefits.**

(a) Except as set forth on Schedule 4.10, no Loan Party, nor any of their Subsidiaries, maintains or contributes to any Pension Plan or Multiemployer Plan.

(b) Each Loan Party has complied in all material respects with ERISA, the IRC and all applicable laws regarding each Employee Benefit Plan, except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

(c) Each Employee Benefit Plan is, and has been, maintained in substantial compliance with ERISA, the IRC, all applicable laws and the terms of each such Employee Benefit Plan, except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

(d) Except as could not reasonably be expected to result in a Material Adverse Effect, each Employee Benefit Plan that is intended to qualify under Section 401(a) of the IRC has received a favorable determination letter from the Internal Revenue Service or an application for such letter is currently being processed by the Internal Revenue Service, and nothing has occurred which could reasonably be expected to prevent, or cause the loss of, such qualification.

(e) Except as could not reasonably be expected to result in a Material Adverse Effect, no liability to the PBGC (other than for the payment of current premiums which are not past due) by any Loan Party or ERISA Affiliate has been incurred or is expected by any Loan Party or ERISA Affiliate to be incurred with respect to any Pension Plan.

(f) Except as could not reasonably be expected to result in a Material Adverse Effect, no Notification Event exists or has occurred in the past six (6) years.

(g) Except as could not reasonably be expected to result in a Material Adverse Effect, no Loan Party or ERISA Affiliate has provided any security under Section 436 of the IRC.

(h) Except as set forth on Schedule 4.10, no Loan Party, nor any of their Subsidiaries, maintains or contributes to any Canadian Pension Plan. No Loan Party, nor any of their Subsidiaries, maintains or contributes to any Canadian Defined Benefit Plan. Except as set forth on Schedule 4.10, as of the Effective Date, no Loan Party, nor any of their Subsidiaries, maintains or contributes to any material Canadian Benefits Plan. Each Loan Party has complied with the *Income Tax Act* (Canada) and all applicable laws regarding each Canadian Pension Plan or Canadian Benefits Plan, except in each case where the failure to do so could not reasonably be expected to result in a Material Adverse Effect. Each Canadian Pension Plan or Canadian Benefits Plan is, and has been maintained in compliance to the *Income Tax Act* (Canada), all applicable laws and the terms of each such Canadian Benefits Plan, except in each case where the failure to do so could not reasonably be expected to result in a Material Adverse Effect. No Loan Party, nor any of their Subsidiaries, has any liability for any Canadian Pension Plan or Canadian Benefits Plan which has been discontinued, except as could not reasonably be expected to result in a Material Adverse Effect.

4.11 **Environmental Condition.** Except as set forth on Schedule 4.11, (a) to Borrower's knowledge, none of Loan Parties' or their Subsidiaries' properties has ever been used by Loan Parties, their Subsidiaries, or, to Borrower's knowledge, by previous owners or operators in the disposal of, or to produce, store, handle, treat, release, or transport, any Hazardous Materials, where such use, disposal, production, storage, handling, treatment, or

release or transport was in violation of any applicable Environmental Law or resulted in an Environmental Action, except as would not reasonably be expected to result in a Material Adverse Effect, (b) to Borrower's knowledge, none of Loan Parties' nor their Subsidiaries' properties or assets has ever been designated or identified by a Governmental Authority pursuant to RCRA, CERCLA or any analogous statute as a Hazardous Materials disposal site or a site that requires Remedial Action, in either case that could reasonably be expected to result in a Material Adverse Effect, (c) no Environmental Lien (other than a Permitted Lien) has attached to any revenues of the Loan Parties or their Subsidiaries or to any Real Property owned by the Loan Parties or their Subsidiaries, or, to Borrower's knowledge, operated, but not owned, by Loan Parties or their Subsidiaries, (d) none of Loan Parties nor any of their Subsidiaries have received a summons, citation, written notice, or directive from the United States Environmental Protection Agency or any other federal (including the federal government of Canada), state or provincial governmental agency concerning any action or omission by any Loan Party or any Subsidiary of a Loan Party resulting in the releasing or disposing of Hazardous Materials into the environment which could reasonably be expected to result in a Material Adverse Effect, (e) each of the Loan Parties, their Subsidiaries, and their respective operations are and have at all times been in compliance with Environmental Laws, except as would not reasonably be expected to result in a Material Adverse Effect, (f) each of the Loan Parties and their Subsidiaries have obtained all permits, licenses, authorizations and approvals required under Environmental Law for the conduct of their business and operations (collectively, "Environmental Permits"), and are in compliance with the terms and conditions of such Environmental Permits, except as would not reasonably be expected to result in a Material Adverse Effect, and (g) none of the Loan Parties nor any of their Subsidiaries are subject to any Environmental Action or Environmental Liability, except as would not reasonably be expected to result in a Material Adverse Effect.

4.12 **Complete Disclosure.**

(a) As of the Effective Date, all written factual information (other than the projections, budgets, estimates, forward-looking statements, information of a general economic nature, general information about Borrower's industry or general market data) (when taken as a whole) furnished by or on behalf of Loan Parties in writing to Agent or any Lender (including all information contained in the Schedules hereto or in the other DIP Loan Documents) in or pursuant to this Agreement, the other DIP Loan Documents, or in connection with any transaction contemplated herein or therein, is (other than the projections, budgets, estimates, forward-looking statements, information of a general economic nature, general information about Borrower's industry or general market data) (when taken as a whole), and hereafter furnished by or on behalf of Loan Parties or their Subsidiaries in writing to Agent or any Lender will be, true and accurate in all material respects on the date as of which such information is dated or certified, and not incomplete by omitting to state any fact necessary to make such information (taken as a whole) not misleading in any material respect at such time in light of the circumstances under which such information was provided.

(b) The Initial Approved Budget and each Weekly Cash Flow Forecast delivered thereafter are prepared in good faith based upon estimates and assumptions believed by management of the Borrower to be reasonable and fair in light of current conditions and facts known to the Borrower at the time delivered (it being understood that such Approved Budget and

the Weekly Cash Flow Forecasts and the assumptions on which they were based, may or may not prove to be correct).

4.13 **Patriot Act; Foreign Corrupt Practices Act.** To the extent applicable, each Loan Party is in compliance, in all material respects, with the (a) Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto, and (b) Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act of 2001) (the “Patriot Act”). No part of the proceeds of the loans made hereunder will be used by any Loan Party or any of their Affiliates, directly or indirectly, 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.

4.14 **Chapter 11 Cases.** The Chapter 11 Cases were commenced on the Petition Date in accordance with applicable law and proper notice has been or will be given of (i) the motion seeking approval of the DIP Loan Documents, the Interim DIP Order and the Final DIP Order, (ii) the hearing for the entry of the Interim DIP Order, and (iii) the hearing for the entry of the Final DIP Order, as applicable.

4.15 **Payment of Taxes.** All material tax returns and Tax reports of each Loan Party and its Subsidiaries required to be filed by any of them have been timely filed, and, except to the extent subject to the automatic stay in connection with the Chapter 11 Cases, all material Taxes that are due and payable and all material assessments, fees and other governmental charges upon a Loan Party and its Subsidiaries and upon their respective assets, income, businesses and franchises that are due and payable have been paid when due and payable unless subject to a Permitted Protest. Each Loan Party and each of its Subsidiaries have made adequate provision in accordance with GAAP for all material Taxes not yet due and payable. Neither Borrower nor any Guarantor knows of any proposed material Tax assessment against a Loan Party or any of its Subsidiaries that is not subject to a Permitted Protest.

4.16 **Margin Stock.** No Loan Party nor any of its Subsidiaries owns any Margin Stock or is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any Margin Stock. No part of the proceeds of the loans made to Borrower will be used to purchase or carry any Margin Stock or to extend credit to others for the purpose of purchasing or carrying any Margin Stock or for any purpose that violates the provisions of Regulation T, U or X of the Board of Governors. Neither any Loan Party nor any of its Subsidiaries expects to acquire any Margin Stock.

4.17 **Governmental Regulation.** No Loan Party nor any of its Subsidiaries is subject to regulation under the Federal Power Act or the Investment Company Act of 1940 or under any other federal or state statute or regulation which may limit its ability to incur Indebtedness or which may otherwise render all or any portion of the DIP Facility Obligations unenforceable. No Loan Party nor any of its Subsidiaries is a “registered investment company” or a company

“controlled” by a “registered investment company” or a “principal underwriter” of a “registered investment company” as such terms are defined in the Investment Company Act of 1940.

4.18 **OFAC.** No Loan Party nor any of its Subsidiaries is in violation of any of the country or list based economic and trade sanctions administered and enforced by OFAC. No Loan Party nor any of its Subsidiaries nor, to the knowledge of such Loan Party, any director, officer, employee, agent or Affiliate of such Loan Party 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. No proceeds of any loan made 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, in each case, that would constitute a violation of applicable Laws.

4.19 **Employee and Labor Matters.** (i) There is no unfair labor practice complaint pending or, to the knowledge of Borrower or any Guarantor, threatened against Parent or its Subsidiaries before any Governmental Authority and there is no grievance or arbitration proceeding pending or threatened against Parent or its Subsidiaries which arises out of or under any collective bargaining agreement except as could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (ii) there is no strike, labor dispute, slowdown, stoppage or labor grievance pending or threatened in writing against Parent or its Subsidiaries that could reasonably be expected to result in a material liability, (iii) none of Parent or its Subsidiaries has incurred any liability or obligation under the Worker Adjustment and Retraining Notification Act or similar state law, which remains unpaid or unsatisfied, (iv) the hours worked and payments made to employees of Parent or its Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable legal requirements except to the extent such violations could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, and (v) all payments due from Parent or its Subsidiaries on account of wages and employee health and welfare insurance and other benefits have been paid or accrued as a liability on the books of Parent.

4.20 **[Reserved].**

4.21 **Broker Fees.** There are no brokerage commissions, finder’s fees or investment banking fees payable by Parent or any of its Affiliates in connection with any Transactions.

4.22 **Suppliers and Customers.** To the actual knowledge of the Loan Parties, there exists no actual or threatened in writing termination, cancellation, or limitation of or modification to or change to the business relationship between any Loan Party and any supplier or customer except to the extent such termination, cancellation, limitation, modification or change is not reasonably expected to have a Material Adverse Effect.

4.23 **Security Interest.** This Agreement and the Security Documents, including the DIP Orders, are effective to create in favor of the Agent, for the benefit of the Lenders, legal, valid, enforceable and continuing first priority Liens on, and security interests in, the DIP Collateral pledged hereunder or thereunder, in each case subject to no Liens other than Permitted Priority Liens with the relative priorities granted pursuant to the terms of the Intercreditor Agreement and the DIP Orders, as applicable. Pursuant to the terms of the DIP Orders, no filing

or other action will be necessary to perfect or protect such DIP Liens and security interests. Pursuant to and to the extent provided in the DIP Orders, the Indebtedness of the Loan Parties under this Agreement will constitute part of the DIP Superpriority Claim

4.24 **DIP Orders.** The Loan Parties are in compliance with the terms and conditions of the DIP Orders. Each of the Interim DIP Order (with respect to the period prior to the entry of the Final DIP Order) or the Final DIP Order (from after the date the Final DIP Order is entered) is in full force and effect and has not been vacated, reversed or rescinded without the prior written consent of the Agent and Required Lenders, in their sole discretion.

4.25 **Immaterial Subsidiaries.** As of the Effective Date, each of the Subsidiaries of Parent set forth on Schedule 4.25 have been designated as Immaterial Subsidiaries by Parent and each such Subsidiary satisfies the criteria for such designation.

4.26 **Intellectual Property.** All registered patents, patent applications, trademark registrations, trademark applications, service mark registrations, service mark applications, copyright registrations, copyright applications and tradename registrations owned by each Loan Party as of the Effective Date are set forth on Schedule 4.26 (as such Schedule 4.26 may be updated at any time upon written notice to Agent to reflect any such Intellectual Property (as defined below) acquired after the Effective Date). Each Loan Party and each of its Subsidiaries owns, or has the legal right to use, all United States and foreign patents, patent applications, trademarks, trademark applications, trade names, copyrights, technology, know-how and processes necessary for each of them to conduct its business as currently conducted (the "Intellectual Property") except as would not reasonably be expected to result in a Material Adverse Effect. Except as provided on Schedule 4.26, no claim has been asserted and is pending by any Person against any Loan Party or any of its Subsidiaries challenging or questioning the use of any such Intellectual Property or the validity or effectiveness of any such Intellectual Property, nor does the Borrower know of any such claim, and, to the knowledge of the Borrower, the use of such Intellectual Property by the Loan Parties and their Subsidiaries does not infringe on the rights of any Person, except for such claims and infringements which in the aggregate would not reasonably be expected to be materially adverse to the Lenders.

4.27 **Insurance.** All properties of each Loan Party and its Subsidiaries are insured to the extent required by Section 5.6. Schedule 4.27 sets forth a description of such insurance as of the Effective Date.

4.28 **Purpose of DIP Loans.** The proceeds of DIP Loans shall be used by the Borrower only for the following purposes, in each case in accordance with and subject to compliance with Section 6.19 and the DIP Orders (except as otherwise agreed by the Agent and the Required Lenders): (i) working capital and general corporate purposes of the Loan Parties, (ii) to fund the costs of the administration of the Chapter 11 Cases and the consummation of the Plan under the Bankruptcy Code, (iii) to fund interest, fees, and other payments contemplated in respect of this Agreement and the other DIP Loan Documents, and (iv) to fund allowed administrative expenses incurred during the Chapter 11 Cases.

5. AFFIRMATIVE COVENANTS.

Each of Parent and Borrower covenants and agrees that, until termination of all of the DIP Loan Commitments and payment in full of the DIP Facility Obligations:

5.1 **Financial Statements.** Borrower will deliver to Agent, which shall furnish to each Lender, each of the following:

(a) [reserved];

(b) [reserved];

(c) as soon as available, but in any event no later than 30 days after the end of each fiscal month of each year, an unaudited consolidated balance sheet, income statement, and statement of cash flow covering Parent's and its Subsidiaries' operations during such period, together with a report setting forth comparisons to the corresponding figures for the corresponding periods of the applicable month and year to date period for the previous year and applicable month and year to date period set forth in the Projections; and

(d) all such financial statements delivered pursuant to Section 5.1(c) shall be certified by a Responsible Officer of the Parent to fairly present in all material respects the financial condition of the Parent and its Subsidiaries in conformity with GAAP and to be (and, in the case of any financial statements delivered pursuant to Section 5.1(c) shall be certified by a Responsible Officer of the Parent as being) in reasonable detail and prepared in accordance with GAAP applied consistently throughout the periods reflected therein and with prior periods that began on or after the Effective Date (except, in the case of any financial statements delivered pursuant to Section 5.1(c), for the absence of certain footnotes).

5.2 **Reporting; Certificates; Other Information.** Furnish to the Agent for delivery to each Lender:

(a) following the delivery of the Initial Approved Budget on the Effective Date, (i) by 12:00 p.m. New York City time on the third Friday following the Petition Date and by 12:00 p.m. New York City time on the Friday that is every two weeks thereafter through the Life of the Case, the Borrower shall provide the Agent with an updated cash flow forecast for the Loan Parties and their Subsidiaries, with line item detail of projected sales, disbursements, collections, net cash flow, the outstanding amount of Revolving Loans (as defined in the ABL DIP Facility Documents) and the other items set forth in the Initial Approved Budget for the then-upcoming seventeen (17) week period (or such shorter, or longer, period, as applicable, to coincide with the Life of the Case), in each case, in substance reasonably satisfactory (such satisfaction not to be unreasonably withheld, delayed or conditioned) to and approved by the Agent and substantially consistent with the form of the Initial Approved Budget delivered on the Effective Date (the "Weekly Cash Flow Forecast"); (ii) by 12:00 p.m. New York City time beginning on the third Friday following the Petition Date, and by 12:00 p.m. New York City time on the Friday of each two-week period thereafter, a variance report (the "Variance Report") setting forth, on a consolidated basis, actual cumulative aggregate cash receipts, disbursements and cash flows of the Loan Parties for the most recent three- or two-week period (as applicable) covered by such Variance Report and setting forth all the variances, on a line-item and aggregate

basis, from the amount set forth for such period as compared to the Initial Approved Budget or the most recently Approved Budget delivered prior to such Variance Report on a weekly and cumulative basis for the period from the first week commencing after the Petition Date through the end of the week in regard to which such variance report is being delivered (which shall not exceed what is permitted by the Permitted Variance), and each such Variance Report shall include explanations for all material variances for the most recent three- or two-week period in regard to which such variance report is being delivered and shall be certified by a Financial Officer of the Loan Parties, and (iii) deliver to Agent and Lenders, on at least a bi-weekly (i.e., once every two weeks) basis, a written narrative report of the key performance metrics monitored by management of the Loan Parties regarding the business of the Borrowers and their Subsidiaries, in each case in a form reasonably acceptable to the Agent.

(b) concurrently with the delivery of the financial statements and reports referred to in Section 5.1(c), a certificate signed by a Financial Officer of the Borrower (a “Compliance Certificate”), substantially in the form of Exhibit 5.2(b), stating that, to the best of such Financial Officer’s knowledge, each of the Parent and its Subsidiaries during such period has observed or performed all of its covenants and other agreements, and satisfied every condition, contained in this Agreement or the other DIP Loan Documents to which it is a party to be observed, performed or satisfied by it, and that such Financial Officer has obtained no knowledge of any Default or Event of Default, except, in each case, as specified in such certificate.

(c) [reserved].

(d) As soon as possible and in event later than 3 Business Days after Parent or any of its Subsidiaries has knowledge of (i) any event or condition that constitutes a Default or an Event of Default under this Agreement, (ii) any default or event of default under the Pre-Petition Term Facility, the Senior ABL Facility, or the ABL DIP Facility, or (iii) any payment default with respect to other obligations in excess of \$100,000 that constitute an administrative expense.

(e) within 5 days after Parent or any of its Subsidiaries has knowledge thereof

- (i) notice of any pending or threatened labor dispute, strike, walkout, or union organizing activity with respect to any employees of Parent or any of its Subsidiaries which could reasonably be expected to result in a Material Adverse Effect;
- (ii) notice of (i) any material default by Parent or any of its Subsidiaries under or (ii) termination of any material contracts, in each case, which could reasonably be expected to result in a Material Adverse Effect;
- (iii) [reserved];
- (iv) any amendment, supplement or other modification to the ABL DIP Facility Documents; and

(v) copies of any financial statements or other reports sent to public security holders or filed with the SEC, and copies of any registrations or amendments (including any registration statements and amendments thereto) filed with the SEC.

(f) [reserved].

(g) Except as otherwise provided in Section 5.9(d), within 10 days of receipt by Parent or any of its Subsidiaries, notice of receipt by Parent or any of its Subsidiaries from any local, state or federal authority advising such Person of any Environmental Liability arising from such Person's operations, its premises, its waste disposal practices, or waste disposal sites used by such Person, which Environmental Liability would reasonably be expected to result in a Material Adverse Effect.

(h) On a quarterly basis with the delivery of a Compliance Certificate pursuant to Section 5.2(b) (or, if an Event of Default has occurred and is continuing, more frequently if requested by Agent), a written report regarding Intellectual Property in accordance with Section 7(g)(v) of the Guaranty and Security Agreement.

(i) Concurrently with the delivery by any Loan Party or promptly upon receipt by any Loan Party, as applicable, (i) such collateral reports, certificates and other information delivered pursuant to the ABL DIP Facility Agreement and (ii) any appraisal or field exam prepared in connection with the ABL DIP Facility Agreement.

(j) Upon request by Agent or any Lender, such other reports as to the DIP Collateral or the financial condition of Parent or any of its Subsidiaries, as Agent or such Lender may reasonably request (it being agreed, without limitation, that any such request made following the occurrence and during the continuation of an Event of Default shall be deemed reasonable for purposes of this Section 5.2(j)).

(k) For so long any Small Business Investment Company that becomes a Lender on or after the Effective Date is a Lender, within thirty (30) days of its request, Borrowers shall provide to any such Lender such forms and financial and other information with respect to any business or financial condition of the Loan Parties and their Subsidiaries required by the SBA, including, but not limited to, (i) forms and information with respect to such Lender's reporting requirements under SBA Form 468, (ii) information regarding the full-time equivalent jobs created or retained in connection with such Lender's investment in Loan Parties, the impact of the financing on Loan Parties' business in terms of revenues and profits and on taxes paid by Loan Parties and their employees and (iii) a list of Lenders (other than such Lender).

Documents required to be delivered pursuant to Sections 5.1(c), 5.2(a), 5.2(b), 5.2(c), 5.2(d), 5.2(e), 5.2(f) or 5.2(g) may at the Borrower's option be delivered electronically and, if so delivered, shall be deemed to have been delivered on the date (i) on which Borrower delivers such documents by electronic mail to the Agent or (ii) on which such documents are posted on the Borrower's behalf on an Internet or intranet website, if any, to which each Lender

and each Agent have access (whether a commercial, third party website or whether sponsored by the Agent).

5.3 Maintenance of Existence and Conduct of Business.

(a) Except as otherwise permitted by Sections 6.3 and 6.4, Parent will, and will cause each of its Subsidiaries to, at all times preserve and keep in full force and effect each Loan Party's and each Loan Party's Subsidiaries' valid existence and good standing (or, if such jurisdiction does not provide for good standing status, the equivalent status provided for in such jurisdiction) and governmental and similar rights, permits, licenses, authorizations or other approvals and franchises, in each case, if the failure to do so could reasonably be expected to result in a Material Adverse Effect.

(b) Parent will, and will cause each of its Subsidiaries to, (i) take all reasonable actions to maintain all rights, privileges and franchises necessary or desirable in the normal conduct of the business of the Parent and its Subsidiaries, taken as a whole, including all licenses, patents, copyrights, design rights, tradenames, trade secrets and trademarks and take all actions necessary to enforce and protect the validity of any intellectual property right or other right included in the DIP Collateral to the extent that failure to comply therewith, in the aggregate, would not reasonably be expected to be adverse to the Lenders or any Loan Party in any material respect; (ii) maintain a cash management system substantially as in effect on the Petition Date, and (iii) in accordance with the Bankruptcy Code and subject to any required approval by any applicable order of the Bankruptcy Court, comply with all post-petition Contractual Obligations and Contractual Obligations entered into prior to the Petition Date and assumed except to the extent that failure to comply therewith, in the aggregate, would not reasonably be expected to be adverse to the Lenders or any Loan Party in any material respect.

5.4 Maintenance of Properties. Parent will, and will cause each of its Subsidiaries to, maintain and preserve all of their properties which are necessary in the proper conduct of their business in working order and condition in the ordinary course of business, ordinary wear, tear, and damage by casualty and condemnation and Permitted Dispositions excepted (and except where the failure to do so could not be expected to result in a Material Adverse Effect).

5.5 Taxes. Parent will, and will cause each of its Subsidiaries to, timely file all material tax returns and pay in full before delinquency or before the expiration of any extension period (including any extension by virtue of the Chapter 11 Cases) relating to the payment of all material governmental assessments and Taxes with respect to periods after the Petition Date whether real, personal or otherwise, due and payable by, or imposed, levied, or assessed against it, or any of its assets, including all amounts reflected on its material tax returns, except to the extent that the validity of such governmental assessment or Tax is the subject of a Permitted Protest.

5.6 Insurance. Parent will, and will cause each of its Subsidiaries to, at Borrower's expense, (a) maintain insurance respecting each of Parent's and its Subsidiaries' assets wherever located, covering liabilities, losses or damages, in each case, as are customarily insured against by other Persons engaged in the same or similar businesses and similarly situated and located. All such policies of insurance shall be with financially sound and reputable insurance companies

reasonably acceptable to Agent and in such amounts as is carried generally in accordance with sound business practice by companies in similar businesses similarly situated and located and, in any event, in amount, adequacy, and scope reasonably satisfactory to Agent (it being agreed that the amount, adequacy, and scope of the policies of insurance of Borrower in effect as of the Effective Date are acceptable to Agent). All property insurance policies covering the Collateral are to be made payable to Agent for the benefit of Agent and the Lenders, as their interests may appear, in case of loss, pursuant to a standard loss payable endorsement with a standard non-contributory "lender" or "secured party" clause and are to contain such other provisions as Agent may reasonably require to fully protect the Lenders' interest in the Collateral and to any payments to be made under such policies. All certificates of property and general liability insurance are to be delivered to Agent, with the loss payable (but only in respect of Collateral) and additional insured endorsements in favor of Agent and shall provide for not less than 30 days (10 days in the case of non-payment) prior written notice to Agent of the exercise of any right of cancellation. If Parent or its Subsidiaries fail to maintain such insurance, Agent may arrange for such insurance, but at Borrower's expense and without any responsibility on Agent's part for obtaining the insurance, the solvency of the insurance companies, the adequacy of the coverage, or the collection of claims. Borrower shall give Agent prompt notice of any loss exceeding \$500,000 covered by its or its Subsidiaries' casualty or business interruption insurance. Upon the occurrence and during the continuance of an Event of Default, Agent shall have the right to file claims under any property and general liability insurance policies in respect of the Collateral, to receive, receipt and give acquittance for any payments that may be payable thereunder, and to execute any and all endorsements, receipts, releases, assignments, reassignments or other documents that may be necessary to effect the collection, compromise or settlement of any claims under any such insurance policies.

5.7 **Inspection.** Parent will, and will cause each of its Subsidiaries to, permit Agent, any Lender (so long as such Lender accompanies Agent), and each of their respective duly authorized representatives or agents to visit any of its properties and inspect any of its assets or books and records, to examine and make copies of its books and records, and to discuss its affairs, finances, and accounts with, and to be advised as to the same by, its officers and employees (provided an authorized representative of Borrower shall be allowed to be present) at such reasonable times and intervals as Agent, as applicable, may designate and, so long as no Default or Event of Default has occurred and is continuing, with reasonable prior notice to Borrower and during regular business hours; provided, that so long as no Event of Default shall have occurred and be continuing, Borrower shall not be obligated to reimburse Agent for more than one (1) inspection during any calendar year. Notwithstanding anything to the contrary in this Section 5.7, none of Parent or any of its Subsidiaries will be required to disclose any such information to the extent that (i) such disclosure would in the good faith determination of Borrower (based on the advice of counsel) violate attorney-client privilege or is otherwise prohibited by law or fiduciary duty, (ii) such information constitutes attorney work, or (iii) such information is subject to confidentiality obligations to a third party (not entered into in contemplation thereof and for which Borrower is using commercially reasonable efforts to lift such confidentiality restrictions) and Agent or the Lenders (as applicable) have not executed any necessary confidentiality agreements or non-reliance letters with respect thereto.

5.8 **Compliance with Laws.** Parent will, and will cause each of its Subsidiaries to, comply with the requirements of all applicable laws, rules, regulations, and orders of any

Governmental Authority, other than laws, rules, regulations, and orders the non-compliance with which, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

5.9 **Environmental.** Parent will, and will cause each of its Subsidiaries to,

(a) keep (i) any real property that any Loan Party owns free of any Environmental Liens, other than Permitted Liens, and (ii) any real property that any Loan Party leases or operates free of any Environmental Liens, other than Permitted Liens, except in the case of each of clauses (i) and (ii) above with respect to any such Environmental Lien that could not reasonably be expected to result in a Material Adverse Effect, or where the Loan Party has posted bonds or other financial assurances sufficient to satisfy the obligations or liability evidenced by any such Environmental Liens,

(b) comply, in all respects, with Environmental Laws, obtain and maintain in full force and effect all Environmental Permits and provide to Agent documentation of any compliance or non-compliance with Environmental Laws which Agent reasonably requests, except, in each case, for any such compliance or non-compliance or failure to comply, obtain or maintain that could not reasonably be expected to result in a Material Adverse Effect,

(c) promptly notify Agent of any release of a Hazardous Material in any reportable quantity from or onto real property owned, leased or operated by any Loan Party and take any Remedial Actions with respect to such releases required to come into compliance with applicable Environmental Law, except with respect to any such releases that would not reasonably be expected to result in a Material Adverse Effect, and

(d) promptly, but in any event within 15 Business Days of its receipt thereof, provide Agent with written notice of any of the following: (i) written notice that an Environmental Lien (other than a Permitted Lien) has been filed against any of the real or personal property of any Loan Party, (ii) written notice of commencement of any Environmental Action or written notice that an Environmental Action will be filed against any Loan Party which Environmental Action could reasonably be expected to result in a Material Adverse Effect, and (iii) written notice of a violation, citation, or other administrative order arising under Environmental Laws with respect to a Loan Party, its operations or any of the real property owned, leased or operated by a Loan Party or for which a Loan Party may be liable, which could reasonably be expected to result in a Material Adverse Effect, and, in each case, to the extent failure to do so could reasonably be expected to cause a Material Adverse Effect, promptly take all action required to address and resolve such Environmental Lien, Environmental Action, violation, citation or other administrative order.

5.10 **Disclosure Updates.** Borrower will, promptly and in no event later than 10 Business Days after obtaining knowledge thereof, notify Agent if any written information, exhibit, or report furnished to the Lender Group (other than the projections, budgets, estimates, forward-looking statements, information of a general economic nature, general information about Borrower's industry or general market data), at the time it was furnished (and when taken as a whole), contained any untrue statement of a material fact or omitted to state any material fact necessary to make the statements contained therein (when taken as a whole) not materially

misleading in light of the circumstances in which made. The foregoing to the contrary notwithstanding, any notification pursuant to the foregoing provision will not cure or remedy the effect of the prior untrue statement of a material fact or omission of any material fact nor shall any such notification have the effect of amending or modifying this Agreement or any of the Schedules hereto.

5.11 **[Reserved]**.

5.12 **Further Assurances.** Subject to the limitations and exceptions on creation and perfection set forth herein and in the DIP Orders and the other DIP Loan Documents, Parent will, and will cause each of the other Loan Parties to, at any time upon the reasonable request of Agent, execute or deliver to Agent any and all financing statements, fixture filings, security agreements, pledges, assignments, mortgages, deeds of trust, opinions of counsel, and all other documents (the "Additional Documents") that Agent may reasonably request in form and substance reasonably satisfactory to Agent, to create, perfect (unless perfection is not required by the DIP Loan Documents), and continue perfected (unless perfection is not required by the DIP Loan Documents) or to better perfect (unless perfection is not required by the DIP Loan Documents) Agent's DIP Liens in all of the assets of the Loan Parties, other than Excluded Collateral (whether now owned or hereafter arising or acquired, tangible or intangible, real or personal), to create and perfect DIP Liens (subject to Permitted Liens) in favor of Agent in any Real Property acquired in fee by any Loan Party that is also subject to perfected Liens securing the ABL DIP Facility (or, if the ABL DIP Facility has been paid in full, to the extent such Real Property has a fair market value greater than \$1,000,000), and in order to fully consummate all of the transactions contemplated hereby and under the other Loan Documents; provided that (i) the foregoing shall not apply to any Excluded Subsidiary, (ii) no action in any jurisdiction outside of the United States and Canada or required by the laws of any jurisdiction outside of the United States and Canada shall be required in order to create any security interests in assets located or titled outside of the United States or Canada or to perfect any security interests therein (it being understood that there shall be no security agreements or pledge agreements governed under the laws of any jurisdiction outside of the United States and Canada), (iii) no action shall be required to perfect security interests in aircraft, railcars and other assets perfected under a federal filing system (other than intellectual property), and (iv) no action shall be required to perfect any DIP Collateral as to which Agent agrees that the costs of taking such actions are excessive in relation to the benefit to the Lenders of the security to be afforded thereby (the foregoing clauses (i) through (iv) collectively, the "Excluded Actions"). Notwithstanding anything herein or in any other DIP Loan Document to the contrary, the Loan Parties shall not be required to obtain or deliver any consents or approvals from any applicable Chinese Governmental Authority in connection with its 65% pledge of the Equity Interests of Hollander China or PCF (Shanghai) Quality Management Consulting Co., Ltd. To the maximum extent permitted by applicable law, if any Loan Party refuses or fails to execute or deliver any reasonably requested Additional Documents within a reasonable period of time following the request to do so and receipt of execution versions of such Additional Documents, each Loan Party hereby authorizes Agent to execute any such Additional Documents in the applicable Loan Party's name and authorizes Agent to file such executed Additional Documents in any appropriate filing office. In furtherance of, and not in limitation of, the foregoing, each Loan Party shall take such actions as Agent may reasonably request from time to time to ensure that the DIP Facility Obligations are guaranteed by the Guarantors and are secured by substantially

all of the assets of Parent and its Subsidiaries, including all of the outstanding capital Equity Interests of Borrowers and Borrowers' Subsidiaries (subject to exceptions and limitations contained herein and in the other DIP Loan Documents on creation and perfection, including, in so far as the DIP Facility Obligations are concerned, with respect to any Subsidiary described in clause (d) of the definition of Excluded Subsidiary). Notwithstanding anything herein to the contrary, (i) none of the Borrowers shall be required to make any filing or recording in connection with any intellectual property with any jurisdiction outside the United States or Canada, and (ii) the Agent and Lenders agree that they will not require the filing of any mortgages or entry into any control agreements (other than in respect of the TL Deposit Account pursuant to Section 5.19) with respect to the Collateral on the Effective Date, it being understood and agreed that the Required Lenders may, in their reasonable discretion, at any time after the Effective Date require the satisfaction of any requirements for the granting or perfection of liens required or desirable pursuant to any foreign applicable laws, provided, however, that (x) the Loan Parties shall be given a reasonable amount of time to satisfy such requirements and (y) no such request will be made to the extent the costs and burden of doing so reasonably outweigh the benefits to be gained as reasonably determined by the Required Lenders.

5.13 Compliance with ERISA and the IRC. In addition to and without limiting the generality of Section 5.8, Parent will and will cause each of its Subsidiaries to, (a) comply with applicable provisions of ERISA and the IRC with respect to all Employee Benefit Plans except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect, (b) without the prior written consent of Agent and the Required Lenders, not take any action or fail to take action which could reasonably be expected to result in a Loan Party or ERISA Affiliate incurring a liability to the PBGC or to a Multiemployer Plan (other than to pay contributions or premiums payable in the ordinary course) that could reasonably be expected to result in a Material Adverse Effect, (c) not allow any facts or circumstances to exist with respect to one or more Employee Benefit Plans that, in the aggregate, reasonably could be expected to result in a Material Adverse Effect, (d) not participate in any prohibited transaction that could result in a civil penalty excise tax, fiduciary liability or correction obligation under ERISA or the IRC that could reasonably be expected to result in a Material Adverse Effect, (e) operate each Employee Benefit Plan in such a manner that will not incur any tax liability under the IRC (including Section 4980B of the IRC) except where failure to do so could not reasonably be expected to result in a Material Adverse Effect, and (f) furnish to Agent upon Agent's written request such additional information about any Employee Benefit Plan for which any Loan Party or ERISA Affiliate could reasonably expect to incur any liability that could reasonably be expected to result in a Material Adverse Effect. With respect to each Pension Plan (other than a Multiemployer Plan) except as could not reasonably be expected to result in a Material Adverse Effect, the Loan Parties shall (i) satisfy in full and in a timely manner, without incurring any late payment or underpayment charge or penalty and without giving rise to any Lien, all of the material contribution and funding requirements of the IRC and of ERISA, and (ii) pay, or cause to be paid, to the PBGC in a timely manner, without incurring any material late payment or underpayment charge or penalty, all premiums required pursuant to ERISA.

5.14 Pre-Petition Credit Enhancements. If any Pre-Petition Term Agent or Pre-Petition Term Lender, in its capacity as such, or if the Senior ABL Facility Agent or any Senior ABL Facility Lender receives any additional guaranty after the date hereof (other than from Canadian Loan Parties (as defined in the ABL DIP Facility Agreement as in effect on the date

hereof)), the Borrower shall cause the same to be granted to the Agent, for its own benefit and the benefit of the Secured Parties (subject to the DIP Orders).

5.15 **Bankruptcy Covenants.** Notwithstanding anything in the DIP Loan Documents to the contrary, the Loan Parties shall comply with all material covenants, terms and conditions and otherwise perform all obligations set forth in the DIP Orders.

5.16 **Chapter 11 Cases.**

(a) **Chapter 11 Case Documents and Notices.** Each Loan Party shall deliver or cause to be delivered for review and comment, as soon as commercially reasonable, all material pleadings, motions and other documents (provided that any of the foregoing relating to the DIP Facility shall be deemed material) to be filed on behalf of the Loan Parties with the Bankruptcy Court to the Agent and its counsel. If not otherwise provided by the Bankruptcy Court's electronic docketing system, the Borrower shall provide (x) copies to the Agent of all pleadings, motions, applications, judicial information, financial information and other documents filed by or on behalf of the Loan Parties with the Bankruptcy Court, distributed by or on behalf of the Loan Parties to any Committee, filed with respect to the Chapter 11 Cases or filed with respect to any DIP Loan Document and (y) such other reports and information as the Agent may, from time to time, reasonably request. In connection with the Chapter 11 Cases, the Loan Parties shall give the proper notice for (x) the motions seeking approval of the DIP Loan Documents and the DIP Orders and (y) the hearings for the approval of the DIP Orders. The Borrower and the other Loan Parties shall give, on a timely basis as specified in the DIP Orders, all notices required to be given to all parties specified in the DIP Orders. The Borrower and the other Loan Parties shall use reasonable best efforts to obtain the Final DIP Order.

(b) **Progress Calls.** Starting in the first week following the Effective Date, and thereafter every other week until the payment in full in cash of the DIP Facility Obligations, Borrower and the Financial Advisor will participate in a conference call with the Agent and the Lenders and their representatives, consultants, and agents, at such mutually convenient dates and times to be proposed by Agent upon reasonable notice, and will use commercially reasonable efforts to cause available senior members of management and any investment bankers and other advisors of Parent and its Subsidiaries, as applicable or as requested by Agent or such Lenders, and solely to the extent reasonably requested by Agent, one or more members of the board of directors of Parent and its Subsidiaries, to participate in such calls for the purpose of discussing the status of the financial, collateral, and operational condition, businesses, liabilities, assets, and prospects of the Borrower and their Subsidiaries and any sale, refinance or other strategic transaction efforts; provided, that the Borrower acknowledges that such calls scheduled as frequently as once per week shall not be unreasonable. Upon Agent's reasonable request, and subject to any confidentiality restrictions, the Parent and its Subsidiaries shall promptly provide copies of all non-privileged material written materials and reports (in each case excluding drafts) produced by Parent and its Subsidiaries and shared with third parties in connection with any sale, refinance, or other strategic transaction efforts, and any written indications of interest, letters of intent and commitment letters received by Parent and its Subsidiaries relating to such sale, refinance, or other strategic transaction efforts of the Parent and its Subsidiaries; provided, that such materials may be redacted to the extent information contained therein would adversely affect any attorney-client privilege or accountant-client privilege, and further provided that only

final versions of such documents shall be provided. Without limiting the foregoing, Borrower agrees to notify Agent promptly upon Borrower becoming aware of any material change or development relating to any sale or refinance efforts or to the financial, collateral, or operational condition, businesses, assets, liabilities, or prospects of such Borrower, any of its Affiliates, or any of their respective Subsidiaries.

(c) **Restructuring Proposals.** Each Loan Party shall promptly deliver or cause to be delivered to the Agent and the Lenders copies of any term sheets, proposals, or presentations from any party, related to (i) the restructuring of the Loan Parties, or (ii) the sale of assets of one or all of the Loan Parties.

(d) **Advisors.** The Loan Parties shall continue to retain the Financial Advisor. The Loan Parties shall allow the Agent and the Lenders access to, upon reasonable notice during normal business hours in a time and manner (and with a frequency) to minimize disruption to the Loan Parties, the Financial Advisor and any other third party advisors of the Loan Parties, as applicable.

(e) **Repayment of Indebtedness.** Except to the extent permitted hereunder, under the DIP Orders or under the Approved Budget, no Loan Party shall, without the express prior written consent of the Agent and Required Lenders or pursuant to an order of the Bankruptcy Court after notice and a hearing, make any Pre-Petition Payment.

(f) **[Reserved].**

5.17 **Accounting Changes.** Parent agrees that no Subsidiary of a Loan Party will have a fiscal year different from that of Parent (unless otherwise agreed to by Agent in its reasonable discretion) and agrees to maintain a system of accounting that enables Parent to produce financial statements with respect to material financial transactions and matters involving the assets and business of Parent or any of its Subsidiaries, as the case may be, in accordance with GAAP (it being understood and agreed that certain foreign Subsidiaries may maintain individual books and records in conformity with general accepted accounting principles in their respective countries of organization and that such maintenance shall not constitute a breach).

5.18 **Use of Proceeds.** Parent will, and will cause each of its Subsidiaries to, use the proceeds of the DIP Loans only for the purposes set forth in Section 4.28.

5.19 **TL Deposit Account.** All proceeds of the DIP Loans shall be held in the TL Deposit Account. The Borrower shall use commercially reasonable efforts to enter into a Control Agreement in respect of the TL Deposit Account within 14 days of the Petition Date, which such Control Agreement shall establish “control” (as defined in the Uniform Commercial Code as in effect from time to time in the State of New York) in favor of the Agent for the benefit of the Lenders, in form and substance reasonably satisfactory to the Agent (acting at the direction of the Required Lenders).

5.20 **Budget Matters.** The Borrower hereby acknowledges and agrees that any Weekly Cash Flow Forecast provided to the Agent and the Lenders shall not amend and supplement the applicable Approved Budget until the Agent delivers a notice (which may be delivered by electronic mail) to the Borrower stating that the Agent and the Required Lenders

have approved of such Weekly Cash Flow Forecast (such approval not to be unreasonably withheld, delayed or conditioned); provided, that if the Agent does not deliver a notice of approval to the Borrower, then the existing Approved Budget shall continue to constitute the applicable Approved Budget until such time as the subject Weekly Cash Flow Forecast is agreed to among the Borrower, the Agent and the Required Lenders in accordance with this Section 5.20. Once such Weekly Cash Flow Forecast is so approved in writing by the Agent and the Required Lenders, it shall supplement or replace the prior Approved Budget, and shall thereafter constitute the Approved Budget.

6. NEGATIVE COVENANTS.

Each of Parent and Guarantors and Borrower covenants and agrees that, until termination of all of the DIP Loan Commitments and payment in full of the DIP Facility Obligations:

6.1 **Indebtedness.** Parent will not, and will not permit any of its Subsidiaries to create, incur, assume, suffer to exist, guarantee, or otherwise become or remain, directly or indirectly, liable with respect to any Indebtedness, except for Permitted Indebtedness.

6.2 **Liens.** Parent will not, and will not permit any of its Subsidiaries to create, incur, assume, or suffer to exist, directly or indirectly, any Lien on or with respect to any of its assets, of any kind, whether now owned or hereafter acquired, or any income or profits therefrom, except for Permitted Liens.

6.3 **Restrictions on Fundamental Changes.** Parent will not, and will not permit any of its Subsidiaries to,

(a) enter into any merger, consolidation, amalgamation, statutory division, reorganization, or recapitalization, or reclassify its Equity Interests;

(b) liquidate, wind up, or dissolve itself (or suffer any liquidation or dissolution), except for pursuant to a confirmed chapter 11 plan of reorganization, the terms and conditions of which are satisfactory to Agent and all Lenders and is consistent with the terms and conditions of the RSA;

(c) suspend or cease operating a material portion of its or their business, except as permitted pursuant to clauses (a) or (b) above or in connection with a transaction permitted under Section 6.4;

(d) take any action to change or have the effect of changing (i) the tax classification of Parent or any of its Subsidiaries from the classification as of the Effective Date or (ii) the legal form of Parent or Holdings; or

(e) form any new Subsidiary without Agent's prior written consent; provided, that, to the extent the Agent consents to the formation of any new Subsidiary, such new Subsidiary shall guaranty all of the DIP Facility Obligations and grant Liens on substantially all of its assets to secure the DIP Facility Obligations pursuant to documentation in form and substance acceptable to Agent.

6.4 **Disposal of Assets.** Other than Permitted Dispositions or transactions expressly permitted by Sections 6.2, 6.3, 6.7, or 6.9, Parent will not, and will not permit any of its Subsidiaries to convey, sell, lease, license, assign, transfer, or otherwise dispose of any of its or their assets.

6.5 **Nature of Business.** Parent will not, and will not permit any of its Subsidiaries to make any change in the nature of its or their business or acquire any properties or assets that are not reasonably related to the conduct of such business activities; provided, that the foregoing shall not prevent Parent and its Subsidiaries from engaging in any business that is reasonably related or ancillary to its or their business.

6.6 **Prepayments and Amendments.** Parent will not, and will not permit any of its Subsidiaries to,

(a) make any prepayment on account of Indebtedness that has been contractually subordinated in right of payment or security to the DIP Facility Obligations if such payment is not permitted at such time under the subordination terms and conditions applicable thereto, or

(b) directly or indirectly, amend, modify, or change any of the terms or provisions of:

(i) the Governing Documents of any Loan Party or any of its Subsidiaries if the effect thereof, either individually or in the aggregate, could reasonably be expected to be materially adverse to the interests of the Lenders;

(ii) the Management Services Agreement, in each case, except any such amendment, modification, alteration, increase, or change that, as a whole, is more favorable to Loan Parties; provided, however, that no such amendment, modification, alteration, increase or change to the Management Services Agreement shall increase the amount of fees payable thereunder,

(iii) the ABL DIP Facility Documents or the Senior ABL Facility Documents except in accordance with the Intercreditor Agreement.

6.7 **Restricted Payments.** Parent will not make any Restricted Payment, except:

(a) distributions by Parent to, or the making of loans to, any direct or indirect equity owner of Parent in amounts required for any direct or indirect equity owner to pay: (i) franchise and excise taxes (not in the nature of income taxes), and other fees and expenses, required to maintain its organizational existence, (ii) subject to the terms of Section 6.10(c), operating costs and expenses and other corporate overhead costs and expenses (including (A) administrative, legal, accounting, filing and similar expenses and (B) salary, bonus and other benefits payable to officers and employees of Parent or any direct or indirect parent company of Parent), in each case to the extent such costs, expenses, fees, salaries, bonuses and benefits are attributable to the ownership or operations of Parent and its Subsidiaries, are reasonable and incurred in the ordinary course of business for the benefit of Parent and its Subsidiaries, and (iii) the payments described in Section 6.10(c),

(b) Restricted Payments required in connection with the DIP Orders, and

(c) Borrower, HHFH and each of their Subsidiaries may make Permitted Tax Distributions to Parent.

6.8 **Accounting Methods.** Parent will not, and will not permit any of its Subsidiaries to modify or change its fiscal year, fiscal quarter, or its method of accounting (other than (i) as may be required to conform to GAAP or (ii) to the extent consented to by Agent (such consent not to be unreasonably withheld, conditioned or delayed)).

6.9 **Investments.** Parent will not, and will not permit any of its Subsidiaries to, directly or indirectly, make or acquire any Investment except for Permitted Investments.

6.10 **Transactions with Affiliates.** Parent will not, and will not permit any of its Subsidiaries to, directly or indirectly, enter into or permit to exist any transaction or series of related transactions with any Affiliate of Parent or any of its Subsidiaries except for:

(a) any existing transactions between Parent or its Subsidiaries, on the one hand, and any Affiliate of Parent or Parent's Subsidiaries, on the other hand, entered into prior to the Effective Date and any payments made pursuant thereto (other than to direct or indirect holders of Equity Interests in the Parent) to the extent permitted hereunder and made in accordance with the Approved Budget, provided (i) that the terms of such Affiliate Transaction are not less favorable, taken as a whole, to Parent or the applicable Subsidiary, as the case may be, than those that could be obtained at the time in a transaction with a Person who is not such an Affiliate, and (ii) no payments shall be permitted under the Management Services Agreement;

(b) so long as it has been approved by Parent's or its applicable Subsidiary's Board of Directors in accordance with applicable law, any indemnity provided for the benefit of directors (or comparable managers) of Parent, any direct or indirect parent of Parent or the applicable Subsidiary of Parent;

(c) so long as it has been approved by Parent's or its applicable Subsidiary's Board of Directors in accordance with applicable law, to the extent set forth in the Approved Budget, the payment of reasonable compensation, insurance, expense reimbursement, indemnity (other than with respect to directors (or other comparable managers)), severance, and employee benefit arrangements to employees, individual contractors, officers, and directors (or comparable managers) of Parent, any direct or indirect parent of Parent or the applicable Subsidiaries of Parent in the ordinary course of business and consistent with industry practice;

(d) transactions permitted by Section 6.3, Section 6.4, Section 6.7 or any Permitted Intercompany Advance;

(e) Borrower shall be permitted to maintain any existing transactions (such transactions, "Affiliate Transactions") entered into prior to the Effective Date and any payments made pursuant thereto to the extent permitted hereunder and made in accordance with the Approved Budget; provided (i) that the terms of such Affiliate Transaction are not materially less favorable to the Borrower or such Subsidiary, as the case may be, than those that could be obtained at the time in a transaction with a Person who is not such an Affiliate and (ii) no

payments shall be permitted under the Management Services Agreement, (b) for any transaction between or among any of the Borrower or one or more Loan Parties, and (c) the Related Transactions, or any amendments or modifications thereto and permitted hereby, and any payments made pursuant thereto to the extent permitted hereunder and made in accordance with the Approved Budget;

(f) any Loan Party may enter into transactions with any other Loan Party to the extent not otherwise prohibited hereunder;

(g) any Subsidiary that is not a Loan Party may enter into transactions with any other Subsidiary that is not a Loan Party or any Affiliate thereof (other than any Loan Party) to the extent not otherwise prohibited hereunder;

(h) transactions between any Loan Party, on the one hand, and any Canadian Loan Party (as defined in the ABL DIP Facility Documents), on the other hand (i) permitted under clause (g) of the definition of Permitted Dispositions and (ii) so long as such transactions are no less favorable, taken as a whole, to such Loan Party, than would be obtained in an arm's length transaction with a non-Affiliate and to the extent not otherwise prohibited hereunder;

(i) transactions in existence on the Effective Date set forth on Schedule 6.10, and

(j) the transactions contemplated by the Existing Participation Agreement (as defined in the ABL DIP Facility Documents), the Participation Agreement (as defined in the ABL DIP Facility Documents), the Participation Put Agreement (as defined in the ABL DIP Facility Documents), and the acquisition of a participation interest in the ABL DIP Obligations pursuant to the terms of the Participation Agreement (as defined in the ABL DIP Facility Documents).

Except for Permitted Intercompany Advances, as otherwise expressly permitted under this Agreement, and as set forth on Schedule 6.10, (i) no Loan Party shall enter into any transaction with, make any loan, advance or other Investment in, or otherwise transfer any property to any Subsidiary of Parent that is not a Loan Party and (ii) no Loan Party shall enter into any transaction with, make any loans, advances or other Investments in, or otherwise transfer any property constituting Term Loan Priority Collateral to any Canadian Loan Party (as defined in the ABL DIP Facility Documents). Notwithstanding anything to the contrary in this Section 6.10, no payments shall be permitted under the Management Services Agreement.

6.11 **Use of Proceeds.** Parent will not, and will not permit any of its Subsidiaries to use the proceeds of any DIP Loan made hereunder for any purpose other than as set forth in Section 4.28.

6.12 **Limitation on Issuance of Equity Interests.** No Loan Party will issue or sell or enter into any agreement or arrangement for the issuance or sale of any of its Equity Interests other than a proposed debt-for-equity exchange to be authorized by an order confirming a chapter 11 plan of reorganization in the Chapter 11 Cases, the terms and conditions of which comply with the RSA.

6.13 Parent Guarantors as Holding Companies. No Parent Guarantor will (a) incur any material liabilities (other than (i) liabilities arising under the DIP Loan Documents, the ABL DIP Facility Documents (or any agreement otherwise permitted hereunder and under the Intercreditor Agreement refinancing any of the facilities made pursuant to the ABL DIP Facility Documents in whole or in part), including Existing Secured Obligations under (and as defined in) the ABL DIP Facility Documents, and the Equity Documents, in each case to which it is a party, (ii) guarantees of leases and trade contracts in the ordinary course of business, (iii) liabilities arising under agreements with respect to Investments expressly permitted hereunder, (iv) indemnification obligations under the PCF Acquisition Agreement (as defined in the ABL DIP Facility Documents), (v) other Indebtedness permitted to be incurred by Parent Guarantors pursuant to Section 6.1, (vi) Tax liabilities, (vii) obligations under or in connection with the transaction contemplated herein, (viii) liabilities under the Management Services Agreement, and (ix) liabilities under employment or engagement agreements or agreements with employees, officers and directors)), (b) own or acquire any assets (other than (i) the Equity Interests of its Subsidiaries, (ii) immaterial assets which in the aggregate have de minimis value, (iii) contractual rights incidental or related to maintenance of its organizational existence and the issuance of its Equity Interests, (iv) Investments expressly permitted by Section 6.9 and contractual rights with respect thereto, (v) rights under or incidental to the PCF Acquisition Agreement (as defined in the ABL DIP Facility Documents), and (vi) rights under insurance policies) or (c) engage itself in any operations or business, except (i) in connection with its ownership of its Subsidiaries and its rights and obligations under the DIP Loan Documents, the ABL DIP Facility Documents (or any agreement otherwise permitted hereunder and under the Intercreditor Agreement refinancing any of the facilities made pursuant to the ABL DIP Facility Documents in whole or in part) and the Equity Documents, in each case to which it is a party (and activities incidental or related thereto), and (ii) activities incidental or related to holding the assets or incurring the liabilities permitted by this Section 6.13 and the maintenance of its organizational existence and the issuance of its Equity Interests.

6.14 Sale and Leaseback Transactions. Parent will not, and will not permit any of its Subsidiaries to, enter into any arrangement, directly or indirectly, whereby it shall sell or transfer any property, real or personal, used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property sold or transferred.

6.15 Employee Benefits.

Parent will not, and will not permit any of its Subsidiaries to:

(a) Terminate, or permit any ERISA Affiliate to terminate, any Pension Plan in a manner, or take any other action with respect to any Plan, which could reasonably be expected to result in any liability of any Loan Party to the PBGC that could reasonably be expected to result in a Material Adverse Effect.

(b) Subject to the DIP Orders, fail to make, or permit any ERISA Affiliate to fail to make, full payment when due of all amounts which, under the provisions of any Benefit Plan, agreement relating thereto or applicable Law, any Loan Party or ERISA Affiliate is required to pay if such failure could reasonably be expected to have a Material Adverse Effect.

(c) Permit to exist, or allow any ERISA Affiliate to permit to exist, any accumulated funding deficiency within the meaning of section 302 of ERISA or section 412 of the Code, whether or not waived, with respect to any Plan which exceeds \$500,000 with respect to all Pension Plans in the aggregate which could reasonably be expected to result in a liability which exceeds \$500,000 to any Loan Party.

(d) Maintain, sponsor, administer, contribute to, participate in or assume or incur any liability in respect of any Canadian Defined Benefit Plan.

(e) Terminate, or permit any Loan Party or Subsidiary thereof to terminate any Canadian Pension Plan in a manner, or take any other action with respect to any Canadian Pension Plan, which could reasonably be expected to result in any material liability of any Loan Party or a Subsidiary thereof.

(f) Subject to the DIP Orders, fail to make, or permit any Subsidiary to fail to make, full payment when due of all amounts which, under the provisions of any Canadian Benefit Plan, agreement relating thereto or applicable Law, any Loan Party or Subsidiary thereof is required to pay if such failure could reasonably be expected to have a Material Adverse Effect.

6.16 **Burdensome Agreements.**

Parent will not, and will not permit any of its Subsidiaries to, enter into any contractual obligation that: limits the ability (x) of any Subsidiary to make loans, advances, or Restricted Payments to any Loan Party; (y) of any Subsidiary to guarantee the DIP Facility Obligations under the DIP Loan Documents or (z) of Parent or any of its Subsidiaries to create, incur, assume or suffer to exist Liens on property of such Person to secure the DIP Facility Obligations of the Loan Parties under the DIP Loan Documents, other than, in each case limitations and restrictions:

(a) set forth in this Agreement and any other DIP Loan Document;

(b) set forth in the ABL DIP Facility Documents (including Existing Secured Obligations under (and as defined in) the ABL DIP Facility Document) as in effect on the date hereof or as modified in accordance with the Intercreditor Agreement (or in any agreement otherwise permitted hereunder and under the Intercreditor Agreement which refinances any of the facilities made pursuant to the ABL DIP Facility Documents in whole or in part),

(c) on subletting or assignment of any leases or licenses of Parent or any Subsidiary or on the assignment of a contractual obligation or any rights thereunder or any other customary non-assignment provisions, in each case entered into in the ordinary course of business,

(d) set forth in contractual obligations for the disposition of assets (including any Equity Interests in any Subsidiary and including pursuant to any sale and leaseback transactions permitted hereunder) of Parent or any Subsidiary of Parent; provided, such restrictions and conditions apply only to the assets or Subsidiary that is to be sold and cease to apply upon the consummation of such sale,

(e) set forth in any contractual obligation governing Indebtedness permitted under clauses (a), (b), (f), (g), (i) and (t) of the definition of “Permitted Indebtedness”,

(f) with respect to cash or other deposits (including escrowed funds) received by Parent or any Subsidiary in the ordinary course of business and assets subject to Liens permitted by under clauses (k), (p), (r), (t), (v) and (y) of the definition of “Permitted Lien”, or

(g) set forth in joint venture agreements and other similar agreements concerning joint ventures and applicable solely to such joint venture and that restrict the transfer of Equity Interests in such joint venture.

6.17 **Sanctions.** Parent will not, and will not permit any of its Subsidiaries to, knowingly permit the proceeds of any DIP Loan to 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, in each case, that would constitute a violation of applicable Laws.

6.18 **Chapter 11 Claims.** Except for the Carve-Out and Permitted Priority Liens and as provided in the DIP Orders, Parent will not, and will not permit any of its Subsidiaries to, directly or indirectly, incur, create, assume, suffer to exist or permit any administrative expense claim or Lien that is pari passu with or senior to the claims or DIP Liens, as the case may be, of the Agent and the Lenders against the Loan Parties hereunder or under the DIP Orders, or apply to the Bankruptcy Court for authority to do so. Parent will not, and will not permit any of its Subsidiaries to, directly or indirectly, (a) seek, support, consent to or suffer to exist any modification, stay, vacation or amendment of any DIP Order except for any modifications and amendments agreed to in writing by the Agent and the Required Lenders, such agreement to be made in their sole discretion, or (b) apply to the Bankruptcy Court for authority to take any action prohibited by this Section 6 (except to the extent such application and the taking of such action is conditioned upon receiving the written consent of the Agent and the Required Lenders, such consent not to be unreasonably withheld, delayed or conditioned).

6.19 **Compliance with Approved Budget.**

(a) Except as otherwise provided herein or approved by the Agent (at the direction of the Required Lenders, in their sole discretion), the Loan Parties will not, and will not permit any Subsidiary thereof to, directly or indirectly, (a) use any cash, including the proceeds of any DIP Loans, in a manner or for a purpose other than those permitted under this Agreement or contemplated by the DIP Orders or the Approved Budget, (b) permit a disbursement causing any variance from the Approved Budget other than Permitted Variances without the prior written consent of the Agent (at the direction of the Required Lenders, in their sole discretion), (c) make any Pre-Petition Payment or application for authority to make any Pre-Petition Payment, other than those permitted by this Agreement, the DIP Orders or the Approved Budget, (d) make or commit to make payments to critical vendors (other than those critical vendors set forth in the DIP Orders or in the Approved Budget, in each case as approved in writing by the Agent at the direction of the Required Lenders) in respect of any pre-petition amount in excess of the amount included in the Approved Budget, (e) measured as of the end of each Testing Period, permit the aggregate cumulative amount of actual cash disbursements (in any event excluding disbursements for professional fees and expenses and restructuring expenses) as reported in the

Variance Reports delivered with respect to periods ending after the Petition Date through the end of such Testing Period to exceed, by more than the applicable Permitted Variance, the aggregate cumulative corresponding amount forecast in the Approved Budget for the same such period, (f) measured as of the end of each Testing Period, permit the aggregate cumulative amount of actual cash receipts (which shall exclude, for the avoidance of doubt, proceeds from borrowings of DIP Loans) as reported in the Variance Reports delivered with respect to periods ending after the Effective Date through the end of such Testing Period to be less than, by more than the applicable Permitted Variance, the aggregate cumulative corresponding amount (which shall exclude, for the avoidance of doubt, proceeds from borrowings of DIP Loans) forecast in the Approved Budget for the same such period, and (g) measured as of the end of each Testing Period, permit the aggregate cumulative amount of actual net cash flow (in any event excluding from the calculation thereof disbursements for professional fees and expenses and restructuring expenses) as reported in the Variance Reports delivered with respect to periods ending after the Petition Date through the end of such Testing Period to exceed, by more than the applicable Permitted Variance, the aggregate cumulative corresponding amount forecast in the Approved Budget for the same such period; and

(b) [Reserved].

6.20 **[Reserved]**.

6.21 **Use of DIP Collateral.** No DIP Collateral, proceeds of DIP Loans, portion of the Carve-Out or any other amounts may be used directly or indirectly by any of the Loan Parties, the Committee, if any, or any trustee or other estate representative appointed in the Chapter 11 Cases (or any successor case) or any other person or entity for any of the following purposes (or to pay any professional fees, disbursements, costs or expenses incurred in connection therewith):

(a) to seek authorization to obtain Liens or security interests that are senior to, or on a parity with, the DIP Loans (except for the loans advanced under the ABL DIP Facility); or

(b) except as provided in the DIP Orders, to investigate (including by way of examinations or discovery proceedings), prepare, assert, join, commence, support or prosecute any action for any claim, counter-claim, action, proceeding, application, motion, objection, defense, or other contested matter seeking any order, judgment, determination or similar relief against, or adverse to the interests of, in any capacity, any of the Agent, the Lenders, the Pre-Petition Term Agent, the Pre-Petition Term Lenders, the Senior ABL Facility Agent, the Senior ABL Facility Lenders, the ABL DIP Agent, the ABL DIP Lenders and any of their controlling persons, affiliates or successors or assigns, and each of the respective officers, directors, employees, agents, attorneys, or advisors of each of the foregoing, with respect to any transaction, occurrence, omission, action or other matter (including formal discovery proceedings in anticipation thereof), including (A) any claims or causes of action arising under Chapter 5 of the Bankruptcy Code, (B) any so-called "lender liability" claims and causes of action, (C) any action with respect to the validity, enforceability, priority and extent of, or asserting any defense, counterclaim, or offset to, the DIP Facility Obligations, the DIP Liens hereunder, the DIP Loan Documents, the Pre-Petition Term Obligations, the Pre-Petition Term Facility Documents, the Pre-Petition Term Obligations, the Superpriority Claims, the ABL DIP

Facility Documents, the ABL DIP Obligations or the liens granted under the ABL DIP Facility, (D) any action seeking to invalidate, modify, set aside, avoid or subordinate, in whole or in part, the DIP Facility Obligations, the Pre-Petition Term Obligations or the ABL DIP Obligations, (E) any action seeking to modify any of the rights, remedies, priorities, privileges, protections and benefits granted to either (1) the Agent or the Lenders hereunder or under any of the DIP Loan Documents, (2) the Pre-Petition Term Agents or the Pre-Petition Term Lenders any of the Pre-Petition Term Facility Documents or (3) the ABL DIP Agent or the ABL DIP Lenders under any of the ABL DIP Facility Documents (in each case, including claims, proceedings or actions that might prevent, hinder or delay any assertions, enforcements, realizations or remedies on or against the DIP Collateral by any of the Agent, the Lenders, the Secured Parties, the Pre-Petition Term Agents, the Pre-Petition Term Lenders, the ABL DIP Agent or the ABL DIP Lenders under any of the Pre-Petition Term Facility Documents in accordance with the applicable DIP Loan Documents, Pre-Petition Term Facility Loan Documents, ABL DIP Facility Documents and the DIP Orders, as applicable), or (F) objecting to, contesting, or interfering with, in any way, the Agent's, the Lenders' and the Secured Parties' enforcement or realization upon any of the DIP Collateral once an Event of Default has occurred; provided, however, that no more than \$50,000 in the aggregate of the DIP Collateral, the Carve-Out or proceeds of the DIP Loans may be used by the Committee to investigate such claims and/or Liens.

6.22 **Access to TL Deposit Account.** Parent will not, and will not permit any of its Subsidiaries to, withdraw funds from the TL Deposit Account after the occurrence and during the continuance of a Default or Event of Default. Withdrawals from TL Deposit Account shall only be used for the permitted purposes described in Section 4.28. Under no circumstances may any cash, funds, securities, financial assets or other property held in or credited to the TL Deposit Account or the proceeds thereof held therein or credited thereto be used for any purpose not permitted under the DIP Orders.

7. **[RESERVED].**

8. **EVENTS OF DEFAULT.**

Notwithstanding the provisions of Section 362 of the Bankruptcy Code and without notice, application or motion to, hearing before, or order of the Bankruptcy Court or any notice to any Credit Party, any of the following from and after the Effective Date shall constitute an "Event of Default", with the exception of any such event occasioned by the filing of the Chapter 11 Cases and defaults resulting from obligations with respect to which the Bankruptcy Code prohibits any Loan Party from complying or permits any Loan Party not to comply with the requirements referenced in the subsections below:

8.1 **Payments.** The Borrower shall fail to pay any principal of any DIP Loan when due in accordance with the terms hereof (whether at stated maturity, by mandatory prepayment or otherwise); or the Borrower shall fail to pay any interest on any DIP Loan, or any other amount payable hereunder, within two (2) Business Days after any such interest or other amount becomes due in accordance with the terms hereof.

8.2 **Representations and Warranties.** Any representation or warranty made or deemed made by any Loan Party herein or in any other DIP Loan Document (or in any

amendment, modification or supplement hereto or thereto) or which is contained in any certificate furnished at any time by or on behalf of any Loan Party pursuant to this Agreement or any such other DIP Loan Document shall prove to have been incorrect in any material respect on or as of the date made or deemed made.

8.3 **Loan Parties.** Any Loan Party or any Subsidiary of a Loan Party (a) shall default in the payment, observance or performance of any term, covenant or agreement contained in Section 5.1, Section 5.2(a) or Section 6; or (b) shall default in the observance or performance of any other agreement contained in this Agreement or any other DIP Loan Document (other than as provided in Sections 8.1, 8.2 and 8.3(a)), and such default shall continue unremedied for a period of 30 days after the earlier of (A) the date on which a Responsible Officer of the Borrower becomes aware of such failure and (B) the date on which written notice thereof shall have been given to the Borrower by the Agent or the Required Lenders.

8.4 **Default Under Other Agreements.**

(a) Any Loan Party or any of its Subsidiaries shall (i) default in (x) any payment of principal of or interest on (A) the ABL DIP Facility or (B) any Indebtedness (excluding the DIP Loans) in excess of \$1,000,000, or (y) the payment of (A) any Guarantee Obligation in respect of the ABL DIP Facility or (B) any Guarantee Obligation in excess of \$1,000,000 in each case referred to in this clause (i) beyond the period of grace, if any, provided in the instrument or agreement under which such Indebtedness or Guarantee Obligation was created, it being understood that Indebtedness and Guaranteed Obligations referred to in this clause (i) are limited solely to those not subject to stay of proceedings in the Chapter 11 Cases; or (ii) default in the observance or performance of any other agreement or condition relating to any Indebtedness (excluding the DIP Loans) or Guarantee Obligation referred to in clause (i) above or contained in any instrument or agreement evidencing, securing or relating thereto or any other event shall occur or condition exist, the effect of which default or other event or condition is to cause, or to permit the holder or holders of such Indebtedness or beneficiary or beneficiaries of such Guarantee Obligation (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice or lapse of time if required, such Indebtedness to become due prior to its stated maturity or such Guarantee Obligation to become payable (an “Acceleration”), and such time shall have lapsed and, if any notice (a “Default Notice”) shall be required to commence a grace period or declare the occurrence of an event of default before notice of Acceleration may be delivered, such Default Notice shall have been given and such default shall not have been remedied or waived by or on behalf of such holder or holders; provided that the foregoing shall not apply to (A) any default under Indebtedness existing prior to the Petition Date and which has been accelerated by virtue of the filing of the Chapter 11 Cases, (B) any default due to Borrowers’ filing, commencement and continuation of the Chapter 11 Cases and any litigation arising therefrom or (C) any default due to restrictions on payments arising as a result of the Chapter 11 Cases; and provided, further, that if any such default or event of default has been cured, waived or is otherwise no longer in existence, the Event of Default arising under this Section 8.4 shall be deemed to be cured, waived and no longer in existence).

(b) Notwithstanding anything in this Section 8.4 to the contrary, to the extent a payment or covenant “Event of Default” (as defined in the ABL DIP Facility Agreement) is

waived in accordance with the ABL DIP Facility Agreement on or after the Effective Date, any such waiver shall automatically result in a waiver of any Event of Default under Section 8.4 hereof in respect of such payment or covenant “Event of Default”, solely to the extent Agent has not taken any enforcement action in respect of such Event of Default under Section 8.4 hereunder.

8.5 **Material Adverse Effect.** There shall have occurred after the Effective Date an event which has resulted in a Material Adverse Effect.

8.6 **Change in Control.** A Change of Control shall have occurred.

8.7 **Security Documents.** (i) Any of the DIP Loan Documents shall cease for any reason to be in full force and effect (other than pursuant to the terms hereof or thereof), or any Loan Party which is a party to any such DIP Loan Document shall so assert in writing, (ii) the guarantee of the Guarantors contained in the Guaranty and Security Agreement shall cease, for any reason, to be in full force and effect, other than pursuant to the terms thereof or as a result of acts or omissions from the Lenders, or (iii) the DIP Lien created by any of the Security Documents and the DIP Orders shall cease to be perfected and enforceable in accordance with its terms or of the same effect as to perfection and priority purported to be created thereby with respect to any significant portion of the DIP Collateral (other than in connection with any termination of such DIP Lien in respect of any DIP Collateral as permitted hereby or by any Security Document) and such failure of such DIP Lien to be perfected and enforceable with such priority shall have continued unremedied for a period of twenty (20) days.

8.8 **Loan Documents.** Any material provision of any DIP Loan Document shall at any time for any reason be declared to be null and void, or the validity or enforceability of any provision shall be contested by any Loan Party, or a proceeding shall be commenced by any Loan Party, or by any Governmental Authority having jurisdiction over any Loan Party, seeking to establish the invalidity or unenforceability thereof, or any Loan Party shall deny that it has any liability or obligation purported to be created under any DIP Loan Document;

8.9 **Termination Events; Milestones.** The occurrence of any of the following in any Chapter 11 Case (each, a “Termination Event”):

(a) The reversal, vacatur or stay of the effectiveness of the Interim DIP Order or the Final DIP Order without the express prior written consent of the Agent (acting at the direction of the Required Lenders);

(b) Without the written consent of the Agent acting at the direction of the Required Lenders, (A) an order with respect to any of the Chapter 11 Cases shall be entered by the Bankruptcy Court ordering dismissal of any of the Chapter 11 Cases or conversion of any of the Chapter 11 Cases to chapter 7 cases, or appointment of a chapter 11 trustee or examiner with enlarged powers relating to the operation of the business of the Borrower or any Guarantor in any of the Chapter 11 Cases, which dismissal, conversion or appointment shall not have been reversed, stayed or vacated within three (3) days, (B) an order with respect to any of the Chapter 11 Cases shall be entered by the Bankruptcy Court ordering termination of the exclusive period for the Loan Parties to file a Plan in the Chapter 11 Cases, or (C) the Loan Parties shall seek or

request the entry of any order to effect any of the events described in subclause (A) of this clause (ii);

(c) The entry by the Bankruptcy Court of an order granting relief from the automatic stay imposed by Section 362 of the Bankruptcy Code sought by any party that affects the Loan Parties' property (including, without limitation, to permit foreclosure or enforcement on the DIP Collateral) with a fair market value in excess of \$500,000 without the written consent of the Agent (which consent shall not be unreasonably withheld, delayed or conditioned);

(d) Three (3) Business Days after written notice to the Loan Parties of the failure by the Loan Parties to deliver to the Agent any of the documents or other written information required to be delivered pursuant to the DIP Orders when due (during which time the Loan Parties may cure) or any such documents or other written information shall contain a misrepresentation of a material fact when made so as to make the written information provided to the Agent and the Lenders, taken as a whole, materially misleading;

(e) Except as set forth herein, the failure by the Loan Parties to observe or perform any of the material terms or provisions contained in the DIP Orders in any respect adverse to the interests of the Lenders;

(f) The entry of an order of the Bankruptcy Court granting any lien on or security interest in any of the DIP Collateral that is pari passu with or senior to the DIP Liens held by the Agent on or as security interests in the DIP Collateral, the Adequate Protection Liens, the Superpriority Claims or the Pre-Petition Term Liens, in each case, other than any Liens in connection with any Permitted Intercompany Advances authorized by the DIP Orders, or the Loan Parties and any of their Subsidiaries shall seek or request (or support another party in the filing of) the entry of any such order, other than the ABL DIP Facility;

(g) The Loan Parties' creating or permitting to exist any other superpriority claim which is pari passu with or senior to the claims of the Agent and the Lenders, the Adequate Protection Liens, the Superpriority Claims or the Pre-Petition Term Liens, except for the Carve-Out, the liens securing the Senior ABL Facility, the liens securing the ABL DIP Facility, and any Liens in connection with any Permitted Intercompany Advances authorized by the DIP Orders;

(h) The Parent or any of its Subsidiaries filing a pleading, or in any way support another party's pleading, seeking to modify or otherwise alter any of the terms and conditions set forth in the DIP Orders in any respect adverse to the interests of the Lenders without the prior written consent of the Agent (acting at the direction of the Required Lenders), such consent to be given in its sole discretion;

(i) The entry of an order of the Bankruptcy Court amending, supplementing or otherwise altering any of the terms and conditions set forth in the DIP Orders in any respect adverse to the interests of the Lenders without the prior written consent of the Agent (acting at the direction of the Required Lenders), such consent to be given in its sole discretion;

(j) The Parent or any of its Subsidiaries using the proceeds of the DIP Facility for any item other than in compliance with Section 6.19 other than the Carve-Out, or makes any Pre-Petition Payment (other than the obligations under the Senior ABL Facility as contemplated

by the ABL DIP Facility and the DIP Orders or under the Approved Budget), in each case except as agreed in writing in advance by the Agent (acting at the direction of the Required Lenders);

(k) Any of the Loan Parties or their Subsidiaries (or any party with the support of any of the Loan Parties) shall file a Plan in any of the Chapter 11 Cases that does not propose to indefeasibly repay the DIP Facility Obligations in full in cash, unless otherwise consented to by the Agent (acting at the direction of the Required Lenders) (such consent to be given in its sole discretion (it being agreed that such consent is deemed given with respect to the Plan attached to the RSA));

(l) Any uninsured judgments are entered with respect to any post-petition liabilities against any of the Loan Parties or any of their respective properties in a combined aggregate amount in excess of \$200,000 unless stayed, vacated or satisfied for a period of twenty (20) calendar days after entry thereof;

(m) The failure of the Loan Parties to meet any of the following milestones (individually a “Milestone” and collectively, the “Milestones”) unless extended or waived by the prior written consent of the Agent and the Required Lenders (such consent not to be unreasonably withheld, delayed or conditioned), except to the extent such failure is reasonably the result of Bankruptcy Court unavailability:

- (i) The Interim DIP Order shall have been entered by the Bankruptcy Court on or before two (2) Business Days following the date of the First Day Hearing;
- (ii) On or before the date that is 7 days following the Petition Date, the Loan Parties shall have filed a motion requesting an order from the Bankruptcy Court approving bid procedures relating to the solicitations of qualified bids for the sale of substantially all of the Loan Parties' assets and business (the “Bidding Procedures”), which motion and Bidding Procedures shall each be in form and substance reasonably satisfactory to Agent (it being agreed that the proposed bidding procedures order filed with the Bankruptcy Court on the Petition Date is satisfactory to the Agent);
- (iii) The Final DIP Order shall have been entered by the Bankruptcy Court on or before forty (40) days following the date of the First Day Hearing;
- (iv) Within forty (40) calendar days of the Petition Date, but in any event no later than entry of the Final DIP Order, the Loan Parties shall file a plan of reorganization (the “Proposed Plan”), and a disclosure statement relating to such Plan (the “Disclosure Statement”), in each case, in form and substance reasonably satisfactory to the Agent (acting at the direction of the Required Lenders) (it being agreed that the plan of reorganization in the

form attached to the RSA is satisfactory to the Agent and the Lenders);

- (v) No later than forty-five (45) calendar days after the Petition Date, the Loan Parties shall have filed their Schedules and Statement of Financial Affairs pursuant to Section 521 of the Bankruptcy Code and Rule 1007 of the Federal Rules of Bankruptcy Procedure with the Bankruptcy Court;
- (vi) No later than forty-five (45) calendar days after the Petition Date the Bankruptcy Court shall have entered an order setting the date (the "Bar Date") by which proofs of claim for general unsecured creditors must be filed;
- (vii) On or before the date that is 45 days following the Petition Date, the Bankruptcy Court shall have entered an order approving the Bidding Procedures, in form and substance reasonably satisfactory to the Agent (acting at the direction of the Required Lenders) (it being agreed that the proposed bidding procedures order filed with the Bankruptcy Court on the Petition Date is satisfactory to the Agent at the direction of the Required Lenders);
- (viii) The Bar Date shall have occurred on or before seventy-five (75) days following the Petition Date;
- (ix) No later than seventy-five (75) calendar days after the Petition Date, the Bankruptcy Court shall have entered an order approving the Disclosure Statement and voting and solicitation procedures for the Proposed Plan in form and substance reasonably satisfactory to the Agent (acting at the direction of the Required Lenders);
- (x) No later than one hundred ten (110) calendar days after the Petition Date, the Bankruptcy Court shall have entered an order, in form and substance reasonably satisfactory to the Agent (acting at the direction of the Required Lenders) confirming the Proposed Plan (such date, the "Confirmation Date");
- (xi) No later than the Confirmation Date, Borrower shall have entered into a commitment letter reasonably acceptable to the Agent with respect to the funding of an exit asset-backed credit facility; and
- (xii) No later than one hundred twenty days (120) calendar days after the Petition Date, the Plan Effective Date shall have occurred.

(n) Any Loan Party asserts a right of subrogation or contribution against any other Loan Party prior to the date upon which all DIP Loans under the DIP Facility have been paid in full and all DIP Loan Commitments have been terminated;

(o) Any Loan Party shall seek to sell any of its assets that are Term Loan Priority Collateral outside the ordinary course of business, unless (i) the proceeds of such sale are used to indefeasibly pay the DIP Facility Obligations in full in cash unless such sale is consented to by the Agent (acting at the direction of the Required Lenders), or (ii) such sale is pursuant to bidding procedures approved by the Agent (acting at the direction of the Required Lenders);

(p) The Parent or any of its Subsidiaries (or any party with the support of any of the Parent or any of its Subsidiaries) shall challenge the validity or enforceability of any of the DIP Loan Documents or the Pre-Petition Term Facility Documents;

(q) Upon the consummation of a sale of all or substantially all of the Loan Parties' assets pursuant to Section 363 of the Bankruptcy Code, unless (i) the proceeds of such sale are applied to indefeasibly satisfy in full the DIP Facility Obligations or (ii) such sale is consented to by the Agent (acting at the direction of the Required Lenders);

(r) Payment of or granting adequate protection with respect to any Indebtedness that was existing prior to the Petition Date other than as expressly provided in the DIP Orders or permitted under the Intercreditor Agreement or as consented to by the Agent (acting at the direction of the Required Lenders).

8.10 **RSA**. The termination of the RSA by any party thereto.

8.11 **ERISA**. The occurrence of any of the following events to the extent it would have a Material Adverse Effect: (a) any Loan Party or ERISA Affiliate fails to make full payment when due of all amounts which any Loan Party or ERISA Affiliate is required to pay as contributions, installments, or otherwise to or with respect to a Pension Plan or Multiemployer Plan, and such failure could reasonably be expected to result in liability to any Loan Party, (b) an accumulated funding deficiency or funding shortfall occurs or exists, whether or not waived, with respect to any Pension Plan, which could reasonably be expected individually or in the aggregate to result in liability to any Loan Party, (c) a Notification Event, which could reasonably be expected to result in liability to a Loan Party, either individually or in the aggregate, (d) any Loan Party or ERISA Affiliate completely or partially withdraws from one or more Multiemployer Plans and as a result of such withdrawal, any Loan Party would reasonably be expected to incur Withdrawal Liability, (e) any Loan Party or Subsidiary thereof fails to make full payment when due of all amounts which any Loan Party or Subsidiary thereof is required to pay as contributions, installments, or otherwise to or with respect to a Canadian Pension Plan, and such failure could reasonably be expected to result in liability to any Loan Party, or (f) with respect to (x) any Canadian Pension Plan, the occurrence of any Canadian Pension Termination Event or (y) if any trust, deemed trust or Lien has been or may be imposed on a Loan Party or Subsidiary thereof or its property as a result of the occurrence of such event and such trust, deemed trust or Lien, and in each case will or would reasonably be likely to result in a liability to the Loan Parties.

8.12 **Permitted Variances**. Permitted Variances under the Approved Budget are exceeded for any period of time.

8.13 **ABL DIP Facility.** The ABL DIP Agent and/or the Senior ABL Facility Agent imposes a reserve or block on availability of revolving loans in excess of \$1,500,000 of such reserves or blocks in place on the Effective Date or otherwise modifies, changes or amends the calculation of the borrowing base in any manner that reduces availability under the ABL DIP Facility and/or the Senior ABL Facility by more than \$1,500,000.

9. RIGHTS AND REMEDIES.

9.1 Rights and Remedies.

(a) If any Event of Default occurs and is continuing, then, and in any such event, notwithstanding the provisions of Section 362 of the Bankruptcy Code, and without any application, motion or notice, hearing before, or order from, the Bankruptcy Court but subject to the DIP Orders and any notice required thereunder, with the consent of the Required Lenders, the Agent may, or upon the request of the Required Lenders, the Agent shall, (i) by written notice to the Borrower, declare all of the DIP Loans hereunder, (with accrued interest thereon) and all other amounts owing under this Agreement to be due and payable forthwith, whereupon the same shall immediately become due and payable, (ii) immediately terminate the Loan Parties' limited use of any cash collateral; (iii) cease making any DIP Loans under the DIP Facility; (iv) subject to the terms of the DIP Orders, sweep all funds contained in the TL Deposit Account; (v) subject to the terms of the DIP Orders and the Intercreditor Agreement, immediately set-off any and all amounts in accounts maintained by the Loan Parties with the Agent or the Lenders against the DIP Facility Obligations, or otherwise enforce any and all rights against the DIP Collateral in the possession of any of the applicable Lenders, including, without limitation, disposition of the DIP Collateral solely for application towards the DIP Facility Obligations; and (vi) take any other actions or exercise any other rights or remedies permitted under the DIP Orders, the DIP Loan Documents or applicable law to effect the repayment of the DIP Facility Obligations; provided that prior to the exercise of any right in clauses (ii), (v) or (vi) of this Section 9.1(a), the Agent shall be required to provide seven (7) Business Days written notice to the Loan Parties, the ABL DIP Agent, and the Committee (if any) of the Agent's intent to exercise its rights and remedies; provided, further, that neither the Loan Parties, the Committee (if any) nor any other party-in-interest shall have the right to contest the enforcement of the remedies set forth in the DIP Orders and the DIP Loan Documents on any basis other than an assertion that an Event of Default has not occurred or has been cured within the cure periods expressly set forth in the applicable DIP Loan Documents. The Loan Parties shall cooperate fully with the Agent and the Lenders in their exercise of rights and remedies, whether against the DIP Collateral or otherwise.

(b) Except as expressly provided above in this Section 9, to the maximum extent permitted by applicable law, presentment, demand, protest and all other notices of any kind are hereby expressly waived.

10. WAIVERS; INDEMNIFICATION.

10.1 **Demand; Protest; etc.** Borrower waives demand, protest, notice of protest, notice of default or dishonor, notice of payment and nonpayment, nonpayment at maturity, release, compromise, settlement, extension, or renewal of documents, instruments, chattel paper,

and guarantees at any time held by the Lender Group on which Borrower may in any way be liable.

10.2 **The Lender Group's Liability for Collateral.** Borrower hereby agrees that: (a) so long as Agent complies with its obligations, if any, under the Code, the Lender Group shall not in any way or manner be liable or responsible for: (i) the safekeeping of the DIP Collateral, (ii) any loss or damage thereto occurring or arising in any manner or fashion from any cause, (iii) any diminution in the value thereof, or (iv) any act or default of any carrier, warehouseman, bailee, forwarding agency, or other Person, and (b) all risk of loss, damage, or destruction of the Collateral shall be borne by Borrower.

10.3 **Indemnification.** Borrower and each Guarantor shall pay, indemnify, defend, and hold Agent-Related Persons, the Lender-Related Persons, and each Participant (each, an "**Indemnified Person**") harmless (to the fullest extent permitted by law) from and against any and all claims, demands, suits, actions, investigations, proceedings, liabilities, fines, costs, penalties, and damages, and all reasonable and documented fees and disbursements of attorneys, experts, or consultants and all other costs and expenses actually incurred in connection therewith or in connection with the enforcement of this indemnification (as and when they are incurred and irrespective of whether suit is brought), at any time asserted against, imposed upon, or incurred by any of them (a) in connection with or as a result of or related to (1) the execution and delivery, advising, structuring, drafting, reviewing, administering or syndicating, or the monitoring of Parent's and its Subsidiaries' compliance with the terms of, the DIP Loan Documents (provided that any legal fees incurred in connection therewith shall be limited to the reasonable fees and reasonable out-of-pocket expenses of one primary counsel, which shall be King & Spalding LLP, for all Indemnified Persons (taken as a whole) (and, solely in the case of an actual conflict of interest, one additional counsel as necessary to the affected Indemnified Persons taken as a whole) and to the extent reasonably necessary, one local counsel in each relevant material jurisdiction, or (2) enforcement (including in connection with the Chapter 11 Cases) of this Agreement, any of the other DIP Loan Documents, or the transactions contemplated hereby or thereby (provided, that the indemnification in this clause (a) shall not extend to (i) any dispute among Indemnified Persons that does not arise out of an act or omission by Borrower or any other Loan Party or Subsidiary thereof (other than any claims against Agent in its capacity as such), or (iii) any Taxes or any costs attributable to Taxes, other than any Taxes that represent losses, claims, damages or other similar amounts arising from any non-Tax Claim), (b) with respect to any investigation, litigation, or proceeding related to this Agreement, any other DIP Loan Document, the making of any DIP Loans hereunder, or the use of the proceeds of the DIP Loans provided hereunder (irrespective of whether any Indemnified Person or Loan Party is a party thereto), or any act, omission, event, or circumstance in any manner related thereto, and (c) in connection with or arising out of any violation of Environmental Law by Parent or any of its Subsidiaries, any presence or release of Hazardous Materials at, on, under, to or from any assets or properties owned, leased or operated by Borrower or any of its Subsidiaries, or any Environmental Actions against, Environmental Liabilities of, or Remedial Actions required of, Parent or any of its Subsidiaries, or related in any way to any operations, assets or properties of Borrower or any of its Subsidiaries (each and all of the foregoing, the "**Indemnified Liabilities**"). The foregoing to the contrary notwithstanding, Borrower shall have no obligation to any Indemnified Person under this Section 10.3 with respect to any (a) material breach of such Indemnified Person of its obligations (or the obligations of such Indemnified

Persons' Agent-Related Persons) under the DIP Loan Documents, as finally determined by a court of competent jurisdiction or (b) Indemnified Liability that a court of competent jurisdiction finally determines to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnified Person or its officers, directors, employees, attorneys, or agents. This provision shall survive the termination of this Agreement and the repayment in full of the DIP Facility Obligations. If any Indemnified Person makes any payment to any other Indemnified Person with respect to an Indemnified Liability as to which Borrower was required to indemnify the Indemnified Person receiving such payment, the Indemnified Person making such payment is entitled to be indemnified and reimbursed by Borrower with respect thereto. **WITHOUT LIMITATION, EXCEPT AS SET FORTH ABOVE, THE FOREGOING INDEMNITY SHALL APPLY TO EACH INDEMNIFIED PERSON WITH RESPECT TO INDEMNIFIED LIABILITIES WHICH IN WHOLE OR IN PART ARE CAUSED BY OR ARISE OUT OF ANY NEGLIGENT ACT OR OMISSION OF SUCH INDEMNIFIED PERSON OR OF ANY OTHER PERSON.**

11. NOTICES.

Unless otherwise provided in this Agreement, all notices or demands relating to this Agreement or any other DIP Loan Document shall be in writing and (except for financial statements and other informational documents which may be sent by first-class mail, postage prepaid) shall be personally delivered or sent by registered or certified mail (postage prepaid, return receipt requested), overnight courier, electronic mail (at such email addresses as a party may designate in accordance herewith), or telefacsimile. In the case of notices or demands to Parent, Borrower or Agent, as the case may be, they shall be sent to the respective address set forth below:

If to Parent or Borrower: **HOLLANDER SLEEP PRODUCTS, LLC**
6501 Congress Avenue Suite 300
Boca Raton, Florida 33487
Attn: Stephen Cumbow
Fax No. 561-214-4030

with copies to (which shall not constitute notice or service of process): **SENTINEL CAPITAL PARTNERS, L.L.C.**
330 Madison Avenue, 27th Floor
New York, NY 10017
Attn: Michael Fabian
Fax No. (212) 688-6513

KIRKLAND & ELLIS, LLP
601 Lexington Avenue
New York, NY 10022
Attn: Yongjin Im
Fax No. (212) 446-6460

If to Agent: **BARINGS FINANCE LLC**
300 South Tryon Street, Suite 2500
Charlotte, North Carolina 28202

Attn: Brady Sutton
Fax No. (413) 226-3953

with copies to (which shall
not constitute notice or
service of process):

KING & SPALDING LLP
1185 6th Avenue
New York, NY
Attn: W. Austin Jowers
Fax No. (212) 556-2222

Any party hereto may change the address at which they are to receive notices hereunder, by notice in writing in the foregoing manner given to the other party. All notices or demands sent in accordance with this Section 11, shall be deemed received on the earlier of the date of actual receipt or 3 Business Days after the deposit thereof in the mail; provided, that (a) notices sent by overnight courier service shall be deemed to have been given when received, (b) notices 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) and (c) notices by electronic mail shall be deemed received upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return email or other written acknowledgment).

**12. CHOICE OF LAW AND VENUE; JURY TRIAL WAIVER; JUDICIAL
REFERENCE PROVISION.**

(a) **THE VALIDITY OF THIS AGREEMENT AND THE OTHER
LOAN DOCUMENTS (UNLESS EXPRESSLY PROVIDED TO THE CONTRARY IN
ANOTHER LOAN DOCUMENT IN RESPECT OF SUCH OTHER LOAN
DOCUMENT), THE CONSTRUCTION, INTERPRETATION, AND ENFORCEMENT
HEREOF AND THEREOF, THE RIGHTS OF THE PARTIES HERETO AND
THERE TO WITH RESPECT TO ALL MATTERS ARISING HEREUNDER OR
THEREUNDER OR RELATED HERETO OR THERETO, AND ANY CLAIMS,
CONTROVERSIES OR DISPUTES ARISING HEREUNDER OR THEREUNDER OR
RELATED HERETO OR THERETO SHALL BE DETERMINED UNDER, GOVERNED
BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF
NEW YORK.**

(b) Each party hereto hereby irrevocably and unconditionally:

- (i) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other DIP Loan Documents to which it is a party to the exclusive general jurisdiction of the Supreme Court of the State of New York for the County of New York (the "New York Supreme Court"), and the United States District Court for the Southern District of New York (the "Federal District Court," and together with the New York Supreme Court, the "New York Courts") and appellate courts from either of them except to the extent that the provisions of the Bankruptcy Code are

applicable and specifically conflict with the foregoing; provided that nothing in this Agreement shall be deemed or operate to preclude (i) any Agent from bringing suit or taking other legal action in any other jurisdiction to realize on the DIP Collateral or any other security for the DIP Facility Obligations (in which case any party shall be entitled to assert any claim or defense, including any claim or defense that this Section 12 would otherwise require to be asserted in a legal action or proceeding in a New York Court), or to enforce a judgment or other court order in favor of the Agent or the Collateral Agent, (ii) any party from bringing any legal action or proceeding in any jurisdiction for the recognition and enforcement of any judgment and (iii) if all such New York Courts decline jurisdiction over any Person, or decline (or in the case of the Federal District Court, lack) jurisdiction over any subject matter of such action or proceeding, a legal action or proceeding may be brought with respect thereto in another court having jurisdiction;

- (ii) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient forum and agrees not to plead or claim the same;
- (iii) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to the Borrower, the applicable Lender or the Agent, as the case may be, at the address specified in Section 11 or at such other address of which the Agent, any such Lender and the Borrower shall have been notified pursuant thereto;
- (iv) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 12 any consequential or punitive damages.

Notwithstanding any other provision of this Section 12, the Bankruptcy Court shall have exclusive jurisdiction over any action or dispute involving, relating to or arising out of this agreement or the other DIP Loan Documents.

13. ASSIGNMENTS AND PARTICIPATIONS; SUCCESSORS.

13.1 Assignments and Participations.

(a) (i) Subject to the conditions set forth in clause (a)(ii) below, any Lender may assign and delegate all or any portion of its rights and duties under the DIP Loan

Documents (including the DIP Facility Obligations owed to it and its DIP Loan Commitments) to one or more assignees so long as such prospective assignee is an Eligible Transferee (each, an “Assignee”), without the prior written consent of Borrower; and

(ii) Assignments shall be subject to the following additional conditions:

(A) no assignment may be made to a natural person;

(B) the amount of the DIP Loan Commitments and DIP Loans and the other rights and obligations of the assigning Lender hereunder and under the other DIP Loan Documents subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to Agent) shall be in a minimum amount of \$1,000,000 (or lesser amounts, if agreed between Borrower and Agent, or otherwise if less, all of such Lender’s remaining DIP Loan Commitments and DIP Loans) and in integral multiples of \$100,000 in excess thereof, except such minimum amount shall not apply to (I) an assignment or delegation by any Lender to any other Lender, an Affiliate of any Lender, or a Related Fund of such Lender or (II) a group of new Lenders, each of which is an Affiliate of each other or a Related Fund of such new Lender to the extent that the aggregate amount to be assigned to all such new Lenders is at least \$1,000,000);

(C) 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;

(D) the parties to each assignment shall execute and deliver to Agent an Assignment and Acceptance; provided, that Borrower and Agent may continue to deal solely and directly with the assigning Lender in connection with the interest so assigned to an Assignee until written notice of such assignment, together with payment instructions, addresses, and related information with respect to the Assignee, have been given to Borrower and Agent by such Lender and the Assignee;

(E) unless waived by Agent (and except in the case of an assignment to an Affiliate or Related Fund of the assigning Lender), the assigning Lender or Assignee has paid to Agent, for Agent’s separate account, a processing fee in the amount of \$3,500;

(F) [intentionally omitted]; and

(G) no assignment may be made to any Disqualified Lender.

(b) From and after the date that Agent receives the executed Assignment and Acceptance and, if applicable, payment of the required processing fee, (i) the Assignee thereunder shall be a party hereto and, to the extent that rights and obligations hereunder have

been assigned to it pursuant to such Assignment and Acceptance, shall be a “Lender” and shall have the rights and obligations of a Lender under the DIP Loan Documents, and (ii) the assigning Lender shall, to the extent that rights and obligations hereunder and under the other DIP Loan Documents have been assigned by it pursuant to such Assignment and Acceptance, relinquish its rights (except with respect to Section 15.3) and be released from any future obligations under this Agreement (and in the case of an Assignment and Acceptance covering all or the remaining portion of an assigning Lender’s rights and obligations under this Agreement and the other DIP Loan Documents, such Lender shall cease to be a party hereto and thereto); provided, that nothing contained herein shall release any assigning Lender from obligations that survive the termination of this Agreement, including such assigning Lender’s obligations under Section 15 and Section 17.9(a).

(c) By executing and delivering an Assignment and Acceptance, the assigning Lender thereunder and the Assignee thereunder confirm to and agree with each other and the other parties hereto as follows: (i) other than as provided in such Assignment and Acceptance, such assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Agreement or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement or any other DIP Loan Document furnished pursuant hereto, (ii) such assigning Lender makes no representation or warranty and assumes no responsibility with respect to the financial condition of any Loan Party or the performance or observance by any Loan Party of any of its obligations under this Agreement or any other DIP Loan Document furnished pursuant hereto, (iii) such Assignee confirms that it has received a copy of this Agreement, together with such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment and Acceptance, (iv) such Assignee will, independently and without reliance upon Agent, such assigning Lender or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement, (v) such Assignee appoints and authorizes Agent to take such actions and to exercise such powers under this Agreement and the other DIP Loan Documents as are delegated to Agent, by the terms hereof and thereof, together with such powers as are reasonably incidental thereto, and (vi) such Assignee agrees that it will perform all of the obligations which by the terms of this Agreement are required to be performed by it as a Lender.

(d) Immediately upon Agent’s receipt of the required processing fee, if applicable, and delivery of notice to the assigning Lender pursuant to Section 13.1(b), this Agreement shall be deemed to be amended to the extent, but only to the extent, necessary to reflect the addition of the Assignee and the resulting adjustment of the Loans assigned to it arising therefrom.

(e) Any Lender may at any time sell to one or more commercial banks, financial institutions, or other Persons, other than a Disqualified Lender (a “Participant”) participating interests in all or any portion of its DIP Facility Obligations, its DIP Loan Commitment, and the other rights and interests of that Lender (the “Originating Lender”) hereunder and under the other Loan Documents; provided, that (i) the Originating Lender shall remain a “Lender” for all purposes of this Agreement and the other DIP Loan Documents and the Participant receiving the participating interest in the DIP Facility Obligations, the DIP Loan

Commitments, and the other rights and interests of the Originating Lender hereunder shall not constitute a "Lender" hereunder or under the other DIP Loan Documents and the Originating Lender's obligations under this Agreement shall remain unchanged, (ii) the Originating Lender shall remain solely responsible for the performance of such obligations, (iii) Borrower, Agent, and the Lenders shall continue to deal solely and directly with the Originating Lender in connection with the Originating Lender's rights and obligations under this Agreement and the other DIP Loan Documents, (iv) no Lender shall transfer or grant any participating interest under which the Participant has the right to approve any amendment to, or any consent or waiver with respect to, this Agreement or any other DIP Loan Document, except to the extent such amendment to, or consent or waiver with respect to this Agreement or of any other DIP Loan Document would (A) extend the final maturity date of the DIP Facility Obligations hereunder in which such Participant is participating, (B) reduce the interest rate applicable to the DIP Facility Obligations hereunder in which such Participant is participating, (C) release all or substantially all of the DIP Collateral or guaranties (except to the extent expressly provided herein or in any of the DIP Loan Documents) supporting the DIP Facility Obligations hereunder in which such Participant is participating, (D) postpone the payment of, or reduce the amount of, the interest or fees payable to such Participant through such Lender (other than a waiver of default interest), or (E) decrease the amount or postpone the due dates of scheduled principal repayments or prepayments or premiums payable to such Participant through such Lender (for the avoidance of doubt, mandatory prepayments pursuant to Section 2.4(d)(ii) or Section 2.4(d)(iii) may be postponed, delayed, waived or modified without the consent of a Participant), (v) no participation shall be sold to a natural person, (vi) [intentionally omitted], and (vii) all amounts payable by Borrower hereunder shall be determined as if such Lender had not sold such participation, except that, if amounts outstanding under this Agreement are due and unpaid, or shall have been declared or shall have become due and payable upon the occurrence of an Event of Default, each Participant shall be deemed to have the right of setoff in respect of its participating interest in amounts owing under this Agreement to the same extent as if the amount of its participating interest were owing directly to it as a Lender under this Agreement; provided, however, that each Participant shall be entitled to the benefits of Section 16 as if it were a Lender provided such Participant delivers the forms and documentation required by Section 16 (it being understood that the documentation under Section 16 shall be delivered to the Participating Lender) and otherwise agrees in writing to be subject to Section 16 as if it were a Lender. Subject to the foregoing, sentence, the rights of any Participant only shall be derivative through the Originating Lender with whom such Participant participates and no Participant shall have any rights under this Agreement or the other DIP Loan Documents or any direct rights as to the other Lenders, Agent, Borrower, the Collateral, or otherwise in respect of the DIP Facility Obligations. No Participant shall have the right to participate directly in the making of decisions by the Lenders among themselves.

(f) In connection with any such assignment or participation or proposed assignment or participation or any grant of a security interest in, or pledge of, its rights under and interest in this Agreement, a Lender may, subject to the provisions of Section 17.9, disclose all documents and information which it now or hereafter may have relating to Parent and its Subsidiaries and their respective businesses.

(g) Any other provision in this Agreement notwithstanding, any Lender may at any time create a security interest in, or pledge, all or any portion of its rights under and

interest in this Agreement to secure obligations of such Lender, including any security interest or pledge in favor of any Federal Reserve Bank (or any central bank having jurisdiction over such Lender) in accordance with Regulation A of the Federal Reserve Bank or U.S. Treasury Regulation 31 CFR §203.24, and the holder of such security interest or pledge (including such Federal Reserve Bank or central bank) may enforce such pledge or security interest in any manner permitted under applicable law. Without limiting the foregoing, in the case of any Lender that is a fund that invests in bank loans and similar extensions of credit, such Lender may, without the consent of Agent or any other Person, collaterally assign or pledge all or any portion of its rights as a Lender under the DIP Loan Documents to any holder of, trustee for, or any other representative of holders of, obligations owed or securities issued by such fund, as security for such obligations or securities.

(h) Agent (as a non-fiduciary agent on behalf of Borrower) shall maintain, or cause to be maintained, a register (the “Register”) in the United States on which it enters the name and address of each Lender as the registered owner of the DIP Loan Commitments, the principal amount of DIP Loans owing to it and stated interest thereon, held by such Lender (each, a “Registered Loan”). A Registered Loan (and the registered note, if any, evidencing the same) may be assigned or sold in whole or in part only by registration of such assignment or sale on the Register (and each registered note shall expressly so provide), and any assignment or sale of all or part of such Registered Loan (and the registered note, if any, evidencing the same) may be effected only by registration of such assignment or sale on the Register, together with the surrender of the registered note, if any, evidencing the same duly endorsed by (or accompanied by a written instrument of assignment or sale duly executed by) the holder of such registered note, whereupon, at the request of the designated assignee(s) or transferee(s), one or more new registered notes in the same aggregate principal amount shall be issued to the designated assignee(s) or transferee(s). Prior to the registration of assignment or sale of any Registered Loan (and the registered note, if any evidencing the same), Borrower shall treat the Person in whose name such Registered Loan (and the registered note, if any, evidencing the same) is registered as the owner thereof for the purpose of receiving all payments thereon and for all other purposes, notwithstanding notice to the contrary, absent manifest error. This Section 13.1(h) shall be construed so that the DIP Loans are at all times maintained in “registered form” within the meaning of Section 5f.103-1(b) of the United States Treasury Regulation.

(i) In the event that a Lender sells participations in the Registered Loan, such Lender, as a non-fiduciary agent on behalf of Borrower, shall maintain (or cause to be maintained) a register in accordance with Section 5f.103-1(c) of the United States Treasury Regulations and Section 163(f), 165(g), 871(h)(2), 881(c)(2) and 4701 of the IRC on which it enters the name of all participants in the Registered Loans held by it (and the principal amount (and stated interest thereon) of the portion of such Registered Loans that is subject to such participations) (the “Participant Register”). A Registered Loan (and the Registered Note, if any, evidencing the same) may be participated in whole or in part only by registration of such participation on the Participant Register (and each registered note shall expressly so provide). Any participation of such Registered Loan (and the registered note, if any, evidencing the same) may be effected only by the registration of such participation on the Participant Register. No Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant’s interest in any commitments, loans, letters of credit or its other obligations under any DIP Loan 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. 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, Agent (in its capacity as Agent) shall have no responsibility for maintaining a Participant Register.

(j) Agent shall make a copy of the Register available for review by Borrower from time to time as Borrower may reasonably request.

(k) Lenders may not assign all or any portion of its DIP Loans hereunder to (i) the Parent or any of its Subsidiaries or (ii) any Person who, after giving effect to such assignment, would be an Affiliated Lender.

(l) Notwithstanding anything in this Section 13.1 to the contrary, prior to any assignment or sale by any Lender (a "Selling Lender") as of the Effective Date to any Person that is not a Lender (or an Affiliate of a Lender) as of the Effective Date, such Selling Lender shall notify (a "Notice of Intent to Assign") the Agent of its intent to assign or sell its interests in its DIP Facility Obligations, including the amount of DIP Facility Obligations the Selling Lender seeks to assign or sell (the "Available DIP Obligations"). The Agent shall, within one Business Day, notify (such notification, a "Pending Assignment Notice") all Lenders of the Notice of Intent to Assign and the terms thereof. Each Lender shall have 3 Business Days (the "Election Period") to elect to purchase all of the Available DIP Obligations from the Selling Lender by delivering a notice (an "Election Notice") to the Agent. Each Election Notice shall include the amount of Available DIP Obligations such Lender is willing to purchase from the Selling Lender and the purchase price. The Selling Lender shall assign the Available DIP Obligations to the Lender that submitted an Election Notice within the Election Period, and such Lender shall purchase from the Selling Lender the Available DIP Obligations, for the highest price; provided, however, if two or more Lenders deliver an Election Notice during the Election Period for the same purchase price and that purchase price represents the highest purchase price submitted, then the Available DIP Obligations shall be assigned to such Lenders based on their Pro Rata Shares. If no Lenders submitted an Election Notice to the Agent within the Election Period, then the Selling Lender may proceed to seek to assign or sell the full amount of Available DIP Obligations set forth in the Notice of Intent to Assign (but not a partial or lesser amount) to any Eligible Transferee.

13.2 **Successors.** This Agreement, the other DIP Loan Documents, and all Liens and DIP Liens and other rights and privileges created hereby or pursuant hereto or to any other DIP Loan Document shall be binding upon each Loan Party, the estate of each Loan Party, and any trustee, other estate representative or any successor in interest of any Loan Party in any Chapter 11 Case or any subsequent case commenced under Chapter 7 of the Bankruptcy Code, and shall not be subject to Section 365 of the Bankruptcy Code. This Agreement and the other DIP Loan Documents shall be binding upon, and inure to the benefit of, the successors of the Agent and the Lenders and their respective assigns, transferees and endorsees. The Liens and DIP Liens created by this Agreement and the other DIP Loan Documents shall be and remain valid and perfected in the event of the substantive consolidation or conversion of any Chapter 11 Case or

any other bankruptcy case of any Loan Party to a case under Chapter 7 of the Bankruptcy Code or in the event of dismissal of any Chapter 11 Case or the release of any DIP Collateral from the jurisdiction of the Bankruptcy Court for any reason, without the necessity that the Agent file financing statements or otherwise perfect its Liens or DIP Liens under applicable law. This Agreement shall bind and inure to the benefit of the respective permitted successors and assigns of each of the parties; provided, that, except to the extent otherwise expressly permitted hereunder, Borrower may not assign this Agreement or any rights or duties hereunder without the Lenders' prior written consent and any prohibited assignment shall be absolutely void *ab initio*. No consent to assignment by the Lenders shall release Borrower from its DIP Facility Obligations. A Lender may assign this Agreement and the other Loan Documents and its rights and duties hereunder and thereunder pursuant to Section 13.1 and no consent or approval by any Loan Party is required in connection with any such assignment.

14. AMENDMENTS; WAIVERS.

14.1 Amendments and Waivers.

(a) No amendment, waiver or other modification of any provision of this Agreement, any other DIP Loan Document (other than the Fee Letter and the Intercreditor Agreement), and no consent with respect to any departure by Borrower or any other Loan Party therefrom, shall be effective unless the same shall be in writing and signed by the Required Lenders (or by Agent at the written request of the Required Lenders) and the Loan Parties that are party thereto and then any such waiver or consent shall be effective, but only in the specific instance and for the specific purpose for which given; provided, that no such waiver, amendment, or consent shall, unless in writing and signed by all of the Lenders directly and adversely affected thereby and all of the Loan Parties that are party thereto, do any of the following:

(i) increase the amount of or extend the expiration date of any DIP Loan Commitment of such Lender (it being understood that a waiver of any condition precedent or the waiver of any Default, Event of Default or mandatory prepayment pursuant to Section 2.4(d) (for clarity, excluding Section 2.4(d)(i)) shall not constitute an extension or increase of any DIP Loan Commitment),

(ii) postpone or delay any date fixed by this Agreement or any other DIP Loan Document for any payment of principal, interest, fees, or other amounts due hereunder or under any other DIP Loan Document (for the avoidance of doubt, mandatory prepayments pursuant to Section 2.4(d) (for clarity, excluding Section 2.4(d)(i)) may be postponed, delayed, waived or modified with the consent of Required Lenders) due to such Lender,

(iii) reduce the principal of, or the rate of interest on, any loan or other extension of credit hereunder, or reduce any fees or other amounts payable hereunder or under any other DIP Loan Document other than the Fee Letter due to such Lender (except (i) in connection with the waiver of applicability of Section 2.6(c) and (ii) in connection with the waiver of a mandatory prepayment under Section 2.4(d) (for clarity, excluding Section 2.4(d)(i)), which, in each case, shall be effective with the written consent of the Required Lenders),

(iv) amend, modify, or eliminate this Section or any provision of this Agreement providing for consent or other action by all Lenders,

(v) amend the currency in which any DIP Loans or any other DIP Facility Obligations are payable to such Lender,

(vi) [reserved],

(vii) amend, modify, or eliminate the definitions of “Required Lenders”, or “Pro Rata Share”,

(viii) other than in connection with a transaction permitted by the terms hereof or the other DIP Loan Documents, (x) release Borrower or (y) release or contractually subordinate all or substantially all of the value of the Guarantees or all or substantially all of the Collateral,

(ix) amend, modify, or eliminate any of the provisions of Section 2.4(b)(i) or (ii), or

(x) [reserved],

(b) No amendment, waiver, modification, or consent shall amend, modify, waive, or eliminate any provision of Section 15 pertaining to Agent, or any other rights or duties of Agent under this Agreement or the other DIP Loan Documents, without the written consent of Agent, Borrower, and the Required Lenders.

(c) [reserved].

(d) For the avoidance of doubt, it is understood and agreed that each Lender shall be deemed directly and adversely affected by any amendments, modifications or waivers described in clauses (iv), (vii) (subject to the proviso in clause (vii)) or (viii) of Section 14.1(a).

(e) [Intentionally Omitted].

(f) Anything in this Section 14.1 to the contrary notwithstanding, (i) any amendment, modification, elimination, waiver, consent, termination, or release of, or with respect to, any provision of this Agreement or any other DIP Loan Document that relates only to the relationship of the Lender Group among themselves, and that does not affect the rights or obligations of Parent or any Loan Party, shall not require consent by or the agreement of any Loan Party, and (ii) any amendment, waiver, modification, elimination, or consent of or with respect to any provision of this Agreement or any other DIP Loan Document may be entered into without the consent of, or over the objection of, any Defaulting Lender other than any of the matters governed by Section 14.1(a)(i) through (iii) that affect such Lender.

Notwithstanding anything to the contrary herein, with the consent of Agent at the request of Borrower (without the need to obtain any consent of any Lender), any DIP Loan Document may be amended to cure any obvious error or any error or omission of a technical nature that is jointly identified by Agent and Borrower.

14.2 Mitigation; Replacement of Certain Lenders.

(a) If any Lender requires Borrower to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 16, then such Lender shall (at the request of Borrower) use reasonable efforts to designate a different lending office for funding or booking its DIP Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 16 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 and documented out-of-pocket costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If (i) any action to be taken by the Lender Group or Agent hereunder requires the consent, authorization, or agreement of all Lenders or all Lenders affected thereby and if such action has received the consent, authorization, or agreement of the Required Lenders, all Lenders, or all Lenders affected thereby, or (ii) any Lender makes a claim for compensation under Section 16, and has declined or is unable to designate a different lending office pursuant to Section 14.2(a), then Borrower or Agent, upon at least 5 Business Days prior irrevocable notice (or such shorter period as Agent may agree), may permanently replace any Lender (and its Affiliates) that failed to give its consent, authorization, or agreement (a “Non-Consenting Lender”) or any Lender that made a claim for compensation (a “Tax Lender”) with one or more Replacement Lenders, and the Non-Consenting Lender (and its Affiliates) or Tax Lender (and its Affiliates), as applicable, shall have no right to refuse to be replaced hereunder. Such notice to replace the Non-Consenting Lender or Tax Lender, as applicable, shall specify an effective date for such replacement, which date shall not be later than 15 Business Days after the date such notice is given.

(c) Prior to the effective date of such replacement, the Non-Consenting Lender (and its Affiliates) or Tax Lender (and its Affiliates), as applicable, and each Replacement Lender shall execute and deliver an Assignment and Acceptance, subject only to the Non-Consenting Lender (and its Affiliates) or Tax Lender (and its Affiliates), as applicable, being repaid in full its share of the outstanding DIP Facility Obligations (without any premium or penalty of any kind whatsoever, but including all interest, fees and other amounts that may be due in payable in respect thereof). If the Non-Consenting Lender (or its Affiliates) or Tax Lender (or its Affiliates), as applicable, shall refuse or fail to execute and deliver any such Assignment and Acceptance prior to the effective date of such replacement, Agent may, but shall not be required to, execute and deliver such Assignment and Acceptance in the name of and on behalf of the Non-Consenting Lender (and its Affiliates) or Tax Lender (and its Affiliates), as applicable, and irrespective of whether Agent executes and delivers such Assignment and Acceptance, the Non-Consenting Lender (and its Affiliates) or Tax Lender (and its Affiliates), as applicable, shall be deemed to have executed and delivered such Assignment and Acceptance. The replacement of any Non-Consenting Lender (or its Affiliates) or Tax Lender (or its Affiliates), as applicable, shall be made in accordance with the terms of Section 13.1. Until such time as one or more Replacement Lenders shall have acquired all of the DIP Facility Obligations, the DIP Loan Commitments, and the other rights and obligations of the Non-Consenting Lender (and its Affiliates) or Tax Lender (and its Affiliates), as applicable, hereunder and under the

other DIP Loan Documents, the Non-Consenting Lender (and its Affiliates) or Tax Lender (and its Affiliates), as applicable, shall remain obligated to make the Non-Consenting Lender's (and its Affiliates) or Tax Lender's (and its Affiliates), as applicable, Pro Rata Share of DIP Loans.

14.3 No Waivers; Cumulative Remedies. No failure by Agent or any Lender to exercise any right, remedy, or option under this Agreement or any other DIP Loan Document, or delay by Agent or any Lender in exercising the same, will operate as a waiver thereof. No waiver by Agent or any Lender will be effective unless it is in writing, and then only to the extent specifically stated. No waiver by Agent or any Lender on any occasion shall affect or diminish Agent's and each Lender's rights thereafter to require strict performance by the Parent Guarantors and Borrower of any provision of this Agreement. Agent's and each Lender's rights under this Agreement and the other DIP Loan Documents will be cumulative and not exclusive of any other right or remedy that Agent or any Lender may have.

15. AGENT; THE LENDER GROUP.

15.1 Appointment and Authorization of Agent. Each Lender hereby designates and appoints Barings Finance LLC as its agent under this Agreement and the other DIP Loan Documents and each Lender hereby irrevocably authorizes Agent to execute and deliver each of the other DIP Loan Documents on its behalf and to take such other action on its behalf under the provisions of this Agreement and each other DIP Loan Document and to exercise such powers and perform such duties as are expressly delegated to Agent by the terms of this Agreement or any other DIP Loan Document, together with such powers as are reasonably incidental thereto. Agent agrees to act as agent for and on behalf of the Lenders on the conditions contained in this Section 15. Any provision to the contrary contained elsewhere in this Agreement or in any other DIP Loan Document notwithstanding, Agent shall not have any duties or responsibilities, except those expressly set forth herein or in the other DIP Loan Documents, nor shall Agent have or be deemed to have any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other DIP Loan Document or otherwise exist against Agent. Without limiting the generality of the foregoing, the use of the term "agent" in this Agreement or the other DIP Loan Documents with reference to Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only a representative relationship between independent contracting parties. Each Lender hereby further authorizes Agent to act as the secured party under each of the DIP Loan Documents that create a DIP Lien on any item of DIP Collateral. Except as expressly otherwise provided in this Agreement, Agent shall have and may use its sole discretion with respect to exercising or refraining from exercising any discretionary rights or taking or refraining from taking any actions that Agent expressly is entitled to take or assert under or pursuant to this Agreement and the other DIP Loan Documents. Without limiting the generality of the foregoing, or of any other provision of the DIP Loan Documents that provides rights or powers to Agent, Lenders agree that Agent shall have the right to exercise the following powers as long as this Agreement remains in effect: (a) maintain, in accordance with its customary business practices, ledgers and records reflecting the status of the DIP Facility Obligations, the DIP Collateral, payments and proceeds of DIP Collateral, and related matters, (b) execute or file any and all financing or similar statements or notices, amendments, renewals, supplements, documents, instruments, proofs of claim, notices and other

written agreements with respect to the DIP Loan Documents, (c) make DIP Loans, for itself or on behalf of Lenders, as provided in the DIP Loan Documents, (d) exclusively receive, apply, and distribute payments and proceeds of the DIP Collateral as provided in the DIP Loan Documents, (e) open and maintain such bank accounts and cash management arrangements as Agent deems necessary and appropriate in accordance with the DIP Loan Documents for the foregoing purposes, (f) perform, exercise, and enforce any and all other rights and remedies of the Lender Group with respect to Parent or its Subsidiaries, the DIP Facility Obligations, the DIP Collateral, or otherwise related to any of same as provided in the DIP Loan Documents, and (g) incur and pay such Lender Group Expenses as Agent may deem necessary or appropriate for the performance and fulfillment of its functions and powers pursuant to the DIP Loan Documents.

15.2 **Delegation of Duties.** Agent may execute any of its duties under this Agreement or any other DIP Loan Document by or through agents, employees or attorneys in fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. Each member of the Lender Group and each Loan Party acknowledges and agrees that any agent appointed by Agent shall be entitled to the rights and benefits of this Section 15. Agent shall not be responsible for the negligence or misconduct of any agent or attorney in fact that it selects as long as such selection was made without gross negligence or willful misconduct.

15.3 **Liability of Agent.** None of the Agent-Related Persons shall (a) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other DIP Loan Document or the transactions contemplated hereby (except for its own gross negligence or willful misconduct), or (b) be responsible in any manner to any of the Lenders for any recital, statement, representation or warranty made by Parent or any of its Subsidiaries or Affiliates, or any officer or director thereof, contained in this Agreement or in any other DIP Loan Document, or in any certificate, report, statement or other document referred to or provided for in, or received by Agent under or in connection with, this Agreement or any other DIP Loan Document, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other DIP Loan Document, or for any failure of Parent or its Subsidiaries or any other party to any DIP Loan Document to perform its obligations hereunder or thereunder. No Agent-Related Person shall be under any obligation to any Lenders to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other DIP Loan Document, or to inspect the books and records or properties of Parent or its Subsidiaries.

15.4 **Reliance by Agent.** Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, telefacsimile or other electronic method of transmission, telex or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent, or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to Borrower or counsel to any Lender), independent accountants and other experts selected by Agent. Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other DIP Loan Document unless Agent shall first receive such advice or concurrence of the Lenders as it deems appropriate and until such instructions are received, Agent shall act, or refrain from acting, as it deems advisable. If Agent so requests, it shall first be indemnified to its reasonable satisfaction by the Lenders against any and all liability

and expense that may be incurred by it by reason of taking or continuing to take any such action. Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other DIP Loan Document in accordance with a request or consent of the Required Lenders and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the Lenders.

15.5 Notice of Default or Event of Default. Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, except with respect to defaults in the payment of principal, interest, fees, and expenses required to be paid to Agent for the account of the Lenders and, except with respect to Events of Default of which Agent has actual knowledge, unless Agent shall have received written notice from a Lender or Borrower referring to this Agreement, describing such Default or Event of Default, and stating that such notice is a “notice of default.” Agent promptly will notify the Lenders of its receipt of any such notice or of any Event of Default of which Agent has actual knowledge. If any Lender obtains actual knowledge of any Event of Default, such Lender promptly shall notify the other Lenders and Agent of such Event of Default. Each Lender shall be solely responsible for giving any notices to its Participants, if any. Subject to Section 15.4, Agent shall take such action with respect to such Default or Event of Default as may be requested by the Required Lenders in accordance with Section 9; provided, that unless and until Agent has received any such request, Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable.

15.6 Credit Decision. Each Lender acknowledges that none of the Agent-Related Persons has made any representation or warranty to it, and that no act by Agent hereinafter taken, including any review of the affairs of Parent and its Subsidiaries or Affiliates, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender. Each Lender represents to Agent that it has, independently and without reliance upon any Agent-Related Person and based on such due diligence, documents and information as it has deemed appropriate, made its own appraisal of, and investigation into, the business, prospects, operations, property, financial and other condition and creditworthiness of Borrower or any other Person party to a DIP Loan Document, and all applicable bank regulatory laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to Borrower. Each Lender also represents that it will, independently and without reliance upon any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other DIP Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of Borrower or any other Person party to a DIP Loan Document. Except for notices, reports, and other documents expressly herein required to be furnished to the Lenders by Agent, Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of Borrower or any other Person party to a DIP Loan Document that may come into the possession of any of the Agent-Related Persons. Each Lender acknowledges that Agent does not have any duty or responsibility, either initially or on a continuing basis (except to the extent, if any, that is expressly specified herein) to provide such Lender with any credit or other information with respect to Borrower, its Affiliates or any of its business, legal, financial or other affairs, and

irrespective of whether such information came into Agent's or its Affiliates' or representatives' possession before or after the date on which such Lender became a party to this Agreement.

15.7 **Costs and Expenses; Indemnification.** Agent may incur and pay Lender Group Expenses to the extent Agent reasonably deems necessary or appropriate for the performance and fulfillment of its functions, powers, and obligations pursuant to the DIP Loan Documents, including court costs, attorneys' fees and expenses, fees and expenses of financial accountants, advisors, consultants, and appraisers, costs of collection by outside collection agencies, auctioneer fees and expenses, and costs of security guards or insurance premiums paid to maintain the DIP Collateral, whether or not Borrower is obligated to reimburse Agent or Lenders for such expenses pursuant to this Agreement or otherwise. Agent is authorized and directed to deduct and retain sufficient amounts from payments or proceeds of the DIP Collateral received by Agent to reimburse Agent for such out-of-pocket costs and expenses prior to the distribution of any amounts to Lenders. In the event Agent is not reimbursed for such costs and expenses by Parent or its Subsidiaries, each Lender hereby agrees that it is and shall be obligated to pay to Agent such Lender's ratable thereof. Whether or not the transactions contemplated hereby are consummated, each of the Lenders, on a ratable basis, shall indemnify and defend the Agent-Related Persons (to the extent not reimbursed by or on behalf of Borrower and without limiting the obligation of Borrower to do so) from and against any and all Indemnified Liabilities; provided, that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities resulting solely from such Person's gross negligence or willful misconduct nor shall any Lender be liable for the obligations of any Defaulting Lender in failing to make an extension of credit hereunder. Without limitation of the foregoing, each Lender shall reimburse Agent upon demand for such Lender's ratable share of any costs or out of pocket expenses (including attorneys, accountants, advisors, and consultants fees and expenses) incurred by Agent in connection with the preparation, execution, delivery, administration, modification, amendment, or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement or any other DIP Loan Document to the extent that Agent is not reimbursed for such expenses by or on behalf of Borrower. The undertaking in this Section shall survive the payment of all DIP Facility Obligations hereunder and the resignation or replacement of Agent.

15.8 **Agents in Individual Capacity.** Barings Finance LLC and its Affiliates may make loans to, acquire Equity Interests in, and generally engage in any kind of banking, trust, financial advisory, underwriting, or other business with Parent and its Subsidiaries and Affiliates and any other Person party to any DIP Loan Document as though it were not Agent hereunder, and, in each case, without notice to or consent of the other members of the Lender Group. The other members of the Lender Group acknowledge that, pursuant to such activities, Barings Finance LLC or its Affiliates may receive information regarding Parent or its Affiliates or any other Person party to any DIP Loan Documents that is subject to confidentiality obligations in favor of Parent or such other Person and that prohibit the disclosure of such information to the Lenders, and the Lenders acknowledge that, in such circumstances (and in the absence of a waiver of such confidentiality obligations, which waiver Agent will use its reasonable best efforts to obtain), Agent shall not be under any obligation to provide such information to them. The terms "Lender" and "Lenders" include Barings Finance LLC in its individual capacity.

15.9 Successor Agent. Agent may resign as Agent upon 30 days (10 days if an Event of Default has occurred and is continuing) prior written notice to the Lenders (unless such notice or applicable notice period is waived by the Required Lenders). If Agent resigns under this Agreement, the Required Lenders shall be entitled, to appoint a successor Agent for the Lenders. If no successor Agent is appointed prior to the effective date of the resignation of Agent, Agent may appoint, after consulting with the Lenders, a successor Agent. If Agent has materially breached or failed to perform any material provision of this Agreement or of applicable law, the Required Lenders may agree in writing to remove and replace Agent with a successor Agent from among the Lenders. In any such event, upon the acceptance of its appointment as successor Agent hereunder, such successor Agent shall succeed to all the rights, powers, and duties of the retiring Agent and the term “Agent” shall mean such successor Agent and the retiring Agent’s appointment, powers, and duties as Agent shall be terminated. After any retiring Agent’s resignation hereunder as Agent, the provisions of this Section 15 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement. If no successor Agent has accepted appointment as Agent by the date which is 30 days (10 days if an Event of Default has occurred and is continuing) following a retiring Agent’s notice of resignation, the retiring Agent’s resignation shall nevertheless thereupon become effective and the Lenders shall perform all of the duties of Agent hereunder until such time, if any, as the Lenders appoint a successor Agent as provided for above.

15.10 Lender in Individual Capacity. Any Lender and its respective Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, provide bank products to, acquire Equity Interests in and generally engage in any kind of banking, trust, financial advisory, underwriting, or other business with Parent and its Subsidiaries and Affiliates and any other Person party to any DIP Loan Documents as though such Lender were not a Lender hereunder without notice to or consent of the other members of the Lender Group. The other members of the Lender Group acknowledge that, pursuant to such activities, such Lender and its respective Affiliates may receive information regarding Parent or its Affiliates or any other Person party to any DIP Loan Documents that is subject to confidentiality obligations in favor of Parent or such other Person and that prohibit the disclosure of such information to the Lenders, and the Lenders acknowledge that, in such circumstances (and in the absence of a waiver of such confidentiality obligations, which waiver such Lender will use its reasonable best efforts to obtain), such Lender shall not be under any obligation to provide such information to them.

15.11 Collateral Matters.

(a) The Lenders hereby irrevocably authorize Agent to release any DIP Lien on any DIP Collateral (i) upon the termination of the DIP Loan Commitments and payment and satisfaction in full by Borrower of all of the DIP Facility Obligations, (ii) constituting property being sold or disposed of (to Persons other than Loan Parties) if a release is required or desirable in connection therewith and if a Responsible Officer of Borrower certifies in writing to Agent that the sale or disposition is permitted under Section 6.4 (and Agent may rely conclusively on any such certificate, without further inquiry), or (iii) in connection with a credit bid or purchase authorized under this Section 15.11. Notwithstanding anything to the contrary in the foregoing, to the extent property is sold or disposed of pursuant to and in accordance with Section 6.4 (to Persons other than Loan Parties), the DIP Lien on such sold or disposed DIP Collateral shall

automatically terminate. The Loan Parties and the Lenders hereby irrevocably authorize Agent, based upon the instruction of the Required Lenders, to (a) consent to, credit bid or purchase (either directly or indirectly through one or more entities) all or any portion of the DIP Collateral at any sale thereof conducted under the provisions of the Bankruptcy Code, including Section 363 of the Bankruptcy Code and any similar laws in any other jurisdictions in which a Loan Party is subject, (b) credit bid or purchase (either directly or indirectly through one or more entities) all or any portion of the DIP Collateral at any sale or other disposition thereof conducted under the provisions of the Code, including pursuant to Sections 9-610 or 9-620 of the Code, or (c) credit bid or purchase (either directly or indirectly through one or more entities) all or any portion of the DIP Collateral at any other sale or foreclosure conducted or consented to by Agent in accordance with applicable law in any judicial action or proceeding or by the exercise of any legal or equitable remedy. In connection with any such credit bid or purchase, (i) the DIP Facility Obligations owed to the Lenders shall be entitled to be, and shall be, credit bid on a ratable basis (with DIP Facility Obligations with respect to contingent or unliquidated claims being estimated for such purpose if the fixing or liquidation thereof would not impair or unduly delay the ability of Agent to credit bid or purchase at such sale or other disposition of the DIP Collateral and, if such contingent or unliquidated claims cannot be estimated without impairing or unduly delaying the ability of Agent to credit bid at such sale or other disposition, then such claims shall be disregarded, not credit bid, and not entitled to any interest in the DIP Collateral that is the subject of such credit bid or purchase) and the Lenders whose DIP Facility Obligations are credit bid shall be entitled to receive interests (ratably based upon the proportion of their DIP Facility Obligations credit bid in relation to the aggregate amount of DIP Facility Obligations so credit bid) in the DIP Collateral that is the subject of such credit bid or purchase (or in the Equity Interests of the any entities that are used to consummate such credit bid or purchase), and (ii) Agent, based upon the instruction of the Required Lenders, may accept non-cash consideration, including debt and equity securities issued by any entities used to consummate such credit bid or purchase and in connection therewith Agent may reduce the DIP Facility Obligations owed to the Lenders (ratably based upon the proportion of their DIP Facility Obligations credit bid in relation to the aggregate amount of DIP Facility Obligations so credit bid) based upon the value of such non-cash consideration. Except as provided above, Agent will not execute and deliver a release of any DIP Lien on any DIP Collateral without the prior written authorization of (y) if the release is of all or substantially all of the DIP Collateral, all of the Lenders, or (z) otherwise, the Required Lenders. Upon request by Agent or Borrower at any time, the Lenders will confirm in writing Agent's authority to release any such DIP Liens on particular types or items of DIP Collateral pursuant to this Section 15.11; provided, that (1) anything to the contrary contained in any of the DIP Loan Documents notwithstanding, Agent shall not be required to execute any document or take any action necessary to evidence such release on terms that, in Agent's reasonable opinion, could expose Agent to liability or create any obligation or entail any consequence other than the release of such DIP Lien without recourse, representation, or warranty, and (2) such release shall not in any manner discharge, affect, or impair the DIP Facility Obligations or any DIP Liens (other than those expressly released) upon (or obligations of Borrower in respect of) any and all interests retained by Borrower, including, the proceeds of any sale, all of which shall continue to constitute part of the DIP Collateral.

(b) Agent shall have no obligation whatsoever to any of the Lenders (i) to verify or assure that the DIP Collateral exists or is owned by Parent or its Subsidiaries or is cared

for, protected, or insured or has been encumbered, (ii) to verify or assure that Agent's DIP Liens have been properly or sufficiently or lawfully created, perfected, protected, or enforced or are entitled to any particular priority, (iii) to verify or assure that any particular items of DIP Collateral meet the eligibility criteria applicable in respect thereof, (iv) to impose, maintain, increase, reduce, implement, or eliminate any particular reserve hereunder or to determine whether the amount of any reserve is appropriate or not, or (v) to exercise at all or in any particular manner or under any duty of care, disclosure or fidelity, or to continue exercising, any of the rights, authorities and powers granted or available to Agent pursuant to any of the DIP Loan Documents, it being understood and agreed that in respect of the DIP Collateral, or any act, omission, or event related thereto, subject to the terms and conditions contained herein, Agent may act in any manner it may deem appropriate, in its sole discretion given Agent's own interest in the DIP Collateral in its capacity as one of the Lenders and that Agent shall not have any other duty or liability whatsoever to any Lender as to any of the foregoing, except as otherwise expressly provided herein.

15.12 Restrictions on Actions by Lenders; Sharing of Payments.

(a) Each of the Lenders agrees that it shall not, without the express written consent of Agent, set off against the DIP Facility Obligations, any amounts owing by such Lender to Parent or its Subsidiaries or any deposit accounts of Parent or its Subsidiaries now or hereafter maintained with such Lender. Each of the Lenders further agrees that it shall not, unless specifically requested to do so in writing by Agent, take or cause to be taken any action, including, the commencement of any legal or equitable proceedings to enforce any DIP Loan Document against Borrower or any Guarantor or to foreclose any DIP Lien on, or otherwise enforce any security interest in, any of the DIP Collateral.

(b) If, at any time or times any Lender shall receive (i) by payment, foreclosure, setoff, or otherwise, any proceeds of DIP Collateral or any payments with respect to the DIP Facility Obligations, except for any such proceeds or payments received by such Lender from Agent pursuant to the terms of this Agreement, or (ii) payments from Agent in excess of such Lender's Pro Rata Share of all such distributions by Agent, such Lender promptly shall (A) turn the same over to Agent, in kind, and with such endorsements as may be required to negotiate the same to Agent, or in immediately available funds, as applicable, for the account of all of the Lenders and for application to the DIP Facility Obligations in accordance with the applicable provisions of this Agreement, or (B) purchase, without recourse or warranty, an undivided interest and participation in the DIP Facility Obligations owed to the other Lenders so that such excess payment received shall be applied ratably as among the Lenders in accordance with their Pro Rata Shares; provided, that to the extent that such excess payment received by the purchasing party is thereafter recovered from it, those purchases of participations shall be rescinded in whole or in part, as applicable, and the applicable portion of the purchase price paid therefor shall be returned to such purchasing party, but without interest except to the extent that such purchasing party is required to pay interest in connection with the recovery of the excess payment.

15.13 Agency for Perfection. Agent hereby appoints each other Lender as its agent (and each Lender hereby accepts such appointment) for the purpose of perfecting Agent's DIP Liens in assets which, in accordance with Article 8 or Article 9, as applicable, of the Code can be

perfected by possession or control. Should any Lender obtain possession or control of any such DIP Collateral, such Lender shall notify Agent thereof, and, promptly upon Agent's request therefor shall deliver possession or control of such DIP Collateral to Agent or in accordance with Agent's instructions.

15.14 **Payments by Agent to the Lenders.** All payments to be made by Agent to the Lenders shall be made as soon as reasonably practicable and, in any event, within two (2) Business Days of receipt from Borrower in immediately available funds, by bank wire transfer of immediately available funds pursuant to such wire transfer instructions as each party may designate for itself by written notice to Agent. Concurrently with each such payment, Agent shall identify whether such payment (or any portion thereof) represents principal, premium, fees, or interest of the DIP Facility Obligations.

15.15 **Concerning the Collateral and Related Loan Documents.** Each member of the Lender Group authorizes and directs Agent to enter into this Agreement and the other DIP Loan Documents. Each member of the Lender Group agrees that any action taken by Agent in accordance with the terms of this Agreement or the other DIP Loan Documents relating to the DIP Collateral and the exercise by Agent of its powers set forth therein or herein, together with such other powers that are reasonably incidental thereto, shall be binding upon all of the Lenders.

15.16 **[Intentionally Omitted].**

15.17 **Several Obligations; No Liability.** Notwithstanding that certain of the DIP Loan Documents now or hereafter may have been or will be executed only by or in favor of Agent in its capacity as such, and not by or in favor of the Lenders, any and all obligations on the part of Agent (if any) to make any credit available hereunder shall constitute the several (and not joint) obligations of the respective Lenders on a ratable basis, according to their respective DIP Loan Commitments, to make an amount of such credit not to exceed, in principal amount, at any one time outstanding, the amount of their respective DIP Loan Commitments. Nothing contained herein shall confer upon any Lender any interest in, or subject any Lender to any liability for, or in respect of, the business, assets, profits, losses, or liabilities of any other Lender. Each Lender shall be solely responsible for notifying its Participants of any matters relating to the DIP Loan Documents to the extent any such notice may be required, and no Lender shall have any obligation, duty, or liability to any Participant of any other Lender. Except as provided in Section 15.7, no member of the Lender Group shall have any liability for the acts of any other member of the Lender Group. No Lender shall be responsible to Borrower or any other Person for any failure by any other Lender to fulfill its obligations to make credit available hereunder, nor to advance for such Lender or on its behalf, nor to take any other action on behalf of such Lender hereunder or in connection with the financing contemplated herein.

15.18 **[Reserved].**

16. WITHHOLDING TAXES.

16.1 **Payments.** All payments under the DIP Loan Documents by or on account of any obligation of any Loan Party will be made free and clear of, and without deduction or withholding for, any present or future Taxes, except as required by applicable law. If any Taxes

are required to be deducted or withheld from any payment by or on account of any obligation of any Loan Party under any DIP Loan Document, Borrower shall deduct, withhold or pay (as the case may be) the full amount of such Taxes to the relevant Governmental Authority and, if such Taxes are Indemnified Taxes, the amount payable by the Loan Parties shall be increased as is necessary so that after withholding or deduction for or on account of such Indemnified Taxes, the amount received by the applicable Recipient will not be less than the amount the applicable Recipient would have received had no such withholding or deduction in respect of Indemnified Taxes been made. Borrower will furnish to Agent promptly after the date the payment of any Tax is due pursuant to applicable law, certified copies of tax returns and receipts (or such other similar documents as may be available) evidencing such payment by Borrower, or other evidence of payment reasonably satisfactory to Agent. Borrower agrees to pay any present or future stamp, value added, court or documentary, intangible, recording, filing or similar taxes or any other excise or property taxes, charges, or similar levies, other than Excluded Taxes or Taxes resulting from an assignment ("Other Taxes") that arise from any payment made hereunder or from the execution, delivery, performance, recordation, registration, from the receipt or perfection of a security interest under, or filing of, or otherwise with respect to this Agreement or any other DIP Loan Document within 10 days after receipt of demand therefor. The Loan Parties shall jointly and severally indemnify each Indemnified Person (as defined in Section 10.3) (collectively a "Tax Indemnitee") for the full amount of Indemnified Taxes or Other Taxes arising in connection with this Agreement or any other DIP Loan Document (including, without limitation, any Indemnified Taxes or Other Taxes imposed or asserted on, or attributable to, amounts payable under this Section 16) imposed on, or paid by, or required to be withheld on payments to, such Tax Indemnitee and all reasonable and documented fees and disbursements of attorneys, experts or consultants, and all other reasonable costs and expenses actually incurred in connection therewith or in connection with the enforcement of this indemnification, as and when they are incurred and irrespective of whether suit is brought, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to Borrower by a Lender (with a copy to Agent), or by Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error. The obligations of Borrower and Loan Parties under this Section 16 shall survive the termination of this Agreement and the repayment of the Loans.

16.2 Exemptions.

(a) Each Lender and Agent agrees to deliver to Agent and Borrower (and each Participant agrees to deliver to the Originating Lender), two original copies of the following forms, as applicable, before receiving its first payment under this Agreement, but only to the extent such Lender, Participant or Agent is legally entitled to deliver such forms:

(i) if such Lender or Participant or Agent is a Foreign Lender entitled to claim an exemption from United States withholding tax pursuant to the portfolio interest exception, (A) a statement of the Lender or Participant or Agent, signed under penalty of perjury, that it is not a (I) a "bank" as described in Section 881(c)(3)(A) of the IRC, (II) a 10% shareholder of Borrower (within the meaning of Section 871(h)(3)(B) of the IRC), or (III) a controlled foreign corporation related to Borrower within the meaning of Section 864(d)(4) of

the IRC, and (B) a properly completed and executed IRS Form W-8BEN-E or Form W-8IMY (with proper attachments);

(ii) if such Lender or Participant or Agent is a Foreign Lender entitled to claim an exemption from, or a reduction of, withholding tax under a United States tax treaty, a properly completed and executed copy of IRS Form W-8BEN-E;

(iii) if such Lender or Participant or Agent is a Foreign Lender entitled to claim that interest paid under this Agreement is exempt from United States withholding tax because it is effectively connected with a United States trade or business of such Lender, a properly completed and executed copy of IRS Form W-8ECI;

(iv) if such Lender or Participant or Agent is a Foreign Lender entitled to claim that interest paid under this Agreement is exempt from United States withholding Tax because such Lender or Participant or Agent serves as an intermediary, a properly completed and executed copy of IRS Form W-8IMY (with proper attachments); or

(v) if such Lender or Participant or Agent is a U.S. Person, a properly completed and executed copy of any other form or forms, including IRS Form W-9, as may be required under the IRC as a condition to exemption from, or reduction of, United States withholding or backup withholding Tax.

(b) Each Lender or Participant or Agent shall provide new forms (or successor forms) upon the expiration or obsolescence of any previously delivered forms, or if any such form becomes inaccurate in any respect, and promptly notify Agent and Borrower, or the Originating Lender in the case of a Participant, of any change in circumstances which would modify or render invalid any claimed exemption or reduction.

(c) If a Lender or Participant or Agent is entitled to claim an exemption or reduction from withholding Tax in a jurisdiction other than the United States, such Lender or such Agent agrees with and in favor of Agent and Borrower or the Participant agrees with and in favor of the Originating Lender, to deliver to Agent and Borrower, or the Originating Lender in the case of a Participant, any such form or forms, as may be required under the laws of such jurisdiction as a condition to exemption from, or reduction of, foreign withholding or backup withholding tax before receiving its first payment under this Agreement, but only if such Lender or such Participant or such Agent is legally entitled to deliver such forms. Nothing in this Section 16.2 shall require a Lender or Participant or Agent to disclose any information or provide documentation (i) that in Lender's reasonable judgment such completion, execution or submission would subject Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender or (ii) that it deems to be confidential (including without limitation, its tax returns). Each Lender and each Participant and each Agent shall provide new forms (or successor forms) upon the expiration or obsolescence of any previously delivered forms and to promptly notify Agent and Borrower, or the Originating Lender in the case of a Participant, of any change in circumstances which would modify or render invalid any claimed exemption or reduction.

(d) If a Lender or Participant claims exemption from, or reduction of, withholding Tax and such Lender or Participant sells, assigns, grants a participation in, or otherwise transfers all or part of the DIP Facility Obligations of Borrower to such Lender or Participant, such Lender or Participant agrees to notify Agent and Borrower (or, in the case of a sale of a participation interest, to the Lender granting the participation) of the percentage amount in which it is no longer the beneficial owner of DIP Facility Obligations of Borrower to such Lender or Participant. To the extent of such percentage amount, Agent and Borrower will treat such Lender's or the Originating Lender will treat such Participant's documentation provided pursuant to Section 16.2(a), 16.2(c) or 16.2(e) as no longer valid. With respect to such percentage amount, such Participant or Assignee shall provide new documentation to Agent and Borrower, or the Originating Lender in the case of a Participant, pursuant to Section 16.2(a), 16.2(c) or 16.2(e), if applicable. Borrower agrees that each Participant shall be entitled to the benefits of this Section 16 with respect to its participation in any portion of the DIP Loan Commitments and the DIP Facility Obligations so long as such Participant complies with the obligations set forth in this Section 16 with respect thereto.

(e) If a payment made to a Foreign Lender or Agent would be subject to United States federal withholding Tax imposed by FATCA if such Foreign Lender or Agent fails to comply with the applicable reporting requirements of FATCA, such Foreign Lender or Agent shall deliver to Agent and Borrower any documentation under any requirement of law (including as prescribed by Section 1471(b)(3)(C)(i) of the IRC) or reasonably requested by Agent or Borrower sufficient for Agent or Borrower to comply with their obligations under FATCA and to determine whether such Foreign Lender or Agent has complied with such applicable reporting requirements. Solely for purposes of this paragraph (e), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

16.3 **Reductions.**

(a) If a Lender or a Participant is entitled to a reduction in the applicable withholding Tax, Agent (or, in the case of a Participant, the Lender granting the participation) or Borrower may withhold from any payment to such Lender or such Participant an amount equivalent to the applicable withholding Tax after taking into account such reduction. If the forms or other documentation required by Section 16.2(a), 16.2(c) or 16.2(e) are not delivered to Agent (or, in the case of a Participant, to the Lender granting the participation), then Agent (or, in the case of a Participant, the Lender granting the participation) or Borrower may withhold from any payment to such Lender or such Participant not providing such forms or other documentation an amount equivalent to the applicable withholding tax as required by applicable law.

(b) If the IRS or any other Governmental Authority of the United States or other jurisdiction asserts a claim that Agent (or, in the case of a Participant, to the Lender granting the participation) did not properly withhold Tax from amounts paid to or for the account of any Lender or any Participant due to a failure on the part of the Lender or any Participant (because the appropriate form was not delivered, was not properly executed, or because such Lender failed to notify Agent (or such Participant failed to notify the Lender granting the participation) of a change in circumstances which rendered the exemption from, or reduction of, withholding tax ineffective, or for any other reason) such Lender shall indemnify and hold Agent

harmless (or, in the case of a Participant, such Participant shall indemnify and hold Agent and the Lender granting the participation harmless) for all amounts paid, directly or indirectly, by Agent (or, in the case of a Participant, to the Lender granting the participation), as Tax or otherwise, including penalties and interest, and including any taxes imposed by any jurisdiction on the amounts payable to Agent (or, in the case of a Participant, to the Lender granting the participation only) under this Section 16, together with all costs and expenses (including attorneys' fees and expenses). The obligation of the Lenders and the Participants under this subsection shall survive the payment of all DIP Facility Obligations and the resignation or replacement of Agent.

16.4 **Refunds.** If Agent or a Lender or Participant determines, in its sole discretion, that it has received a refund of any Indemnified Taxes with respect to which Borrower has paid additional amounts pursuant to this Section 16, so long as no Default or Event of Default has occurred and is continuing, it shall pay over such refund to Borrower (but only to the extent of payments made, or additional amounts paid, by Borrower under this Section 16 with respect to Indemnified Taxes giving rise to such a refund), net of all out-of-pocket expenses (including Taxes) of Agent or such Lender or such Participant and without interest (other than any interest paid by the applicable Governmental Authority with respect to such a refund); provided, that Borrower, upon the request of Agent or such Lender or such Participant, agrees to repay the amount paid over to Borrower (plus any penalties, interest or other charges, imposed by the applicable Governmental Authority, other than such penalties, interest or other charges imposed as a result of the willful misconduct, bad faith or gross negligence of Agent or such Lender or such Participant hereunder) to Agent or such Lender or such Participant in the event Agent or such Lender or such Participant is required to repay such refund to such Governmental Authority. Notwithstanding anything in this Agreement to the contrary, this Section 16 shall not be construed to require Agent or any Lender or any Participant to make available its tax returns (or any other confidential information) to Borrower or any other Person.

17. GENERAL PROVISIONS.

17.1 **Effectiveness.** Subject to the entry of the DIP Orders, this Agreement shall be binding and deemed effective when executed by Parent, Borrower, Agent, and each Lender whose signature is provided for on the signature pages hereof.

17.2 **Section Headings.** Headings and numbers have been set forth herein for convenience only. Unless the contrary is compelled by the context, everything contained in each Section applies equally to this entire Agreement.

17.3 **Interpretation.** Neither this Agreement nor any uncertainty or ambiguity herein shall be construed against the Lender Group or Parent or Borrower, whether under any rule of construction or otherwise. On the contrary, this Agreement has been reviewed by all parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to accomplish fairly the purposes and intentions of all parties hereto.

17.4 **Severability of Provisions.** Each provision of this Agreement shall be severable from every other provision of this Agreement for the purpose of determining the legal enforceability of any specific provision.

17.5 **[Intentionally Omitted]**.

17.6 **Debtor-Creditor Relationship.** The relationship between the Lenders and Agent, on the one hand, and the Loan Parties, on the other hand, is solely that of creditor and debtor. No member of the Lender Group has (or shall be deemed to have) any fiduciary relationship or duty to any Loan Party arising out of or in connection with the DIP Loan Documents or the transactions contemplated thereby, and there is no agency or joint venture relationship between the members of the Lender Group, on the one hand, and the Loan Parties, on the other hand, by virtue of any DIP Loan Document or any transaction contemplated therein.

17.7 **Counterparts; Electronic Execution.** This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Agreement. Delivery of an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission shall be equally as effective as delivery of an original executed counterpart of this Agreement. Any party delivering an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission also shall deliver an original executed counterpart of this Agreement but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement. The foregoing shall apply to each other DIP Loan Document mutatis mutandis.

17.8 **Revival and Reinstatement of DIP Facility Obligations; Certain Waivers.** If any member of the Lender Group repays, refunds, restores, or returns in whole or in part, any payment or property (including any proceeds of DIP Collateral) previously paid or transferred to such member of the Lender Group in full or partial satisfaction of any DIP Facility Obligation or on account of any other obligation of any Loan Party under any DIP Loan Document, because the payment, transfer, or the incurrence of the obligation so satisfied is asserted or declared to be void, voidable, or otherwise recoverable under any law relating to creditors' rights, including provisions of the Bankruptcy Code relating to fraudulent transfers, preferences, or other voidable or recoverable obligations or transfers (each, a "Voidable Transfer"), or because such member of the Lender Group elects to do so on the reasonable advice of its counsel in connection with a claim that the payment, transfer, or incurrence is or may be a Voidable Transfer, then, as to any such Voidable Transfer, or the amount thereof that such member of the Lender Group elects to repay, restore, or return (including pursuant to a settlement of any claim in respect thereof), and as to all reasonable costs, expenses, and attorneys' fees of such member of the Lender Group related thereto, the liability of the Loan Parties with respect to the amount or property paid, refunded, restored, or returned will automatically and immediately be revived, reinstated, and restored and will exist as if such Voidable Transfer had never been made. This Section 17.8 shall survive the termination of this Agreement and the repayment in full of the DIP Loans and other DIP Facility Obligations.

17.9 **Confidentiality.**

(a) Agent and Lenders each individually (and not jointly or jointly and severally) agree that information regarding Parent and its Subsidiaries, their operations, assets, and existing and contemplated business plans ("Confidential Information") shall be treated by

Agent and the Lenders in a confidential manner, and shall not be disclosed by Agent and the Lenders to Persons who are not parties to this Agreement, except: (i) to attorneys for and other advisors, accountants, auditors, and consultants to any member of the Lender Group and to employees, directors and officers of any member of the Lender Group (the Persons in this clause (i), “Lender Group Representatives”) on a “need to know” basis in connection with this Agreement and the transactions contemplated hereby and on a confidential basis, (ii) to Subsidiaries and Affiliates of any member of the Lender Group, provided that any such Subsidiary or Affiliate shall have been informed of the confidential nature of the Confidential Information and instructed to keep such information confidential in accordance with the terms of this Section 17.9, (iii) as may be required or requested by regulatory authorities so long as such authorities are informed of the confidential nature of such information, (iv) as may be required by statute, decision, or judicial or administrative order, rule, or regulation; provided that (x) prior to any disclosure under this clause (iv), the disclosing party agrees to provide Borrower with prior notice thereof, to the extent that it is practicable to do so and to the extent that the disclosing party is permitted to provide such prior notice to Borrower pursuant to the terms of the applicable statute, decision, or judicial or administrative order, rule, or regulation and (y) any disclosure under this clause (iv) shall be limited to the portion of the Confidential Information as may be required by such statute, decision, or judicial or administrative order, rule, or regulation, (v) as may be agreed to in advance in writing by Borrower, (vi) as requested by any Governmental Authority or self-regulatory authority, provided, that, (x) prior to any disclosure under this clause (vi) (except in the case of routine reviews, audits and examinations) the disclosing party agrees to provide Borrower with prior written notice thereof, to the extent that it is practicable to do so and to the extent that the disclosing party is permitted to provide such prior written notice to Borrower pursuant to the terms of the applicable request and by law and (y) any disclosure under this clause (vi) shall be limited to the portion of the Confidential Information as may be requested by such Governmental Authority or self-regulatory authority pursuant to such applicable request, (vii) as required by any Governmental Authority pursuant to any subpoena or other legal process, provided, that, (x) prior to any disclosure under this clause (vii) the disclosing party agrees to provide Borrower with prior written notice thereof, to the extent that it is practicable to do so and to the extent that the disclosing party is permitted to provide such prior written notice to Borrower pursuant to the terms of the subpoena or other legal process and (y) any disclosure under this clause (vii) shall be limited to the portion of the Confidential Information as may be required by such Governmental Authority pursuant to such subpoena or other legal process, (viii) as to any such information that is or becomes generally available to the public (other than as a result of prohibited disclosure by Agent or the Lenders or the Lender Group Representatives), (ix) in connection with any assignment, participation or pledge of any Lender’s interest under this Agreement, provided that prior to receipt of Confidential Information any such assignee, participant, or pledgee (other than the Federal Reserve Bank or any central bank in connection with a pledge thereto pursuant to Section 13.1(g)) shall have agreed in writing to receive such Confidential Information either subject to the terms of this Section 17.9 or pursuant to confidentiality requirements substantially similar to those contained in this Section 17.9 (and such Person may disclose such Confidential Information to Persons employed or engaged by them as described in clause (i) above), (x) in connection with any litigation or other adversary proceeding involving parties hereto which such litigation or adversary proceeding involves claims related to the rights or duties of such parties under this Agreement or the other DIP Loan Documents; provided, that, prior to any disclosure

to any Person (other than any Loan Party, Agent, any Lender, any of their respective Affiliates, or their respective counsel) under this clause (x) with respect to litigation involving any Person (other than Borrower, Agent, any Lender, any of their respective Affiliates, or their respective counsel), the disclosing party agrees to provide Borrower with prior written notice thereof, (xi) to exercise of any secured creditor remedy under this Agreement or under any other DIP Loan Document, and (xii) for purposes of establishing a “due diligence” or similar defense in any legal proceeding.

(b) Anything in this Agreement to the contrary notwithstanding, Agent or any Lender may disclose information concerning the terms and conditions of this Agreement and the other DIP Loan 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 Loan Parties and the DIP Loan Commitments provided hereunder in any “tombstone” or other advertisements, on its website or in other marketing materials of Agent or any Lender.

17.10 Survival. All representations and warranties made by the Loan Parties in the DIP Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other DIP Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the DIP Loan Documents and the making of any DIP Loans regardless of any investigation made by any such other party or on its behalf and notwithstanding that Agent or any Lender may have had notice or knowledge of any Default or Event of Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of, or any accrued interest on, any DIP Loan or any fee or any other amount payable under this Agreement is outstanding or unpaid and so long as the DIP Loan Commitments have not expired or been terminated.

17.11 Patriot Act. Each Lender that is subject to the requirements of the Patriot Act hereby notifies Borrower that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies Borrower, which information includes the name and address of Borrower and other information that will allow such Lender to identify Borrower in accordance with the Patriot Act. In addition, if Agent is required by law or regulation or internal policies to do so, it shall have the right to periodically conduct (a) Patriot Act searches, OFAC/PEP searches, and customary individual background checks for the Loan Parties and (b) OFAC/PEP searches and customary individual background checks for the Loan Parties’ senior management and key principals, and Borrower agrees to cooperate in respect of the conduct of such searches and further agrees that the reasonable costs and charges for such searches shall constitute Lender Group Expenses hereunder and be for the account of Borrower.

17.12 Integration. This Agreement, together with the other DIP Loan Documents, reflects the entire understanding of the parties with respect to the transactions contemplated hereby and shall not be contradicted or qualified by any other agreement, oral or written, before the date hereof.

17.13 [Intentionally Omitted].

17.14 **Judgment Currency.** If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other DIP Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of Borrower in respect of any such sum due from it to Agent or any Lender hereunder or under the other DIP Loan Documents shall, notwithstanding any judgment in a currency (the “Judgment Currency”) other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the “Agreement Currency”), be discharged only to the extent that on the Business Day following receipt by Agent or such Lender, as the case may be, of any sum adjudged to be so due in the Judgment Currency, Agent or such Lender, as the case may be, may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to Agent or any Lender from Borrower in the Agreement Currency, Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify Agent or such Lender, as the case may be, against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to Agent or any Lender in such currency, Agent or such Lender, as the case may be, agrees to return the amount of any excess to Borrower (or to any other Person who may be entitled thereto under applicable law).

17.15 **No Setoff.** All payments made by Borrower hereunder or under any note or other Loan Document will be made without setoff, counterclaim, or other defense.

17.16 **Acknowledgement and Consent to Bail-In of EEA Financial Institutions.** Notwithstanding anything to the contrary in any DIP Loan 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 DIP Loan 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 DIP Loan 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.

[Signature pages to follow.]

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

PARENT GUARANTORS:

DREAM II HOLDINGS, LLC, a Delaware limited liability company

By: _____
Name:
Title:

HOLLANDER HOME FASHIONS HOLDINGS, LLC, a Delaware limited liability company

By: _____
Name:
Title:

BORROWER:

HOLLANDER SLEEP PRODUCTS, LLC, a Delaware limited liability company

By: _____
Name:
Title:

BARINGS FINANCE LLC, as Agent

By: _____
Name: Brady Sutton
Title: Managing Director

EXHIBIT 2.3(a)

FORM OF BORROWING NOTICE

Barings Finance LLC, as Agent
300 South Tryon Street
Suite 2500
Charlotte NC 28202
Attn: Eric Langerman
Fax No. [_____]

Ladies and Gentlemen:

Reference is made to that certain **DEBTOR-IN-POSSESSION TERM LOAN CREDIT AGREEMENT** (the "Credit Agreement") dated as of May [], 2019, by and among the lenders identified on the signature pages thereof (such lenders, together with their respective successors and permitted assigns, are referred to hereinafter each individually as a "Lender" and collectively as the "Lenders"), **BARINGS FINANCE LLC**, as the arranger and administrative agent for the Lenders ("Agent"), **DREAM II HOLDINGS, LLC**, a Delaware limited liability company ("Parent"), **HOLLANDER HOME FASHIONS HOLDINGS, LLC**, a Delaware limited liability company (together with Parent the "Parent Guarantors"), and **HOLLANDER SLEEP PRODUCTS, LLC**, a Delaware limited liability company ("Borrower"). Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to them in the Credit Agreement.

1. The Borrower hereby requests a DIP Loan to be made on the terms set forth below:

- (a) Date of borrowing: []
- (b) Type of DIP Loan: []
- (c) Interest election: [Base Rate] / [LIBOR Rate with an Interest Period of [1][2][3] month(s)]
- (d) Principal amount: []

2. The Borrower hereby requests that the proceeds of the DIP Loan described in this Notice of Borrowing be disbursed to the accounts and in the amounts set forth next to each account on the funds flow attached hereto as Exhibit A.

3. As of the date hereof and after giving effect to the advance requested in this Notice of Borrowing, no Default or Event of Default has occurred and is continuing.

4. Each of the conditions set forth in Section [3.1/3.2] and Section 3.3 of the Credit Agreement is satisfied as of the date hereof and immediately after giving effect to the advance requested in this Notice of Borrowing.

5. The undersigned has been duly authorized by the Borrower to make this request for advance.

[signature page to follow]

BORROWER:

HOLLANDER SLEEP PRODUCTS, LLC, a
Delaware limited liability company

By: _____

Name: _____

Title: _____

Exhibit A

FUNDS FLOW

EXHIBIT 3.1

FORM OF OFFICER'S CERTIFICATE

OMNIBUS CERTIFICATE

May __, 2019

Each of the undersigned hereby certifies that he or she is a duly elected, qualified and acting authorized officer of the entities listed on each schedule attached hereto (each listed entity, a "Company", and collectively, the "Companies"). Each of the undersigned hereby further certifies, as of the date hereof, solely on behalf of each Company, as applicable, and in such capacity (and not individually), that he or she is authorized to execute this certificate (this "Certificate") on behalf of the Companies and further hereby certifies that:

- (a) This Certificate is furnished pursuant to (i) that certain Debtor-in-Possession Term Loan Credit Agreement entered into as of the date hereof (the "DIP Term Loan Credit Agreement"), by and among the lenders identified on the signature pages thereto, Barings Finance LLC, as administrative agent for each member of the Lender Group (as defined in the DIP Term Loan Credit Agreement) (in such capacity, together with its successors and assigns in such capacity, "DIP Term Loan Agent"), Dream II Holdings, LLC, a Delaware limited liability company ("Parent"), Hollander Home Fashions Holdings, LLC, a Delaware limited liability company ("HHFH" and together with Parent, the "Parent Guarantors"), and Hollander Sleep Products, LLC, a Delaware limited liability company ("HSP" or "Term Loan Borrower"), and (ii) that certain Debtor-in-Possession Credit Agreement entered into as of the date hereof (the "DIP ABL Credit Agreement" and, together with the DIP Term Loan Credit Agreement, the "Credit Agreements" and each, a "Credit Agreement"), by and among the lenders identified on the signature pages thereto, Wells Fargo Bank, National Association, as administrative agent for each member of the Lender Group (as defined in the DIP ABL Credit Agreement) and the Bank Product Providers (as defined in the DIP ABL Credit Agreement) (in such capacity, together with its successors and assigns in such capacity, "DIP ABL Agent"), Parent, HHFH, HSP, Hollander Sleep Products Kentucky, LLC, a Delaware limited liability company ("Hollander Kentucky"), Pacific Coast Feather Cushion, LLC, a Delaware limited liability company ("Cushion"), and Pacific Coast Feather, LLC, a Delaware limited liability company ("PCF"; HHFH, HSP, Hollander Kentucky, Cushion and PCF, are collectively, the "DIP ABL US Borrowers" and individually an "DIP ABL US Borrower"), and Hollander Sleep Products Canada Limited (formerly known as Hollander Canada Home Fashions Limited), a Canadian federal corporation ("DIP ABL Canadian Borrower," DIP ABL US Borrowers and DIP ABL Canadian Borrower are collectively, the "DIP ABL Borrowers" and individually a "DIP ABL Borrower"). Unless otherwise defined herein, capitalized terms used in this Certificate shall have the meanings set forth in the DIP Term Loan Credit

Agreement or the DIP ABL Credit Agreement, as applicable, as the context requires.

- (b) Attached hereto as Exhibit A are true, correct and complete copies of the Certificate of Formation of each Company (the "Formation Documents") as certified by the Secretary of State of the State of Delaware together with all amendments thereto adopted through the date hereof. Except as attached hereto, such Formation Documents have not been amended, modified, revoked or rescinded since the date of adoption thereof and are in full force and effect on and as of the date hereof. No actions have been taken by any of the Companies in contemplation of the dissolution of any of the Companies.
- (c) Attached hereto as Exhibit B are true, correct and complete copies of the limited liability company agreement or operating agreement, as applicable, of each Company (the "Operating Agreements") as in effect on the date hereof, together with all amendments thereto adopted through the date hereof. Such Operating Agreements have not been otherwise amended, modified, revoked or rescinded since the date of adoption thereof and are in full force and effect on and as of the date hereof.
- (d) Attached hereto as Exhibit C is a true, correct and complete copy of the resolutions duly adopted by each Company's board of directors or the sole member, as applicable (the "Board"), approving and authorizing the execution, delivery and performance of the Credit Agreements and the other Loan Documents (as defined in the DIP ABL Credit Agreement) and the DIP Loan Documents (as defined in the DIP Term Loan Credit Agreement) and the transactions contemplated thereby. Such resolutions have not been amended, modified, revoked or rescinded since the date of adoption thereof, are in full force and effect on and as of the date hereof and are the only resolutions that have been adopted by the Board of each Company with respect to the subject matter thereof.
- (e) Each of the persons named on Exhibit D attached hereto are, on and as of the date hereof, duly elected, qualified and acting officers of each Company occupying the offices set forth opposite their respective names on Exhibit D, and the signatures set forth opposite their respective names are their true and genuine signatures, and each of such officers is duly authorized to execute and deliver on behalf of each Company each Credit Agreement and the other Loan Documents (as defined in the DIP ABL Credit Agreement) and the DIP Loan Documents (as defined in the DIP Term Loan Credit Agreement) and each of the related documents to which it is a party and any other agreement, instrument or document to be delivered by each Company pursuant to the Credit Agreements and the other Loan Documents (as defined in the DIP ABL Credit Agreement) and the DIP Loan Documents (as defined in the DIP Term Loan Credit Agreement) to which it is a party.
- (f) Attached hereto as Exhibit E is a true, correct and complete copy of the certificate of good standing for each Company (the "Good Standing Certificates"), certified as of a recent date by the Secretary of State of the State of Delaware. No change

has occurred in the legal existence and good standing of any Company since the date of the applicable Good Standing Certificate.

IN WITNESS WHEREOF, the undersigned has caused this Certificate to be executed on behalf of each Company listed on Schedule 1 and Schedule 2 attached hereto as of the date first written above.

By: _____
Name: Michael J. Fabian
Title: Vice President

I, Eric D. Bommer, as President of each Company listed on Schedule 1 and Schedule 2 attached hereto, do hereby certify on behalf of each such Company that Michael J. Fabian is the duly elected, qualified and acting Vice President of each such Company and that the signature set forth above is the genuine signature of such person.

By: _____
Name: Eric D. Bommer
Title: President

Schedule 1

1. Dream II Holdings, LLC, a Delaware limited liability company

Schedule 2

1. Hollander Home Fashions Holdings, LLC, a Delaware limited liability company
2. Hollander Sleep Products Kentucky, LLC, a Delaware limited liability company
3. Hollander Sleep Products, LLC, a Delaware limited liability company (f/k/a Hollander Home Fashions, LLC)
4. Pacific Coast Feather Cushion, LLC, a Delaware limited liability company (f/k/a Pacific Coast Feather Company, a Washington corporation)
5. Pacific Coast Feather, LLC, a Delaware limited liability company (f/k/a Pacific Coast Feather Cushion Co., a Washington corporation)

EXHIBIT A

Formation Documents

EXHIBIT B

Operating Agreements

EXHIBIT C

Resolutions

**OMNIBUS WRITTEN CONSENT IN LIEU OF MEETINGS
OF THE BOARD OF DIRECTORS AND SOLE MEMBER**

May [], 2019

The undersigned, being the board of directors or the sole member, as applicable (each, a “Board”), of each entity listed on Schedule 1 through Schedule 6 attached hereto (each, a “Company” and collectively the “Companies”), in lieu of holding a meeting of each Board, hereby take the following actions and adopt the following resolutions by unanimous written consent, pursuant to Section 18-404(d) of the Delaware Limited Liability Company Act and Section 18-302(d) of the Delaware Limited Liability Company Act, as applicable for each Company:

**APPROVAL OF THE DEBTOR-IN-POSSESSION TERM LOAN CREDIT
AGREEMENT**

RESOLVED, that the form, terms and provisions of the Debtor-in-Possession Term Loan Credit Agreement, together with all exhibits, schedules and annexes thereto (as may be amended, restated, supplemented or otherwise modified and in effect from time to time, the “DIP Term Loan Credit Agreement”; capitalized terms used but not otherwise defined herein shall have the meanings specified in the DIP Term Loan Credit Agreement and the DIP ABL Credit Agreement (as defined below), as applicable, as the context requires), by and among the lenders identified on the signature pages thereto, Barings Finance LLC, as administrative agent for each member of the Lender Group (as defined in the DIP Term Loan Credit Agreement) (in such capacity, together with its successors and assigns in such capacity, “DIP Term Loan Agent”), Dream II Holdings, LLC, a Delaware limited liability company (“Parent”), Hollander Home Fashions Holdings, LLC, a Delaware limited liability company (“HHFH” and together with Parent, the “Parent Guarantors”) and Hollander Sleep Products, LLC, a Delaware limited liability company (“HSP” or “DIP Term Loan Borrower”), and the transactions contemplated by the DIP Term Loan Credit Agreement and the other DIP Loan Documents (including, without limitation, the borrowings and other extensions of credit thereunder), and the guaranties, liabilities, obligations, security interest granted and notes issued, if any, in connection therewith, be and hereby are authorized, adopted and approved; and

RESOLVED, that each Company’s execution and delivery of, and its performance of its obligations in connection with the DIP Term Loan Credit Agreement and the other DIP Loan Documents, are hereby, in all respects, authorized and approved; and further resolved, that each of the Chief Executive Officer, the Chief Financial Officer, the President, any Vice President, any other officer of each Company and any officer of the sole member and/or any manager of each Company, as applicable (each an “Authorized Officer” and collectively, the “Authorized Officers”) is hereby authorized and directed to negotiate the terms of and to execute, deliver and perform its obligations under the DIP Term Loan Credit Agreement, the other DIP Loan Documents and any and all other documents, certificates, instruments or

agreements required to consummate the transactions contemplated by the DIP Term Loan Credit Agreement and the other DIP Loan Documents in the name and on behalf of each Company, in the form approved, with such changes therein and modifications and amendments thereto as any of the Authorized Officers may in his or her sole discretion approve, which approval shall be conclusively evidenced by his or her execution thereof. Such execution by any of the Authorized Officers is hereby authorized to be by facsimile, engraved or printed as deemed necessary and preferable; and

APPROVAL OF THE DEBTOR-IN-POSSESSION ABL CREDIT AGREEMENT

RESOLVED, that the form, terms and provisions of the Debtor-in-Possession Credit Agreement, together with all exhibits, schedules and annexes thereto (collectively, as amended, restated, supplemented or otherwise modified and in effect from time to time, the “DIP ABL Credit Agreement” and, together with the DIP Term Loan Credit Agreement, the “Credit Agreements” and each, a “Credit Agreement”), by and among the lenders identified on the signature pages thereto, Wells Fargo Bank, National Association, as administrative agent for each member of the Lender Group (as defined in the DIP ABL Credit Agreement) and the Bank Product Providers (as defined in the DIP ABL Credit Agreement) (in such capacity, together with its successors and assigns in such capacity, “DIP ABL Agent”), Parent, HHFH, HSP, Hollander Sleep Products Kentucky, LLC, a Delaware limited liability company (“Hollander Kentucky”), Pacific Coast Feather Cushion, LLC, a Delaware limited liability company (“Cushion”), and Pacific Coast Feather, LLC, a Delaware limited liability company (“PCF”; HHFH, HSP, Hollander Kentucky, Cushion and PCF, are collectively, the “DIP ABL US Borrowers” and individually an “DIP ABL US Borrower”), and Hollander Sleep Products Canada Limited (formerly known as Hollander Canada Home Fashions Limited), a British Columbia corporation (“DIP ABL Canadian Borrower,” DIP ABL US Borrowers and DIP ABL Canadian Borrower are collectively, the “DIP ABL Borrowers” and individually a “DIP ABL Borrower”), and the transactions contemplated by the DIP ABL Credit Agreement and the other Loan Documents (as defined in the DIP ABL Credit Agreement), and the guaranties, liabilities, obligations, and notes issued, if any, in connection therewith, be and hereby are authorized, adopted and approved; and

RESOLVED, that each Company’s execution and delivery of, and its performance of its obligations in connection with the DIP ABL Credit Agreement and the other Loan Documents, are hereby, in all respects, authorized and approved; and further resolved, that each of the Authorized Officers is hereby authorized and directed to negotiate the terms of and to execute, deliver and perform such Company’s obligations under the DIP ABL Credit Agreement, the other Loan Documents and any and all other documents, certificates, instruments or agreements required to consummate the transactions contemplated by the DIP ABL Credit Agreement and such other Loan Documents in the name and on behalf of each Company, in the form approved, with such changes therein and modifications and amendments thereto as any of the Authorized Officers may in his or her sole discretion approve, which approval shall be conclusively evidenced by his or her execution thereof. Such execution by any of the Authorized Officers is hereby authorized to be by facsimile, engraved or printed as deemed necessary and preferable; and

APPROVAL OF THE LOAN DOCUMENTS AND THE DIP LOAN DOCUMENTS

RESOLVED, that (i) the form, terms and provisions of the Loan Documents (as defined in the DIP ABL Credit Agreement) and the DIP Loan Documents (as defined in the DIP Term Loan Credit Agreement) to which any or all of the Companies are a party, (ii) the incurrence of indebtedness and borrowing of funds under the Loan Documents (as defined in the DIP ABL Credit Agreement) and the DIP Loan Documents (as defined in the DIP Term Loan Credit Agreement) (iii) the guarantee of all Obligations (as defined in the DIP ABL Credit Agreement) pursuant to the Loan Documents (as defined in the DIP ABL Credit Agreement) and the DIP Facility Obligations (as defined in the DIP Term Loan Credit Agreement) and the DIP Facility Obligations (as defined in the DIP Term Loan Credit Agreement) pursuant to the DIP Loan Documents (as defined in the DIP Term Loan Credit Agreement) by the Guarantors (as defined in each of the Credit Agreements), and (iv) the grant of security interests in and pledges of all or substantially all of the real and personal property, assets and rights now or hereafter owned by any or all of the Companies as collateral (including pledges of equity and personal property as collateral) under the Loan Documents (as defined in the DIP ABL Credit Agreement) and the DIP Loan Documents (as defined in the DIP Term Loan Credit Agreement), be and hereby are, authorized, adopted and approved; and

RESOLVED, that each Company's execution and delivery of, and performance of its obligations under, the Loan Documents (as defined in the DIP ABL Credit Agreement) and the DIP Loan Documents (as defined in the DIP Term Loan Credit Agreement) to which any or all of the Companies are a party, are hereby, in all respects, authorized and approved; and further resolved, that each of the Authorized Officers is hereby authorized and directed to negotiate the terms of and to execute, deliver and perform its obligations under the Loan Documents (as defined in the DIP ABL Credit Agreement) and the DIP Loan Documents (as defined in the DIP Term Loan Credit Agreement) to which any or all of the Companies are a party and any and all other documents, certificates, instruments or agreements required to consummate the transactions contemplated thereby in the name and on behalf of each Company, in the form approved, with such changes therein and modifications and amendments thereto as any of the Authorized Officers may in his/her sole discretion approve, which approval shall be conclusively evidenced by his/her execution thereof. Such execution by any of the Authorized Officers is hereby authorized to be by facsimile, engraved or printed as deemed necessary and preferable; and

GENERAL

RESOLVED, that in order to carry out fully the intent and effectuate the purposes of the foregoing resolutions, each of the Authorized Officers be, and hereby are, authorized and empowered to take all such further action including, without limitation, (i) to sell, transfer, lease, assign, set over, grant security interests in, mortgage or pledge any assets and properties of each Company, real personal, or mixed, tangible or intangible, now owned or hereafter acquired as such Authorized Officer determines necessary in connection with such financing and (ii) to arrange for, enter into or grant amendments and/or restatements (including, without limitation, amendments increasing or decreasing the amount of credit available under the Credit Agreements to the Companies acting as borrowers thereunder and/or extending the maturity of the same) and modifications to and waivers of the foregoing agreements (the

“Agreements”), and to arrange for and enter into supplemental agreements, instruments, certificates, financing statements and other documents relating to the transactions contemplated by the Agreements, and to execute, deliver and perform all such further amendments, modifications, waivers, supplemental agreements, instruments, certificates and documents as may be called for under or in connection with the Agreements, that may be determined by such Authorized Officer to be necessary or desirable, containing such terms and conditions and other provisions consistent with the Agreements, in the name and on behalf of each Company, and to pay all such fees and expenses, which shall in his or her judgment be deemed necessary, proper or advisable in order to perform each Company’s obligations under or in connection with the Agreements and the transactions contemplated thereby; and

RESOLVED, that all actions taken by any of the Authorized Officers of each Company prior to the date of this written consent which are within the authority conferred hereby are hereby in all respects authorized, ratified, confirmed and approved.

The actions taken by this consent shall have the same force and effect as if taken at a meeting of each Board of each Company, pursuant to the limited liability company agreement or operating agreement, as applicable, of each Company and the laws of the State of Delaware. This consent may be executed in one or more facsimile, electronic or original counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

* * * *

Schedule 1

2. Dream II Holdings, LLC, a Delaware limited liability company

Schedule 2

1. Hollander Home Fashions Holdings, LLC, a Delaware limited liability company

Schedule 3

1. Hollander Sleep Products Kentucky, LLC, a Delaware limited liability company

Schedule 4

1. Hollander Sleep Products, LLC, a Delaware limited liability company (f/k/a Hollander Home Fashions, LLC, a Delaware limited liability company)

Schedule 5

1. Pacific Coast Feather Cushion, LLC, a Delaware limited liability company (f/k/a Pacific Coast Feather Company, a Washington corporation)

Schedule 6

1. Pacific Coast Feather, LLC, a Delaware limited liability company (f/k/a Pacific Coast Feather Cushion Co., a Washington corporation)

IN WITNESS WHEREOF, the undersigned have executed this consent as of the date first set forth above.

Board of the Company
set forth on Schedule 1:

Eric D. Bommer

Michael J. Fabian

Steve Cumbow

Chris Baker

Matthew Kahn

IN WITNESS WHEREOF, the undersigned has executed this consent as of the date first set forth above.

Sole Member of the Company
set forth on Schedule 2:

Dream II Holdings, LLC, as Sole Member

By: _____
Name: Michael J. Fabian
Title: Vice President

IN WITNESS WHEREOF, the undersigned has executed this consent as of the date first set forth above.

Sole Member of the Company
set forth on Schedule 3:

Hollander Sleep Products, LLC, as Sole Member

By: _____
Name: Michael J. Fabian
Title: Vice President

IN WITNESS WHEREOF, the undersigned has executed this consent as of the date first set forth above.

Sole Member of the Company
set forth on Schedule 4:

Hollander Home Fashions Holdings, LLC, as
Sole Member

By: _____

Name: Michael J. Fabian

Title: Vice President

IN WITNESS WHEREOF, the undersigned has executed this consent as of the date first set forth above.

Sole Member of the Company
set forth on Schedule 5:

Pacific Coast Feather, LLC, as Sole Member

By: _____
Name: Michael J. Fabian
Title: Vice President

IN WITNESS WHEREOF, the undersigned has executed this consent as of the date first set forth above.

Sole Member of the Company
set forth on Schedule 6:

Hollander Sleep Products, LLC, as Sole Member

By: _____
Name: Michael J. Fabian
Title: Vice President

EXHIBIT D

Incumbency

Incumbency to Schedule 1

<u>Name</u>	<u>Office</u>	<u>Signature</u>
Eric D. Bommer	President	_____
Michael J. Fabian	Vice President and Treasurer	_____
Steve Cumbow	Chief Financial Officer	_____
Chris Baker	Executive Chairman	_____
Marc L. Pfefferle	Chief Executive Officer	_____

Incumbency to Schedule 2

<u>Name</u>	<u>Office</u>	<u>Signature</u>
Eric D. Bommer	President	_____
Michael J. Fabian	Vice President and Assistant Secretary	_____
Marc L. Pfefferle	Chief Executive Officer	_____

EXHIBIT E

Good Standing Certificates

EXHIBIT 5.2(b)

FORM OF COMPLIANCE CERTIFICATE

[on Borrower's letterhead]

To: Barings Finance LLC, as Agent
300 South Tryon Street
Suite 2500
Charlotte NC 28202
Attn: Eric Langerman
Fax No. [_____]

Re: Compliance Certificate dated _____

Ladies and Gentlemen:

Reference is made to that certain **DEBTOR-IN-POSSESSION TERM LOAN CREDIT AGREEMENT** (the "Credit Agreement") dated as of May [], 2019, by and among the lenders identified on the signature pages thereof (such lenders, together with their respective successors and permitted assigns, are referred to hereinafter each individually as a "Lender" and collectively as the "Lenders"), **BARINGS FINANCE LLC**, as the arranger and administrative agent for the Lenders ("Agent"), **DREAM II HOLDINGS, LLC**, a Delaware limited liability company ("Parent"), **HOLLANDER HOME FASHIONS HOLDINGS, LLC**, a Delaware limited liability company (together with Parent the "Parent Guarantors"), and **HOLLANDER SLEEP PRODUCTS, LLC**, a Delaware limited liability company ("Borrower"). Capitalized terms used in this Compliance Certificate have the meanings set forth in the Credit Agreement unless specifically defined herein.

Pursuant to Schedule 5.1 of the Credit Agreement, the chief financial officer or other senior financial officer of Borrower hereby certifies, solely in his/her capacity as an officer of Borrower and not in his/her individual capacity, that:

a. The financial information of Parent and its Subsidiaries furnished in Schedule 1 attached hereto, has been prepared in accordance with GAAP (except, in the case of unaudited financial information, for year-end adjustments and the lack of footnotes), and fairly presents in all material respects the financial condition of Parent and its Subsidiaries as of the date hereof.

b. Such officer has reviewed the terms of the Credit Agreement and has made, or caused to be made under his/her supervision, a review in reasonable detail of the transactions and condition of Parent and its Subsidiaries during the accounting period covered by the financial statements delivered pursuant to paragraph 1 above.

c. Such review has not disclosed the existence on and as of the date hereof, and the undersigned does not have knowledge of the existence as of the date hereof, of any event or condition that constitutes a Default or Event of Default, except for such conditions or events listed on Schedule 2 attached hereto, specifying the nature and period of existence thereof and what action Parent and its Subsidiaries have taken, are taking, or propose to take with respect thereto.

[signature page to follow]

IN WITNESS WHEREOF, this Compliance Certificate is executed by the
undersigned this _____ day of _____, _____.

HOLLANDER SLEEP PRODUCTS, LLC, a
Delaware limited liability company

By: _____
Name: _____
Title: _____

SCHEDULE 1

Financial Information

SCHEDULE 2

Default or Event of Default

EXHIBIT A-1

FORM OF ASSIGNMENT AND ACCEPTANCE AGREEMENT

This **ASSIGNMENT AND ACCEPTANCE AGREEMENT** ("Assignment Agreement") is entered into as of _____ between _____ ("Assignor") and _____ ("Assignee"). Reference is made to the Credit Agreement described in Annex I hereto (the "Credit Agreement"). Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Credit Agreement.

1. In accordance with the terms and conditions of Section 13 of the Credit Agreement, the Assignor hereby sells and assigns to the Assignee, and the Assignee hereby purchases and assumes from the Assignor, that interest in and to the Assignor's rights and obligations under the DIP Loan Documents as of the date hereof with respect to the DIP Facility Obligations owing to the Assignor, and Assignor's portion of the DIP Loan Commitments, all to the extent specified on Annex I.

2. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the interest being assigned by it hereunder and that such interest is free and clear of any adverse claim and (ii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment Agreement and to consummate the transactions contemplated hereby; (b) makes no representation or warranty and assumes no responsibility with respect to (i) any statements, representations or warranties made in or in connection with the DIP Loan Documents, or (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the DIP Loan Documents or any other instrument or document furnished pursuant thereto; (c) makes no representation or warranty and assumes no responsibility with respect to the financial condition of Borrower or any Guarantor or the performance or observance by Borrower or any Guarantor of any of their respective obligations under the DIP Loan Documents or any other instrument or document furnished pursuant thereto, and (d) represents and warrants that the amount set forth as the Purchase Price on Annex I represents the amount owed by Borrower to Assignor with respect to Assignor's share of the DIP Loans assigned hereunder, as reflected on Assignor's books and records.

3. The Assignee (a) confirms that it has received copies of the Credit Agreement and the other DIP Loan Documents, together with copies of the financial statements referred to therein and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment Agreement; (b) agrees that it will, independently and without reliance upon Agent, Assignor, or any other Lender, based upon such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking any action under the DIP Loan Documents; (c) confirms that it is an Eligible Transferee; (d) appoints and authorizes Agent to take such action as agent on its behalf and to exercise such powers under the DIP Loan Documents as are delegated to Agent by the terms thereof, together with such powers as are reasonably incidental thereto; (e) agrees that it will perform in accordance with their terms all of the obligations which by the terms of the DIP Loan Documents are required to be performed by it as a Lender; and (f) attaches (i) the forms prescribed by the Internal Revenue Service of the United States certifying as to the Assignee's status for purposes of determining exemption from United States withholding taxes with respect to all payments to be made to the Assignee under the Credit Agreement, or (ii) such other documents as are necessary to indicate that all such payments are subject to such rates at a rate reduced by an applicable tax treaty.

4. Following the execution of this Assignment Agreement by the Assignor and Assignee, the Assignor will deliver this Assignment Agreement to Agent for recording by Agent. The

effective date of this Assignment (the “Settlement Date”) shall be the latest to occur of (a) the date of the execution and delivery hereof by the Assignor and the Assignee, (b) the receipt by Agent for its sole and separate account a processing fee in the amount of \$3,500 (if required by the Credit Agreement), (c) the receipt of any required consent of Agent or Borrower, if applicable, and (d) the date specified in Annex I.

5. As of the Settlement Date (a) the Assignee shall be a party to the Credit Agreement and, to the extent of the interest assigned pursuant to this Assignment Agreement, have the rights and obligations of a Lender thereunder and under the other DIP Loan Documents, and (b) the Assignor shall, to the extent of the interest assigned pursuant to this Assignment Agreement, relinquish its rights and be released from its obligations under the Credit Agreement and the other DIP Loan Documents, provided, however, that nothing contained herein shall release any assigning Lender from obligations that survive the termination of this Agreement, including such assigning Lender’s obligations under Section 15 and Section 17.9(a) of the Credit Agreement.

6. Upon the Settlement Date, Assignee shall pay to Assignor the Purchase Price (as set forth in Annex I). From and after the Settlement Date, Agent shall make all payments that are due and payable to the holder of the interest assigned hereunder (including payments of principal, interest, fees and other amounts) to Assignor for amounts which have accrued up to but excluding the Settlement Date and to Assignee for amounts which have accrued from and after the Settlement Date. On the Settlement Date, Assignor shall pay to Assignee an amount equal to the portion of any interest, fee, or any other charge that was paid to Assignor prior to the Settlement Date on account of the interest assigned hereunder and that are due and payable to Assignee with respect thereto, to the extent that such interest, fee or other charge relates to the period of time from and after the Settlement Date.

7. This Assignment Agreement may be executed in counterparts and by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. This Assignment Agreement may be executed and delivered by telecopier or other means of electronic transmission (including, without limitation, “.pdf” file) all with the same force and effect as if the same were a fully executed and delivered original manual counterpart.

8. THIS ASSIGNMENT AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

[signature pages to follow]

IN WITNESS WHEREOF, the parties hereto have caused this Assignment Agreement and Annex I hereto to be executed by their respective officers, as of the first date written above.

[NAME OF ASSIGNOR]

as Assignor

By _____

Name:

Title:

[NAME OF ASSIGNEE]

as Assignee

By _____

Name:

Title:

ACCEPTED THIS _____ DAY OF

BARINGS FINANCE LLC, as Agent

By _____

Name:

Title:

[HOLLANDER SLEEP PRODUCTS, LLC, a

Delaware limited liability company

By: _____

Name: _____

Title:]¹ _____

¹ If required pursuant to the Terms of the Credit Agreement.

ANNEX FOR ASSIGNMENT AND ACCEPTANCE

ANNEX I

1. Borrower: Hollander Sleep Products, LLC, a Delaware limited liability company (“Borrower”)

2. Name and Date of Credit Agreement:

Debtor-In-Possession Term Loan Credit Agreement, dated as of May [], 2019, by and among Dream II Holdings, LLC, a Delaware limited liability company, Hollander Home Fashions Holdings, LLC, a Delaware limited liability company, Borrower, the lenders from time to time a party thereto, and Barings Finance LLC as the administrative agent for the Lenders

3. Date of Assignment Agreement: _____

4. Amounts:

(a) Assigned Amount of DIP Loans \$ _____

5. Settlement Date: _____

6. Purchase Price \$ _____

7. Notice and Payment Instructions, etc.

Assignee:

Assignor:

8. Agreed and Accepted:

[ASSIGNOR]

[ASSIGNEE]

By: _____
Title: _____

By: _____
Title: _____

ACCEPTED THIS _____ DAY OF

BARINGS FINANCE LLC, as Agent

By _____

Name:

Title:

[HOLLANDER SLEEP PRODUCTS, LLC], a
Delaware limited liability company

By: _____

Name: _____

Title:]² _____

² If required pursuant to the Terms of the Credit Agreement.

EXHIBIT I-1

FORM OF INITIAL APPROVED BUDGET

[To be provided.]

EXHIBIT I-2

FORM OF INTERIM DIP ORDER

[To be provided.]

EXHIBIT L-1

FORM OF LIBOR NOTICE

Barings Finance LLC, as Agent
300 South Tryon Street
Suite 2500
Charlotte NC 28202
Attn: Eric Langerman
Fax No. [_____]

Ladies and Gentlemen:

Reference is made to that certain **DEBTOR-IN-POSSESSION TERM LOAN CREDIT AGREEMENT** (the "Credit Agreement") dated as of May [], 2019, by and among the lenders identified on the signature pages thereof (such lenders, together with their respective successors and permitted assigns, are referred to hereinafter each individually as a "Lender" and collectively as the "Lenders"), **BARINGS FINANCE LLC**, as the arranger and administrative agent for the Lenders ("Agent"), **DREAM II HOLDINGS, LLC**, a Delaware limited liability company ("Parent"), **HOLLANDER HOME FASHIONS HOLDINGS, LLC**, a Delaware limited liability company (together with Parent the "Parent Guarantors"), and **HOLLANDER SLEEP PRODUCTS, LLC**, a Delaware limited liability company ("Borrower"). Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to them in the Credit Agreement.

This LIBOR Notice represents Borrowers' request to elect the LIBOR Option with respect to outstanding DIP Loans in the amount of \$_____ (the "DIP Loan")[, **and is a written confirmation of the telephonic notice of such election given to Agent**].

The LIBOR Rate Loan will have an Interest Period of [1, 2, 3 or 6] month(s) commencing on_____.

This LIBOR Notice further confirms Borrowers' acceptance, for purposes of determining the rate of interest based on the LIBOR Rate under the Credit Agreement, of the LIBOR Rate as determined pursuant to the Credit Agreement.

[signature pages to follow]

Dated: _____

BORROWER:

HOLLANDER SLEEP PRODUCTS, LLC, a
Delaware limited liability company

By: _____

Name: _____

Title: _____

Acknowledged by:

BARINGS FINANCE LLC, as Agent

By _____

Name: _____

Title: _____

Schedule P-1

Permitted Investments

None.

Schedule R-1

Real Property Collateral

<u>Loan Party</u>	<u>Address</u>	<u>County</u>	<u>State</u>
Pacific Coast Feather, LLC	220 Miriam Street Henderson, NC 27536	Vance	North Carolina

Schedule 1.1

As used in the Agreement, the following terms shall have the following definitions:

“ABL DIP Agent” means Wells Fargo Bank, National Association, in its capacity as administrative agent under the ABL DIP Facility Documents, together with its successors and assigns.

“ABL DIP Facility” has the meaning specified therefor in the recitals.

“ABL DIP Facility Agreement” means the Debtor-in-Possession Credit Agreement, dated as of the date hereof, as amended, restated, amended and restated, supplemented or otherwise modified from time to time, among the Borrower, the other borrowers party thereto from time to time, the lenders and other financial institutions party thereto from time to time and the ABL DIP Agent.

“ABL DIP Facility Documents” means the “Loan Documents” as defined in the ABL DIP Facility Agreement, as the same may be amended, supplemented, waived, otherwise modified, extended, renewed, refinanced, or replaced from time to time.

“ABL DIP Lenders” means the lenders under the ABL DIP Facility Agreement.

“ABL DIP Obligations” means the “Obligations” as defined under the ABL DIP Facility Agreement.

“ABL Priority Collateral” means “ABL Priority Collateral” as defined in the Intercreditor Agreement.

“Acceleration” has the meaning specified therefor in Section 8.4 of the Agreement.

“Account” means an account (as that term is defined in the Code).

“Account Debtor” means any Person who is obligated on an Account, chattel paper, or a general intangible.

“Accounting Changes” means changes in accounting principles required by the promulgation of any rule, regulation, pronouncement or opinion by the Financial Accounting Standards Board of the American Institute of Certified Public Accountants (or successor thereto or any agency with similar functions).

“Additional Documents” has the meaning specified therefor in Section 5.12 of the Agreement.

“Adequate Protection Liens” has the meaning specified therefor in the DIP Orders.

“Affected Lender” has the meaning specified therefor in Section 2.13(b) of the Agreement.

“Affiliate” means, as applied to any Person, any other Person who controls, is controlled by, or is under common control with, such Person. For purposes of this definition, “control” means the possession, directly or indirectly through one or more intermediaries, of the power to direct the management and policies of a Person, whether through the ownership of Equity Interests, by contract, or otherwise; provided, that, for purposes of Section 6.10 of the Agreement: (a) any Person which owns directly or indirectly 10% or more of the Equity Interests having ordinary voting power for the election of directors or other members of the governing body of a Person or 10% or more of the partnership or other ownership interests of a Person (other than as a limited partner of such Person) shall be deemed an Affiliate of such Person, (b) each director (or comparable manager) of a Person shall be deemed to be an Affiliate of such Person, and (c) each partnership in which a Person is a general partner shall be deemed an Affiliate of such Person.

“Affiliated Lender” means any Sponsor Affiliated Entity other than any natural person.

“Agent” has the meaning specified therefor in the preamble to the Agreement.

“Agent-Related Persons” means Agent, together with Agent’s Affiliates, officers, directors, employees, attorneys, and agents.

“Agent’s Account” means the Deposit Account identified on Schedule A-1 as Agent’s Account (or such other Deposit Account that has been designated as such, in writing, by Agent to Borrower and the Lenders).

“Agent’s DIP Liens” means the DIP Liens granted by Parent or its Subsidiaries to Agent under the DIP Loan Documents and securing all or a portion of the DIP Facility Obligations.

“Agreement” has the meaning specified in the preamble to the Credit Agreement.

“Allowed Professional Fees” has the meaning specified in Section 2.14(d) of the Agreement.

“Application Event” means the occurrence of (a) a failure by Borrower to repay all of the DIP Facility Obligations in full on the Maturity Date or the date of any acceleration of the DIP Facility Obligations, or (b) an Event of Default and the election by the Required Lenders to require that payments and proceeds of DIP Collateral be applied pursuant to Section 2.4(b)(ii) of the Agreement.

“Approved Budget” means the Initial Approved Budget as amended and supplemented by any Weekly Cash Flow Forecast delivered in accordance with Section 5.2(a) and approved by the Agent and the Required Lenders in accordance with Section 5.20.

“Assignee” has the meaning specified therefor in Section 13.1(a) of the Agreement.

“Assignment and Acceptance” means an Assignment and Acceptance Agreement substantially in the form of Exhibit A-1 to the Agreement.

“Available DIP Obligations” has the meaning specified therefor in Section 13.1(l) of the Agreement.

“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.

“Bankruptcy Code” has the meaning specified therefor in the recitals.

“Bankruptcy Court” has the meaning specified therefor in the recitals.

“Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure and local rules of the Bankruptcy Court, each as amended, and applicable to the Cases.

“Bar Date” has the meaning specified therefor in Section 8.9(m)(iii) of the Agreement.

“Base Rate” means a floating rate of interest per annum equal to the greatest of (a) the rate last quoted by The Wall Street Journal (or, if such rate is no longer quoted by The Wall Street Journal, another national publication selected by Agent) as the U.S. “Prime Rate,” (b) the Federal Funds Rate plus ½%, and (c) the sum of (i) LIBOR for an Interest Period of one month (giving effect to the minimum LIBOR Rate of 1.00%) plus (ii) 1.00%.

“Base Rate Loan” means each portion of the DIP Loans that bears interest at a rate determined by reference to the Base Rate.

“Benefit Plan” means a “defined benefit plan” (as defined in Section 3(35) of ERISA) subject to Title IV of ERISA for which Parent or any of its Subsidiaries or ERISA Affiliates has been an “employer” (as defined in Section 3(5) of ERISA) within the past six years.

“Bidding Procedures” has the meaning specified therefor in Section 8.9(m)(ii) of the Agreement.

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

“Board of Governors” means the Board of Governors of the Federal Reserve System of the United States (or any successor).

“Borrower” has the meaning set forth in the preamble to the Agreement.

“Borrowing” means a borrowing consisting of DIP Loans made on the same day by the Lenders (or Agent on behalf thereof).

“Budget Advance Date” has the meaning specified therefor in Section 2.1(c) of this Agreement.

“Budget Advance Date Commitment” means on the Budget Advance Date, with respect to each Lender holding a Budget Advance Date Commitment, the commitment of such Lender to make a Budget Advance DIP Loan, which commitment is in the amount set forth opposite such Lender’s name on Schedule D-1 under the caption “Budget Advance Date Commitment”, as amended to reflect Assignments; provided that such commitment shown on such Schedule shall, with the written consent of the Agent (which consent shall not be unreasonably withheld, delayed or conditioned), be increased by any portion of the Final DIP Loan Commitment of such Lender not funded on the Final Order Effective Date. The aggregate amount of the Budget Advance Date Commitments on the Budget Advance Date shall be (a) \$6,000,000 plus (b) to the extent approved by the Agent in accordance with the preceding sentence, the difference between \$28,000,000 minus the aggregate funded amount of Interim DIP Loans and Final DIP Loans. It is understood and agreed that the Budget Advance Date Commitments are in addition to the Interim DIP Loan Commitments and the Final DIP Loan Commitments, and not a replacement or substitute therefor.

“Budget Advance Date DIP Loans” means the single draw term loans to be made on the Budget Advance Date in an aggregate amount not to exceed the Budget Advance Date Commitments.

“Business Day” means any day that is not a Saturday, Sunday, or other day on which banks are authorized or required to close in the state of New York, except that if a determination of a Business Day shall relate to a LIBOR Rate Loan, the term “Business Day” also shall exclude any day on which banks are closed for dealings in Dollar deposits in the London interbank market.

“Canadian Benefit Plan” means any plan, fund, program, or policy, whether oral or written, formal or informal, funded or unfunded, insured or uninsured, providing material employee benefits, including medical, hospital care, dental, sickness, accident, disability, life insurance, pension, retirement or savings benefits, under which a Loan Party or a Subsidiary thereof has any liability with respect to any employee or former employee in Canada.

“Canadian Defined Benefit Plan” means any Canadian Pension Plan which contains a “defined benefit provision” as defined in subsection 147.1(1) of the Income Tax Act (Canada).

“Canadian Pension Plan” means each pension plan required to be registered under Canadian federal or provincial law that is maintained or contributed to, or to which there is or may be an obligation to contribute by a Loan Party or a Subsidiary thereof, for its employees or former employees, but does not include the Canada Pension Plan or the Quebec Pension Plan as maintained by the Government of Canada or the Province of Quebec, respectively.

“Canadian Pension Termination Event” means (a) the voluntary full or partial wind up of a Canadian Pension Plan by any Loan Party or Subsidiary thereof or initiation of any action or

filing to do so; (b) the institution of proceedings by any Governmental Authority to terminate in whole or in part or have a trustee appointed to administer any Canadian Pension Plan; or (c) any other event or condition which might constitute grounds for the termination of, winding up or partial termination of, winding up or the appointment of trustee to administer, any Canadian Pension Plan.

“Canadian Priority Payables” means (a) the amount past due and owing by any Canadian Subsidiary, or the accrued amount for which such Canadian Subsidiary has an obligation to remit, to a Governmental Authority or other Person pursuant to any applicable law, rule or regulation, in respect of (i) goods and services taxes, sales taxes, employee income taxes, municipal taxes and other taxes payable or to be remitted or withheld; (ii) workers’ compensation or employment insurance; (iii) vacation or holiday pay; and (iv) other like charges and demands, in each case, to the extent that any Governmental Authority or other Person may claim a lien, security interest, hypothec, trust or other claim; and (b) the aggregate amount of any other liabilities of any Canadian Subsidiary (i) in respect of which a trust or deemed trust has been or may be imposed to provide for payment, or (ii) in respect of unpaid or unremitted pension plan contributions, including amounts representing any unfunded liability, solvency deficiency or wind-up deficiency whether or not due with respect to a Canadian Pension Plan, or (iii) which are secured by a lien, security interest, pledge, charge, right or claim; in each case, pursuant to any applicable law, rule or regulation (such as liens, trusts, security interests, hypothecs, pledges, charges, rights or claims in favor of employees, landlords, warehousemen, customs brokers, carriers, mechanics, materialmen, labourers, or suppliers, or liens, trusts, security interests, hypothecs, pledges, charges, rights or claims for ad valorem, excise, sales, or other taxes where given priority under applicable law).

“Canadian Subsidiary” means any Subsidiary organized under the laws of Canada or any province (or other political subdivision) thereof.

“Capital Lease” means a lease that is required to be capitalized for financial reporting purposes in accordance with GAAP.

“Carve Out” has the meaning specified therefor in the DIP Orders.

“Carve Out Trigger Notice” has the meaning specified in Section 2.14(d) of the Agreement.

“Case Processionals” means any professional (other than an ordinary course professional) retained by the Borrower or the Committee pursuant to a final order of the Bankruptcy Court (which order has not been vacated or stayed, unless the stay has been vacated) under Sections 327, 328, 363 or 1103(a) of the Bankruptcy Code.

“Cash Equivalents” means (a) Domestic Cash Equivalents; and (b) Foreign Cash Equivalents.

“Cash Management Services” means any cash management or related services including treasury, depository, return items, overdraft, controlled disbursement, merchant store value cards, e-payables services, electronic funds transfer, interstate depository network, automatic clearing house transfer (including the Automated Clearing House processing of electronic funds transfers

through the direct Federal Reserve Fedline system) and other customary cash management arrangements.

“CFC” means a controlled foreign corporation (as that term is defined in the IRC).

“Change in Control” means the occurrence of any of the following events: (a) Sponsor Affiliated Entity ceases to beneficially own and control, directly or indirectly, more than 50.0% of the voting and economic Equity Interests in Parent on a fully diluted basis, (b) any Person or “group” (within the meaning of Rules 13d-3 and 13d-5 promulgated under the Exchange Act) other than Sponsor Affiliated Entity shall have acquired beneficial ownership on a fully diluted basis of the voting Equity Interests of Parent sufficient (whether or not exercised) to elect a majority of the members of the Board of Directors of Parent, (c) Sponsor Affiliated Entity ceases to have the power to elect or designate, directly or indirectly, a majority of the Board of Directors of Parent by voting power, contract or otherwise, (d) Parent ceases to beneficially own and control, directly, all of the Equity Interests in HHFH, or (e) HHFH ceases to beneficially own and control, directly, all of the Equity Interests in Borrower.

“Change in Law” means the occurrence after the date of the Agreement of: (a) the adoption or effectiveness of any law, rule, regulation, judicial ruling, judgment or treaty, (b) any change in any law, rule, regulation, judicial ruling, judgment or treaty or in the administration, interpretation, implementation or application by any Governmental Authority of any law, rule, regulation, guideline or treaty, or (c) the making or issuance by any Governmental Authority of any request, rule, guideline or directive, whether or not having the force of law; provided that notwithstanding anything in the Agreement to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives concerning capital adequacy 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 shall, in each case, be deemed to be a “Change in Law,” regardless of the date enacted, adopted or issued.

“Chapter 11 Cases” has the meaning specified therefor in the recitals.

“Code” means the New York Uniform Commercial Code, as in effect from time to time.

“Collateral Account Bank” means a bank consented to in writing by the Collateral Agent (such consent not to be unreasonably withheld or delayed) which shall not be Wells Fargo Bank, National Association or any Affiliate or subsidiary thereof; provided, that Wells Fargo Bank, National Association shall be the Collateral Account Bank until such time as the Borrower is able after the Effective Date to establish the TL Deposit Account at a different bank.

“Committee” means the official committee of unsecured creditors, if any, appointed in the Chapter 11 Cases.

“Commodity Exchange Act” has the meaning specified therefor in the Guaranty and Security Agreement.

“Compliance Certificate” has the meaning specified therefor in Section 5.2(b) of the Agreement.

“Confidential Information” has the meaning specified therefor in Section 17.9(a) of the Agreement.

“Confirmation Date” has the meaning specified therefor in Section 8.9(m)(x) of this Agreement.

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

“Control Agreement” means a control agreement, in form and substance reasonably satisfactory to Agent, executed and delivered by Parent or one of its Subsidiaries, Agent, and the applicable securities intermediary (with respect to a Securities Account) or bank (with respect to a Deposit Account).

“Copyright Security Agreement” has the meaning specified therefor in the Guaranty and Security Agreement.

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

“Default Notice” has the meaning specified therefor in Section 8.4 of the Agreement.

“Defaulting Lender” means any Lender that (a) has failed to fund any amounts required to be funded by it under the Agreement within two (2) Business Days of the date that it is required to do so under the Agreement, unless such Lender notifies Agent and Borrower in writing that such failure is the result of such Lender’s 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, (b) notified Borrower, Agent, or any Lender in writing that it does not intend to comply with all or any portion of its funding obligations under the Agreement, (c) has made a public statement (which such public statement Borrower and Agent should reasonably be expected to have knowledge thereof) to the effect that it does not intend to comply with its funding obligations under the Agreement or under other agreements generally (as reasonably determined by Agent) under which it has committed to extend credit, (d) failed, within 1 Business Day after written request by Agent, to confirm that it will comply with the terms of the Agreement relating to its obligations to fund any amounts required to be funded by it under the Agreement, (e) otherwise failed to pay over to Agent or any other Lender any other amount required to be paid by it under the Agreement within two (2) Business Days of the date that it is required to do so under the Agreement, or (f) (i) becomes or is insolvent or has a parent company that has become or is insolvent, (ii) becomes the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, or custodian or appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in any such proceeding or appointment or has a parent company that has become the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, or custodian appointed for it, or has taken any action in furtherance

of, or indicating its consent to, approval of or acquiescence in any such proceeding or appointment (in each case other than by way of an Undisclosed Administration, for which purpose “Undisclosed Administration” shall mean in relation to a Lender, or its direct or indirect parent company, the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official by a supervisory authority or regulator under or based on the law in the country where such Lender or such parent company is subject to home jurisdiction supervision if applicable law requires that such appointment is not to be publicly disclosed) or (iii) becomes the subject of a Bail-in Action.

“Deposit Account” means any deposit account (as that term is defined in the Code).

“DIP Collateral” means all the “DIP Collateral” (or equivalent term) as defined in the Guaranty and Security Agreement and assets and interests in assets and proceeds thereof now owned or hereafter acquired by any Loan Party in or upon which a DIP Lien is granted by such Person in favor of Agent or the Lenders under any of the DIP Loan Documents.

“DIP Facility Obligations” means all DIP Loans, debts, principal, interest (including any interest that accrues after the commencement of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding), premiums, liabilities, obligations (including indemnification obligations) of any Loan Party, fees (including the fees provided for in the Fee Letter) of any Loan Party, Lender Group Expenses (including any fees or expenses that accrue after the commencement of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding) of any Loan Party, guaranties of any Loan Party, and all covenants and duties of any other kind and description owing by any Loan Party arising out of, under, pursuant to, in connection with, or evidenced by the Agreement or any of the other DIP Loan Documents 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, and including all interest not paid when due and all other expenses or other amounts that any Loan Party is required to pay or reimburse by the DIP Loan Documents or by law or otherwise in connection with the DIP Loan Documents. Without limiting the generality of the foregoing, the DIP Facility Obligations under the DIP Loan Documents include the obligation to pay (i) the principal of the DIP Loans, (ii) interest accrued on the DIP Loans, (iii) Lender Group Expenses of any Loan Party, (iv) fees payable by any Loan Party under the Agreement or any of the other DIP Loan Documents, and (v) indemnities and other amounts payable by any Loan Party under any DIP Loan Document. Any reference in the Agreement or in the DIP Loan Documents to the DIP Facility Obligations shall include all or any portion thereof and any extensions, modifications, renewals, or alterations thereof, both prior and subsequent to any Insolvency Proceeding.

“DIP Liens” means the Liens granted to the Agent for the benefit of the Lenders under the DIP Loan Documents and authorized by the DIP Orders.

“DIP Loan Commitments” means the Interim DIP Loan Commitments, the Final DIP Loan Commitments, and the Budget Advance Date Commitments, each as set forth of Schedule D-1.

“DIP Loan Documents” means the Agreement, any promissory note issued pursuant to Section 2.5, the Fee Letter, the Guaranty and Security Agreement, the DIP Orders, each instrument and document executed and/or delivered as contemplated by Section 3, and any other document, instrument or agreement executed in connection with the DIP Facility, each as amended, supplemented, waived or otherwise modified from time to time.

“DIP Loans” means the Interim DIP Loans, the Final DIP Loans, and the Budget Advance Date DIP Loans.

“DIP Orders” means, collectively, the Interim DIP Order and Final DIP Order.

“DIP Superpriority Claim” has the meaning specified therefor in Section 2.14(b) of the Agreement.

“Disclosure Statement” has the meaning specified therefor in Section 8.9(m)(iv) of the Agreement.

“Disqualified Equity Interests” means any Equity Interests that, by their terms (or by the terms of any security or other Equity Interests into which they are convertible or for which they are exchangeable), or upon the happening of any event or condition (a) matures or are mandatorily redeemable (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale or other disposition or casualty event so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale or other disposition or casualty event shall be subject to the prior repayment in full of the Loans and all other DIP Facility Obligations that are accrued and payable and the termination of the DIP Loan Commitments), (b) are redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests), in whole or in part, (c) provide for the scheduled payments of dividends in cash, or (d) are or become convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is 180 days after the Maturity Date (as determined on the date of the issuance thereof).

“Disqualified Lender” means (i) those Persons that are competitors of Parent and its Subsidiaries identified by name in writing to Agent from time to time, (ii) those banks, financial institutions, institutional lenders and other persons or entities that have been specified to Agent by Parent or the Sponsor prior to the date hereof, which list may be updated once per quarter absent the existence and continuance of an Event of Default; provided that (A) subject to clause (B) below, no Person that is a Lender on the Effective Date or has otherwise become a Lender hereunder in accordance with the assignment and participations provisions described in Section 13.1 of the Agreement, respectively, or any Affiliate of any such Person, may be added to the list of Disqualified Lenders after the Effective Date unless such list was updated to add such Person to the list prior to the time such Person became a Lender or Affiliate thereof, and (B) if (1) any Lender enters into a binding commitment to assign any DIP Loan or participate any portion of its interest therein (in each case in accordance with Section 13.1 of the Agreement) to a Person that such Lender has not been advised is a Disqualified Lender, (2) such assigning Lender has requested the consent of Borrower if such Lender is required to do so in the case of an assignment to such Person prior to entering into such binding commitment and (3) such

assigning or participating Lender has confirmed with Agent (based solely on Agent's review of the list of Disqualified Lenders then provided to Agent by Borrower) that such Person is not a Disqualified Lender prior to entering into such binding assignment or participation, then such assignee or participant, as applicable, shall not be a Disqualified Lender, and (iii) any Person that is an Affiliate of a Person referred to clauses (i) and (ii) above, in each case, if such Affiliate is clearly identifiable as such based on its name (excluding bona fide debt funds); provided that, during the existence and continuance of an (x) an Event of Default, there shall be deemed to be no Disqualified Lenders.

"Dollars" or "\$" means United States dollars.

"Domestic Cash Equivalents" means (a) marketable direct obligations issued by, or unconditionally guaranteed by, the United States or issued by any agency thereof and backed by the full faith and credit of the United States, in each case maturing within 1 year from the date of acquisition thereof, (b) marketable direct obligations issued or fully guaranteed by any state of the United States or any political subdivision of any such state or any public instrumentality thereof maturing within 1 year from the date of acquisition thereof and, at the time of acquisition, having one of the two highest ratings obtainable from either Standard & Poor's Rating Group ("S&P") or Moody's Investors Service, Inc. ("Moody's"), (c) commercial paper maturing no more than 270 days from the date of creation thereof and, at the time of acquisition, having a rating of at least A-1 from S&P or at least P-1 from Moody's, (d) certificates of deposit, time deposits, overnight bank deposits or bankers' acceptances maturing within 1 year from the date of acquisition thereof issued by any bank organized under the laws of the United States or any state thereof or the District of Columbia or any United States branch of a foreign bank having at the date of acquisition thereof combined capital and surplus of not less than (x) \$250,000,000 in the case of U.S. banks and (y) \$1,000,000,000 (or the dollar equivalent thereof as of the date of determination in the case of any United States branch of a foreign bank), (e) Deposit Accounts maintained with (i) any bank that satisfies the criteria described in clause (d) above, or (ii) any other bank organized under the laws of the United States or any state thereof so long as the full amount maintained with any such other bank is insured by the Federal Deposit Insurance Corporation, (f) repurchase obligations of any commercial bank satisfying the requirements of clause (d) of this definition or recognized securities dealer having combined capital and surplus of not less than (x) \$250,000,000 in the case of U.S. banks and (y) \$1,000,000,000 (or dollar equivalent thereof as of the date of determination) in the case of any United States branch of a foreign bank, having a term of not more than seven days, with respect to securities satisfying the criteria in clauses (a) or (d) above, (g) debt securities with maturities of six months or less from the date of acquisition backed by standby letters of credit issued by any commercial bank satisfying the criteria described in clause (d) above, (h) Investments in money market funds substantially all of whose assets are invested in the types of assets described in clauses (a) through (g) above and (i) investment funds investing at least 90% of their assets in securities of the types described in clauses (a) through (h) above.

"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 delegate) having responsibility for the resolution of any EEA Financial Institution.

“Effective Date” means May ___, 2019.

“Effective Tax Rate” means the aggregate Federal, state and local Tax rate applicable to an individual resident in the city of New York (or such other jurisdiction having the highest aggregate Federal, state and local Tax rate applicable to any equity owner of Parent) subject to tax at the highest marginal rates provided for under the applicable Federal, state and local laws then in effect, taking into account the character of income and assuming full deductibility of state and local taxes.

“Election Notice” has the meaning specified therefor in Section 13.1(l) of the Agreement.

“Election Period” has the meaning specified therefor in Section 13.1(l) of the Agreement.

“Eligible Transferee” means (a) any Lender (other than a Defaulting Lender), any Affiliate of any Lender and any Related Fund of any Lender; (b) (i) a commercial bank organized under the laws of the United States or any state thereof, and having total assets in excess of \$250,000,000; (ii) a savings and loan association or savings bank organized under the laws of the United States or any state thereof, and having total assets in excess of \$250,000,000; or (iii) a commercial bank organized under the laws of any other country or a political subdivision thereof; provided that (A) (x) such bank is acting through a branch or agency located in the United States or (y) such bank is organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development or a political subdivision of such country, and (B) such bank has total assets in excess of \$250,000,000; (c) any other entity (other than a natural person) that is an “accredited investor” (as defined in Regulation D under the Securities Act) that extends credit or buys loans as one of its businesses including insurance companies, investment or mutual funds and lease financing companies, and having total assets in excess of \$250,000,000; and (d) during the continuation of an Event of Default, any other Person approved by Agent; provided, that no Disqualified Lender shall qualify as an Eligible Transferee.

“Employee Benefit Plan” means any employee benefit plan within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA, (a) that is or within the preceding 6 years has been sponsored, maintained or contributed to by any Loan Party or ERISA Affiliate or (b) to which any Loan Party or ERISA Affiliate has, or has had at any time within the preceding 6 years, any liability, contingent or otherwise, excluding any Canadian Benefit Plan or Canadian Pension Plan.

“Environmental Action” means any written complaint, demand, summons, citation, notice, directive, order, claim, litigation, judicial or administrative proceeding, judgment, letter,

or other written communication from any Governmental Authority or any third party involving liabilities under Environmental Laws, violations of Environmental Laws or releases of Hazardous Materials (a) from any assets, properties, or businesses of Parent, any Subsidiary of Parent, or any of their predecessors in interest, (b) from adjoining properties or businesses, or (c) from or onto any facilities which received Hazardous Materials generated by Parent, any Subsidiary of Parent, or any of their predecessors in interest.

“Environmental Law” means any applicable United States or foreign federal, state, provincial, territorial, municipal or local statute, law, rule having the force and effect of law, regulation, ordinance, code, binding and enforceable guideline, or rule of common law now or hereafter in effect and in each case as amended, or any binding and enforceable judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, in each case, relating to the environment, Hazardous Materials affecting employee or worker health or safety, or Hazardous Materials, in each case as amended from time to time. Without limitation, Environmental Law includes the *Resource Conservation and Recovery Act* (“RCRA”), the *Comprehensive Environmental Response, Compensation and Liability Act* (“CERCLA”), the *Canadian Environmental Protection Act* (Canada), the *Fisheries Act* (Canada), the *Transportation of Dangerous Goods Act* (Canada) and the *Ontario Water Resources Act* (Ontario).

“Environmental Liabilities” means all liabilities, obligations (including monetary obligations), losses, damages, costs and expenses (including all reasonable fees, disbursements and expenses of counsel, experts, or consultants, and costs of investigation and feasibility studies), fines, penalties, sanctions, and interest incurred (i) as a result of or related to any Environmental Action or Remedial Action or (ii) under Environmental Law.

“Environmental Lien” means any Lien in favor of any Governmental Authority related to or arising out of Environmental Liabilities.

“Equipment” means equipment (as that term is defined in the Code).

“Equity Documents” means, collectively, the (i) Amended and Restated Limited Liability Company Agreement of Parent, dated as of October 21, 2014, (ii) Securityholders Agreement, dated as of October 21, 2014, by and among Parent and other Persons party thereto, (iii) Registration Rights Agreement, dated as of October 21, 2014, by and among Parent and the other Persons party thereto, (iv) Contribution and Exchange Agreement, dated as of September 18, 2014, by and among Parent and the other Persons party thereto, (v) Subscription Agreements, dated as of October 21, 2014, by and among Parent and the other Persons party thereto, (vi) Securities Purchase Agreement, dated as of September 18, 2014, by and among HHFH, HHF Holdings, LLC, Hollander Home Fashions Corp., Jeffrey Hollander Irrevocable Exempt Trust dated October 29, 2012 and each of the other Persons party thereto, (vii) certificate of incorporation, bylaws, operating agreement or other organizational document of the Loan Parties and their Canadian Subsidiaries as of the Effective Date, and (viii) Management Services Agreement, in each case, as amended.

“Equity Interests” means, with respect to a Person, all of the shares, options, warrants, interests, participations, or other equivalents (regardless of how designated) of or in such Person,

whether voting or nonvoting, including capital stock (or other ownership or profit interests or units), preferred stock, or any other “equity security” (as such term is defined in Rule 3a11-1 of the General Rules and Regulations promulgated by the SEC under the Exchange Act).

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and any successor statute thereto.

“ERISA Affiliate” means (a) any Person subject to ERISA whose employees are treated as employed by the same employer as the employees of Parent or its Subsidiaries under IRC Section 414(b), (b) any trade or business subject to ERISA whose employees are treated as employed by the same employer as the employees of Parent or its Subsidiaries under IRC Section 414(c), (c) solely for purposes of Section 302 of ERISA and Section 412 of the IRC, any organization subject to ERISA that is a member of an affiliated service group of which Parent or any of its Subsidiaries is a member under IRC Section 414(m), or (d) solely for purposes of Section 302 of ERISA and Section 412 of the IRC, any Person subject to ERISA that is a party to an arrangement with Parent or any of its Subsidiaries and whose employees are aggregated with the employees of Parent or its Subsidiaries under IRC Section 414(o).

“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.

“Event of Default” has the meaning specified therefor in Section 8 of the Agreement.

“Exchange Act” means the Securities Exchange Act of 1934, as in effect from time to time.

“Excluded Actions” has the meaning specified therefor in Section 5.12 of the Agreement.

“Excluded Collateral” has the meaning specified therefor in the Guaranty and Security Agreement.

“Excluded Subsidiary” means any Subsidiary of Parent (a) [reserved], (b) that is an Immaterial Subsidiary, (c) acquired after the Effective Date (i) that is prohibited from guaranteeing the DIP Facility Obligations by applicable law, rule or regulation or by any contractual obligation existing on the date such Subsidiary is acquired (so long as, in respect of any such contractual prohibition, such prohibition is not incurred in contemplation of such acquisition and with respect to any Subsidiary that has material assets, Borrower and the Subsidiary Guarantors shall have used commercially reasonable efforts (not involving expending money in excess of de minimis amounts) to remove such prohibition), or (ii) that would require governmental (including regulatory) consent, approval, license or authorization to provide a Guaranty, (d) that is a (i) Foreign Subsidiary of Parent that is a CFC, (ii) US Foreign Holdco, (iii) US Person that is a Subsidiary of a CFC, or (iv) Subsidiary the provision of a Guaranty by which would result in a material adverse tax consequence (as a result of the operation of Section 956 of the IRC) to Parent or one of its Subsidiaries (as reasonably determined by Parent in consultation with Agent), (e) any not-for-profit Subsidiaries, captive insurance companies or other special purpose Subsidiaries (so long as such special purpose Subsidiary is not created in contemplation of circumventing the guarantee obligations), and (f) any other Subsidiary if the costs to the Loan Parties of providing such guaranty are excessive (as determined by Agent in

consultation with Borrower) in relation to the benefits to Agent and the Lenders afforded thereby; provided, that notwithstanding the foregoing clauses (a) through (f), any Person that guarantees all or any portion of the US Obligations (as defined in the ABL DIP Facility Agreement as in effect on the date hereof) other than the Canadian Loan Parties (as defined in the ABL DIP Facility Agreement as in effect on the date hereof) shall not be an Excluded Subsidiary.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to, or required to be withheld or deducted from a payment to a Lender or Agent: (i) any Tax imposed on or measured by the net income or net profits (however denominated) of any Lender or Agent (including any branch profits taxes or franchise Taxes imposed in lieu thereof), in each case (A) imposed by the jurisdiction (or by any political subdivision or taxing authority thereof) in which such Lender or Agent is organized or the jurisdiction (or by any political subdivision or taxing authority thereof) in which such Lender’s or Agent’s principal office is located or (B) as a result of a present or former connection between such Lender or Agent and the jurisdiction or taxing authority imposing the Tax (other than any such connection arising from such Lender or Agent having executed, delivered, become a party to, performed its obligations under, received payment under, received or perfected a security interest under, enforced its rights or remedies under or engaged in any other transaction pursuant to the Agreement or any other DIP Loan Document or sold or assigned an interest in any DIP Loan or DIP Loan Document); (ii) United States federal Taxes that would not have been imposed but for a Lender’s or Agent’s failure to comply with the requirements of Section 16.2 of the Agreement, (iii) [intentionally omitted], (iv) any United States federal withholding Taxes that would be imposed on amounts payable to a Lender or Agent based upon the applicable law in effect at the time such Lender or Agent becomes a party to the Agreement (or designates a new lending office), except that Excluded Taxes shall not include any Tax amount that such Lender or Participant or Agent (or its assignor, if any) was previously entitled to receive pursuant to Section 16.1 of the Agreement, if any, with respect to such withholding Tax at the time of designation of a new lending office (or assignment); and (v) withholding Taxes imposed under FATCA.

“Extensions of Credit” means the advancing of DIP Loans under this Agreement on the Effective Date and the Final Order Effective Date, as applicable.

“Extraordinary Receipt” means any cash received by or paid to or for the account of any Person that is not contemplated in the Approved Budget and is not in the ordinary course of business (other than any such cash received or paid from Recovery Events), including tax refunds, pension plan reversions, indemnity payments and any purchase price adjustments; provided, however, that an Extraordinary Receipt shall not include indemnity payments to the extent that payments are received by any Person in respect of any third party claim against such Person and applied to pay (or to reimburse such Person for its prior payment of) such claim and the costs and expenses of such Person with respect thereto; provided, further, that Extraordinary Receipts shall not include items of ABL Priority Collateral or Proceeds of any assets of the categories in the definition of ABL Priority Collateral.

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

interpretations thereof, and any intergovernmental agreements entered into pursuant to Section 1471(b)(1) of the IRC.

“Federal Funds Rate” means, for any period, a fluctuating interest rate per annum equal to, for each day during such period, the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by Agent from three Federal funds brokers of recognized standing selected by it.

“Federal District Court” has the meaning specified therefor in Section 12.(b) of the Agreement.

“Fee Letter” means the fee letter, dated as of the Effective Date, between Borrower and the Lenders.

“Final DIP Loan Commitment” means on the Final Order Effective Date, with respect to each Lender holding a Final DIP Loan Commitment, the commitment of such Lender to make a Final DIP Loan, which commitment is in the amount set forth opposite such Lender’s name on Schedule D-1 under the caption “Final DIP Loan Commitment”, as amended to reflect Assignments; provided that such commitment shown on such Schedule shall, with the written consent of the Agent (which consent shall not be unreasonably withheld, delayed or conditioned), be increased by any portion of the Interim DIP Loan Commitment of such Lender not funded on the Effective Date. The aggregate amount of the Final DIP Loan Commitments on the Final Order Effective Date shall be the lesser of (a) \$7,000,000.00 and (b) such amount as approved by the Bankruptcy Court for funding on the Final Order Effective Date pursuant to the Final DIP Order. It is understood and agreed that the Final DIP Loan Commitments are in addition to the Interim DIP Loan Commitments and not a replacement or substitute therefor.

“Final DIP Loans” means the single draw term loans to be made on the Final Order Effective Date in an aggregate amount not to exceed the Final DIP Loan Commitments.

“Final DIP Order” means the order of the Bankruptcy Court entered in the Chapter 11 Cases after notice and final hearing pursuant to the Bankruptcy Rules or such other procedures as approved by the Bankruptcy Court which, among other matters (but not by way of limitation), authorizes the Borrower to obtain credit and the Loan Parties to incur (or guaranty) the DIP Facility Obligations and grant DIP Liens under the DIP Loan Documents, as the case may be, and provides for the superpriority of the Agent’s and the Lenders’ claims, and authorizes the use of cash collateral, as the same shall be approved by, and may be modified or supplemented from time to time after the Final Order Effective Date with the written consent of, the Agent and Required Lenders in their sole and absolute discretion.

“Final Order Effective Date” means the date on which the conditions under Sections 3.2 and 3.3 are satisfied or waived as reasonably determined by the Agent and the Required Lenders.

“Financial Officer” of any Person means the chief financial officer, the treasurer, any assistant treasurer, any vice president of finance, the chief accountant or the controller of such

Person, the Financial Advisor or any officer with substantially equivalent responsibilities of any of the foregoing (which may be a Person employed by the Financial Advisor).

“Financial Advisor” means Carl Marks Advisory Group LLC.

“First Day Hearing” means the first day of the hearing scheduled on which entry of the Interim DIP Order shall be heard.

“Flow Through Entity” means an entity that (a) for federal income tax purposes constitutes (i) a “partnership” (within the meaning of Section 7701(a)(2) of the Code) other than a “publicly traded partnership” (as defined in Section 7704 of the Code), or (ii) any other business entity that is disregarded as an entity separate from its owners under the IRC, or any published administrative guidance of the Internal Revenue Service (each of the entities described in the preceding clauses (i) and (ii), a “Federal Flow Through Entity”), and (b) for state and local jurisdictions is subject to treatment on a basis under applicable state or local income tax law substantially similar to a Federal Flow Through Entity.

“Foreign Cash Equivalents” means, in the case of any Subsidiary (other than a Loan Party or other Subsidiary organized under the laws of the United States or a political subdivision thereof), investments denominated in the currency of the jurisdiction in which such Subsidiary is organized or in Dollars, in each case which are of substantially the same type as the items specified in the definition of Domestic Cash Equivalents.

“Foreign Lender” means any Lender or Participant that is not a United States person within the meaning of IRC section 7701(a)(30).

“Foreign Asset Sale” means an sale or disposition of assets consummated by a Foreign Subsidiary.

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

“Funding Losses” has the meaning specified therefor in Section 2.12(b)(ii) of the Agreement.

“GAAP” means generally accepted accounting principles as in effect from time to time in the United States, consistently applied.

“Governing Documents” means, with respect to any Person, the certificate or articles of incorporation or formation (or equivalent thereof), by-laws (or equivalent thereof), or other organizational documents of such Person.

“Governmental Authority” means the government of the United States of America 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 supranational bodies such as the European Union or the European Central Bank).

“Guarantors” means (a) the Parent Guarantors and (b) each Subsidiary that is a U.S. Person and that is not an Excluded Subsidiary; provided that, notwithstanding the foregoing, any Person that guarantees all or any portion of the US Obligations (as defined in the ABL DIP Facility Agreement as in effect on the date hereof) other than the Canadian Loan Parties (as defined in the ABL DIP Facility Agreement as in effect on the date hereof) shall be a Guarantor.

“Guarantee Obligation” means as to any Person (the “guaranteeing person”), any obligation of (a) the guaranteeing person or (b) another Person (including any bank under any letter of credit) to induce the creation of which the guaranteeing person has issued a reimbursement, counterindemnity or similar obligation, in either case guaranteeing or in effect guaranteeing any Indebtedness, leases, dividends or other obligations (the “primary obligations”) of any other third Person (the “primary obligor”) in any manner, whether directly or indirectly, including any such obligation of the guaranteeing person, whether or not contingent, (i) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (ii) to advance or supply funds (A) for the purchase or payment of any such primary obligation or (B) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; provided, however, that the term Guarantee Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guarantee Obligation of any guaranteeing person shall be deemed to be the lower of (a) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee Obligation is made and (b) the maximum amount for which such guaranteeing person may be liable pursuant to the terms of the instrument embodying such Guarantee Obligation, unless such primary obligation and the maximum amount for which such guaranteeing person may be liable are not stated or determinable, in which case the amount of such Guarantee Obligation shall be such guaranteeing person’s maximum reasonably anticipated liability in respect thereof as determined by the Borrower in good faith.

“Guaranty and Security Agreement” means that certain DIP Loan Guaranty and Security Agreement, dated as of the Effective Date, executed and delivered by each Loan Party to Agent.

“Hazardous Materials” means (a) substances that are regulated under Environmental Laws or are defined or listed in, or otherwise classified pursuant to, any Environmental Laws as “hazardous substances,” “hazardous materials,” “hazardous wastes,” “toxic substances,” or any other formulation intended to define, list, or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, reproductive toxicity, or “EP toxicity”, (b) oil, petroleum, or petroleum derived substances, natural gas, natural gas liquids, synthetic gas, drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal resources, (c) any flammable substances or explosives or any radioactive materials, (d) asbestos in any form, and (e) electrical equipment that contains any oil or dielectric fluid containing levels of polychlorinated biphenyls in excess of 50 parts per million.

“Hedge Agreement” means a “swap agreement” as that term is defined in Section 101(53B)(A) of the Bankruptcy Code.

“HHFH” has the meaning specified therefor in the preamble to the Agreement.

“Hollander China” means Hollander Home Fashions Trading (Shanghai) Co., Ltd, a company organized under the laws of China.

“Immaterial Subsidiary” means each Subsidiary set forth on Schedule 4.25 hereto, provided that:

(i) the Immaterial Subsidiaries, taken together, do not, in the aggregate (x) comprise more than the lesser of \$1,000,000 and 1.00% of the total revenue of Parent and its Subsidiaries for the period of 12 months most recently ended on April 30, 2019 and (y) do not hold consolidated assets representing more than the lesser of \$1,000,000 and 1.00% of the total consolidated assets of Parent and its Subsidiaries on the last day of the most recent 12 month period ended on April 30, 2019,

(ii) no Immaterial Subsidiary (x) comprises more than the lesser of \$1,000,000 and 1.00% of the total revenue of Parent and its Subsidiaries for the period of 12 months most recently ended on April 30, 2019 or (y) holds consolidated assets representing more than the lesser of \$1,000,000 and 1.00% of the total consolidated assets of Parent and its Subsidiaries on the last day of the most recent 12 month period ended on April 30, 2019, and

(iii) if, at any time, the limits set forth in clauses (i) and (ii) are not satisfied as at or for the 12 month period ended on the most recently ended fiscal month for which financial statements have been delivered or required to be delivered to Agent hereunder on or prior to such date, Parent shall promptly (and in any event within 5 Business Days from the date such financial statements have been delivered or required to be delivered hereunder) re-designate one or more Immaterial Subsidiaries as no longer an Immaterial Subsidiary as may be necessary such that the foregoing limits shall be satisfied, and any such Subsidiary shall thereafter be deemed to no longer be an Immaterial Subsidiary hereunder.

“Indebtedness” as to any Person means (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes, or other similar instruments and all reimbursement or other obligations in respect of letters of credit, bankers acceptances, or other financial products, (c) all obligations of such Person as a lessee under Capital Leases, (d) all obligations or liabilities of others secured by a Lien on any asset of such Person, irrespective of whether such obligation or liability is assumed, (e) all obligations of such Person to pay the deferred purchase price of assets and any earn-out or similar obligations (to the extent included, or required to be included, as a liability on the balance sheet of such Person at such time) (other than (i) trade payables incurred in the ordinary course of business and repayable in accordance with customary trade practices, (ii) royalty payments payable in the ordinary course of business in respect of non-exclusive licenses, (iii) working capital and other similar purchase price adjustments), (iv) any earn-out obligation that is not yet due and payable unless such obligation is not paid promptly after becoming due and payable, (v) customary cash pooling and cash management practices and other intercompany indebtedness having a term not

exceeding 364 days (inclusive of any roll-over or extensions of terms) incurred in the ordinary course of business, (vi) accruals for payroll or other employee compensation and other liabilities incurred in the ordinary course of business and (vii) any accrued or deferred management fees, including pursuant to the Management Services Agreement, (f) all monetary obligations of such Person owing under Hedge Agreements (which amount shall be calculated based on the amount that would be payable by such Person if the Hedge Agreement were terminated on the date of determination), (g) the liquidation value of any Disqualified Equity Interests of such Person, and (h) any obligation of such Person guaranteeing or intended to guarantee (whether directly or indirectly guaranteed, endorsed, co-made, discounted, or sold with recourse) any obligation of any other Person that constitutes Indebtedness under any of clauses (a) through (g) above. For purposes of this definition, (i) the amount of any Indebtedness represented by a guaranty or other similar instrument shall be the lesser of the principal amount of the obligations guaranteed and still outstanding and the maximum amount for which the guaranteeing Person may be liable pursuant to the terms of the instrument embodying such Indebtedness, and (ii) the amount of any Indebtedness which is limited or is non-recourse to a Person or for which recourse is limited to an identified asset shall be valued at the lesser of (A) if applicable, the limited amount of such obligations, and (B) if applicable, the fair market value of such assets securing such obligation.

“Indemnified Liabilities” has the meaning specified therefor in Section 10.3 of the Agreement.

“Indemnified Person” has the meaning specified therefor in Section 10.3 of the Agreement.

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

“Initial Approved Budget” means the 17-week operating budget (or such shorter, or longer, period, as applicable, to coincide with the Life of the Case) setting forth, on a consolidated basis with respect to the Loan Parties and their respective Subsidiaries, all forecasted consolidated cash receipts, consolidated cash disbursements and consolidated net cash flow on a weekly basis for the relevant period beginning as of the week of the Petition Date, broken down by week, including the anticipated weekly uses of the proceeds of the DIP Facility for such period, which shall include, among other things, available cash, cash flow, trade payables and ordinary course expenses, total expenses and capital expenditures, fees and expenses relating to the DIP Facility, fees and expenses related to the Chapter 11 Cases, and working capital and other general corporate needs, which forecast shall be in form and substance reasonably satisfactory to the Agent at the direction of the Required Lenders. Such Initial Approved Budget shall be in the form set forth in Exhibit I-1 hereto. For all purposes hereunder, the Initial Approved Budget shall constitute an “Approved Budget”.

“Initial DIP Loans” means the DIP Loans made on the Effective Date.

“Insolvency Proceeding” means any proceeding commenced by or against any Person under any provision of the Bankruptcy Code or under any other provincial, state or federal bankruptcy or insolvency law, each as now and hereafter in effect, any successors to such

statutes, and any similar laws in any jurisdiction including, without limitation, any laws relating to assignments for the benefit of creditors, formal or informal moratoria, compositions, extensions generally with creditors, or proceedings seeking reorganization, arrangement, or other similar relief and any law permitting a debtor to obtain a stay or a compromise of the claims of its creditors.

“Intellectual Property” has the meaning specified therefor in Section 4.26 of the Agreement.

“Intercompany Subordination Agreement” means an Intercompany Subordination Agreement, in form and substance satisfactory to Agent in its sole discretion, to be executed and delivered by Parent and each of its Subsidiaries and Agent, in accordance with this Agreement.

“Intercreditor Agreement” means the Amended and Restated Intercreditor Agreement, dated as of the date hereof, between Agent and ABL DIP Agent.

“Interest Period” means, with respect to each LIBOR Rate Loan, a period commencing on the date of the making of such LIBOR Rate Loan (or the continuation of a LIBOR Rate Loan or the conversion of a Base Rate Loan to a LIBOR Rate Loan) and ending 1, 2, 3, or 6 months thereafter; provided, that (a) interest shall accrue at the applicable rate based upon the LIBOR Rate from and including the first day of each Interest Period to, but excluding, the day on which any Interest Period expires, (b) any Interest Period that would end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day, (c) with respect to an Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period), the Interest Period shall end on the last Business Day of the calendar month that is 1, 2, 3 or 6 months after the date on which the Interest Period began, as applicable, and (d) Borrower may not elect an Interest Period which will end after the Maturity Date.

“Interim DIP Loan Commitment” means on the Effective Date, with respect to each Lender holding an Interim DIP Loan Commitment, the commitment of such Lender to make an Interim DIP Loan, which commitment is in the amount set forth opposite such Lender’s name on Schedule D-1 under the caption “Interim DIP Loan Commitment”, as amended to reflect Assignments. The aggregate amount of the Interim DIP Loan Commitments on the Effective Date shall be the lesser of (a) \$15,000,000.00 and (b) such amount as approved by the Bankruptcy Court pursuant to the Interim DIP Order.

“Interim DIP Loans” means the single draw term loans to be made on the Effective Date but prior to the Final Order Effective Date, in an aggregate amount not to exceed the Interim DIP Loan Commitments.

“Interim DIP Order” means the order of the Bankruptcy Court substantially in the form of Exhibit I-2 (except as may otherwise be agreed in writing or on the record by the Agent and the Required Lenders at the interim hearing with respect to such order in the Chapter 11 Cases) entered in the Chapter 11 Cases after an interim hearing pursuant to the Bankruptcy Rules,

which, among other matters (but not by way of limitation), authorizes, on an interim basis, the Borrower to obtain credit and the Loan Parties to incur (or guaranty) the DIP Facility Obligations and grant DIP Liens under the DIP Loan Documents, as the case may be, and provides for the superpriority of the Agent's and the Lenders' claims, and authorizes the use of cash collateral, as the same shall be approved by, and may be modified or supplemented from time to time after the Interim Order Effective Date but before the Final Order Effective Date, with the written consent of the Agent and Required Lenders in their sole and absolute discretion.

"Inventory" means inventory (as that term is defined in the Code).

"Investment" means, with respect to any Person, any investment by such Person in any other Person (including Affiliates) in the form of loans, guarantees, advances, capital contributions (excluding (a) commission, travel, and similar advances to officers and employees of such Person made in the ordinary course of business, and (b) *bona fide* accounts receivable arising in the ordinary course of business), or acquisitions of Indebtedness, Equity Interests, or all or substantially all of the assets of such other Person (or of any division or business line of such other Person), and any other items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. The amount of any Investment shall be the original cost of such Investment plus the cost of all additions thereto, without any adjustment for increases or decreases in value, or write-ups, write-downs, or write-offs with respect to such Investment.

"IRC" means the Internal Revenue Code of 1986, as amended, and any successor statutes, and all regulations and guidance promulgated thereunder. Any reference to a specific section of the IRC shall be deemed to be a reference to such section of the IRC and any successor statutes, and all regulations promulgated thereunder.

"Lender" has the meaning set forth in the preamble to the Agreement and shall also include any other Person made a party to the Agreement pursuant to the provisions of Section 13.1 of the Agreement and "Lenders" means each of the Lenders or any one or more of them.

"Lender Group" means each of the Lenders and Agent, or any one or more of them.

"Lender Group Expenses" means, without duplication, all (a) reasonable and documented or invoiced costs or expenses (including taxes and insurance premiums) required to be paid by Parent or its Subsidiaries under any of the DIP Loan Documents that are paid, advanced, or incurred by the Agent, (b) reasonable and documented out-of-pocket fees or charges paid or incurred by Agent in connection with the Lender Group's transactions with Parent and its Subsidiaries under any of the DIP Loan Documents, including, photocopying, notarization, couriers and messengers, telecommunication, public record searches, filing fees, recording fees, publication, real estate surveys, real estate title policies and endorsements, and environmental audits, (c) Agent's customary fees and charges imposed or incurred in connection with any background checks or OFAC/PEP searches related to Parent or its Subsidiaries, (d) Agent's customary fees and charges (as adjusted from time to time) with respect to the disbursement of funds (or the receipt of funds) to or for the account of Borrower (whether by wire transfer or otherwise), together with any documented or invoiced out-of-pocket costs and expenses incurred in connection therewith, (e) customary charges imposed or incurred by Agent resulting from the

dishonor of checks payable by or to any Loan Party, (f) reasonable documented out-of-pocket costs and expenses paid or incurred by the Lender Group to correct any default or enforce any provision of the DIP Loan Documents, or during the continuance of an Event of Default, in gaining possession of, maintaining, handling, preserving, storing, shipping, selling, preparing for sale, or advertising to sell the DIP Collateral, or any portion thereof, irrespective of whether a sale is consummated (which, in the case of attorneys' fees, shall be limited to reasonable documented out-of-pocket attorneys' fees of one primary outside counsel to the Lender Group, which shall be King & Spalding LLP, and to the extent applicable, one local (including foreign) counsel in each relevant jurisdiction, and specialty counsel, regulatory counsel and, in the event of an actual or perceived conflict, counsel to avoid conflicts of interest as are required or advisable and in any case, shall not be duplicative of attorneys' fees pursuant to clause (i) below), (g) [intentionally omitted], (h) Agent's reasonable and documented costs and out-of-pocket expenses (including reasonable documented attorneys' fees and expenses of one outside counsel, except that such limitation shall not apply to the extent local (including foreign) counsel, specialty counsel, regulatory counsel or counsel to avoid conflicts of interest are required or advisable) relative to third party claims or any other lawsuit or adverse proceeding paid or incurred, whether in enforcing or defending the DIP Loan Documents or otherwise in connection with the transactions contemplated by the DIP Loan Documents, Agent's DIP Liens in and to the DIP Collateral, or the Lender Group's relationship with Parent or any of its Subsidiaries, (i) Agent's reasonable documented out-of-pocket costs and expenses, including due diligence expenses (which, in the case of attorneys' fees, shall be limited to reasonable documented out-of-pocket attorneys' fees of one primary outside counsel for Agent, and to the extent applicable, one local (including foreign) counsel in each relevant jurisdiction, and specialty counsel, regulatory counsel and counsel to avoid conflicts of interest as are required or advisable and in any case, shall not be duplicative of attorneys' fees pursuant to clause (f) above) incurred in advising, structuring, drafting, reviewing, administering (including travel, meals, and lodging), or amending, waiving, or modifying the DIP Loan Documents and in connection with the Chapter 11 Cases and the Recognition Proceedings, and (j) Agent's and each Lender's reasonable documented costs and expenses (including reasonable documented attorneys, accountants, consultants, and other advisors fees and expenses) incurred in terminating, enforcing (including attorneys, accountants, consultants, and other advisors fees and expenses incurred in connection with a response to a third-party subpoena or investigation, a "workout," a "restructuring," or an Insolvency Proceeding concerning Parent or any of its Subsidiaries or in exercising rights or remedies under the DIP Loan Documents), or defending the DIP Loan Documents, irrespective of whether a lawsuit or other adverse proceeding is brought, or in taking any enforcement action or any Remedial Action with respect to the DIP Collateral, which, in the case of attorneys' fees, shall be limited to reasonable documented out-of-pocket attorneys' fees of one primary outside counsel for each of the Agent and Lenders, and to the extent applicable, one local (including foreign) counsel in each relevant jurisdiction, and specialty counsel, regulatory counsel and counsel to avoid conflicts of interest as are required or advisable and in any case, shall not be duplicative of attorneys' fees pursuant to clauses (f) and (g) above).

"Lender Group Representatives" has the meaning specified therefor in Section 17.9 of the Agreement.

"Lender-Related Person" means, with respect to any Lender, such Lender, together with such Lender's Affiliates, officers, directors, employees, attorneys, and agents.

“LIBOR Deadline” has the meaning specified therefor in Section 2.12(b)(i) of the Agreement.

“LIBOR Notice” means a written notice in the form of Exhibit L-1 to the Agreement.

“LIBOR Option” has the meaning specified therefor in Section 2.12(a) of the Agreement.

“LIBOR Rate” means the rate *per annum* (rounded upwards to the nearest 1/100th of 1.0%), for each Interest Period, equal to the greater of (i) the rate administered by ICE Benchmark Administration Limited at which US dollar deposits are offered by leading banks in the London interbank deposit market on the first day of each month for the relevant Interest Period and that appears on the Reuters Screen LIBOR01 Page as displayed in the Bloomberg Financial Markets System at 11:00 a.m. London time (or, if not so appearing, as published in the “Money Rates” section of The Wall Street Journal or another national publication selected by the Collateral Agent) two Business Days prior to the first day of such Interest Period, and (ii) one percent (1.00%) *per annum*; provided that the determination of the LIBOR Rate shall be made by Agent and shall be conclusive in the absence of manifest error.

“LIBOR Rate Loan” means each portion of the DIP Loans that bears interest at a rate determined by reference to the LIBOR Rate.

“Lien” means any mortgage, deed of trust, pledge, hypothecation, assignment, charge, deposit arrangement, encumbrance, easement, lien (statutory or other), security interest, hypothec or other security arrangement and any other preference, priority, or preferential arrangement of any kind or nature whatsoever, including any conditional sale contract or other title retention agreement, the interest of a lessor under a Capital Lease and any synthetic or other financing lease having substantially the same economic effect as any of the foregoing.

“Life of the Case” means the period beginning on the Petition Date and lasting through (and including) the Plan Effective Date of the Proposed Plan.

“Loan Parties” means Borrower and Guarantors.

“Management Services Agreement” means that certain Amended and Restated Management Services Agreement, dated as of June 9, 2017, by and between Sponsor and Parent, as the same may be further amended in accordance with the terms hereof.

“Margin Stock” has the meaning specified therefor in Regulation U of the Board of Governors as in effect from time to time.

“Material Adverse Effect” means any event, circumstance or condition that has had or would reasonably be expected to have a material and adverse effect on (a) the business or financial condition of the Loan Parties and their Subsidiaries, taken as a whole, (b) the ability of Loan Parties, taken as a whole, to perform their payment obligations under the DIP Loan Documents, or (c) the rights and remedies of Agent and the Lenders under the DIP Loan Documents, taken as a whole, in each case, except for the events leading up to the Chapter 11 Cases, the commencement of the Chapter 11 Cases and the events that customarily and reasonably result from the commencement of the Chapter 11 Cases.

“Maturity Date” means the earliest to occur of (a) the date that is one hundred fifty (150) days after the Petition Date, (b) the date that any sale of all or substantially all of the assets of the Loan Parties pursuant to Section 363 of the Bankruptcy Code is consummated, (c) if the Final DIP Order has not been entered, the date that is forty (40) days after the date of the First Day Hearing; (d) the Plan Effective Date of a Proposed Plan; and (e) the date of any acceleration of the DIP Loans hereunder or the termination of the DIP Loan Commitments hereunder.

“Milestones” has the meaning specified therefor in Section 8.9(m) of the Agreement.

“MNPI” means any material Nonpublic Information regarding Parent and its Subsidiaries or the DIP Loans or securities of any of them that has not been disclosed to the Lenders generally (other than Lenders who elect not to receive such information). For purposes of this definition “material Nonpublic Information” shall mean nonpublic information with respect to the business of Parent, Borrower or any of their Subsidiaries that would reasonably be expected to be material to a decision by any Lender to assign or acquire any DIP Loans or to enter into any of the transactions contemplated thereby or would otherwise be material for purposes of United States Federal and state securities laws.

“Moody’s” has the meaning specified therefor in the definition of Cash Equivalents.

“Mortgages” means, individually and collectively, one or more mortgages, deeds of trust, or deeds to secure debt, executed and delivered by Parent or one of its Subsidiaries in favor of Agent, in form and substance reasonably satisfactory to Agent, that encumber any Real Property.

“Multiemployer Plan” means any multiemployer plan within the meaning of Section 3(37) or 4001(a)(3) of ERISA with respect to which any Loan Party has an obligation to contribute or has any liability, (including on behalf of an ERISA Affiliate) or could be assessed Withdrawal Liability assuming a complete withdrawal from any such multiemployer plan.

“Net Cash Proceeds” means:

(a) with respect to any sale or disposition by Parent or any of its Subsidiaries of assets, the amount of cash proceeds received (directly or indirectly) from time to time (whether as initial consideration or through the payment of deferred consideration) by or on behalf of Parent or such Subsidiary, in connection therewith after deducting therefrom only (i) the amount of any Indebtedness secured by any Permitted Lien on any asset (other than (A) Indebtedness owing to Agent or any Lender under the Agreement or the other DIP Loan Documents and (B) Indebtedness assumed by the purchaser of such asset) which (subject to the Intercreditor Agreement and the DIP Orders) is required to be, and is, repaid in connection with such sale or disposition, (ii) reasonable fees, commissions, and expenses related thereto and required to be paid by Parent or such Subsidiary in connection with such sale or disposition, excluding amounts payable to a Loan Party or Affiliate thereof, (iii) taxes paid or payable to any taxing authorities by Parent or such Subsidiary in connection with such sale or disposition, in each case to the extent, but only to the extent, that the amounts so deducted are actually paid or anticipated to be payable, and are properly attributable to such transaction, and (iv) all amounts that are set aside as a reserve (A) for adjustments in respect of the purchase price of such assets, (B) for any liabilities associated with such sale or casualty, to the extent such reserve is required by GAAP,

and (C) for the payment of unassumed liabilities relating to the assets sold or otherwise disposed of at the time of, or within 90 days after, the date of such sale or other disposition, to the extent that in each case the funds described above in this clause (iv) are (x) deposited into escrow with a third party escrow agent or set aside in a separate Deposit Account that is subject to a Control Agreement in favor of Agent and (y) paid to Agent as a prepayment of the applicable DIP Facility Obligations in accordance with Section 2.4(e) of the Agreement at such time when such amounts are no longer required to be set aside as such a reserve.

“New York Courts” has the meaning specified therefor in Section 12.(b) of the Agreement.

“New York Supreme Court” has the meaning specified therefor in Section 12.(b) of the Agreement.

“Non-Consenting Lender” has the meaning specified therefor in Section 14.2(a) of the Agreement.

“Non-Defaulting Lender” means each Lender other than a Defaulting Lender.

“Notice of Intent to Assign” has the meaning specified therefor in Section 13.1(l) of the Agreement.

“Notification Event” means (a) the occurrence of a “reportable event” described in Section 4043(c) of ERISA with respect to a Pension Plan for which the 30-day notice requirement has not been waived by applicable regulations issued by the PBGC, (b) the withdrawal of any Loan Party or ERISA Affiliate from a Pension Plan during a plan year in which it was a “substantial employer” as defined in Section 4001(a)(2) of ERISA, (c) the termination of a Pension Plan, the filing of a notice of intent to terminate a Pension Plan or the treatment of a Pension Plan amendment as a termination, under Section 4041 of ERISA, if the plan assets are not sufficient to pay all plan liabilities, (d) the institution of proceedings to terminate, or the appointment of a trustee with respect to, any Pension Plan by the PBGC or any Pension Plan or Multiemployer Plan administrator, (e) any other event or condition that would constitute grounds under Section 4042(a) of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan, (f) the imposition of a Lien pursuant to the IRC or ERISA in connection with any Employee Benefit Plan or the existence of any facts or circumstances that could reasonably be expected to result in the imposition of a Lien, (g) the partial or complete withdrawal of any Loan Party or ERISA Affiliate from a Multiemployer Plan (other than any withdrawal that would not constitute an Event of Default under Section 8.11), (h) any event or condition that results in the insolvency of a Multiemployer Plan under Section 4245 of ERISA, (i) any event or condition that results in the termination of a Multiemployer Plan under Section 4041A of ERISA or the institution by the PBGC of proceedings to terminate or to appoint a trustee to administer a Multiemployer Plan under ERISA, (j) any Pension Plan being in “at risk status” within the meaning of IRC Section 430(i), (k) any Multiemployer Plan being in “endangered status” or “critical status” within the meaning of IRC Section 432(b) or the determination that any Multiemployer Plan is or is expected to be insolvent within the meaning of Title IV of ERISA, (l) with respect to any Pension Plan, any Loan Party or ERISA Affiliate incurring a substantial cessation of operations within the meaning of ERISA Section 4062(e),

(m) an “accumulated funding deficiency” within the meaning of the IRC or ERISA (including Section 412 of the IRC or Section 302 of ERISA) or the failure of any Pension Plan or Multiemployer Plan to meet the minimum funding standards within the meaning of the IRC or ERISA (including Section 412 of the IRC or Section 302 of ERISA), in each case, whether or not waived, (n) the filing of an application for a waiver of the minimum funding standards within the meaning of the IRC or ERISA (including Section 412 of the IRC or Section 302 of ERISA) with respect to any Pension Plan or Multiemployer Plan, (o) the failure to make by its due date a required payment or contribution with respect to any Pension Plan or Multiemployer Plan, or (p) any event that results in or could reasonably be expected to result in a liability by a Loan Party pursuant to Title I of ERISA or the excise tax provisions of the IRC relating to Employee Benefit Plans or any event that results in or could reasonably be expected to result in a liability to any Loan Party or ERISA Affiliate pursuant to Title IV of ERISA or Section 401(a)(29) of the IRC.

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

“Originating Lender” has the meaning specified therefor in Section 13.1(e) of the Agreement.

“Other Taxes” has the meaning specified therefor in Section 16.1 of the Agreement.

“Parent” has the meaning specified therefor in the preamble to the Agreement.

“Parent Guarantors” has the meaning specified therefor in the preamble to the Agreement.

“Participant” has the meaning specified therefor in Section 13.1(e) of the Agreement.

“Participant Register” has the meaning set forth in Section 13.1(i) of the Agreement.

“Patent Security Agreement” has the meaning specified therefor in the Guaranty and Security Agreement.

“Patriot Act” has the meaning specified therefor in Section 4.13 of the Agreement.

“PBGC” means the Pension Benefit Guaranty Corporation or any successor agency.

“Pending Assignment Notice” has the meaning specified therefor in Section 13.1(l) of the Agreement.

“Pension Plan” means any Employee Benefit Plan, other than a Multiemployer Plan, which is subject to the provisions of Title IV or Section 302 of ERISA or Sections 412 or 430 of the Code sponsored, maintained, or contributed to by any Loan Party or which any Loan Party has any liability (including on behalf of an ERISA Affiliate), excluding any Canadian Pension Plan.

“Permitted Dispositions” means:

(a) sales, abandonment, or other dispositions of Equipment that is substantially worn, damaged, or obsolete or no longer used or useful in the ordinary course of business and leases or subleases (or the termination or abandonment thereof) of Real Property not useful in any material respect in the conduct of the business of Parent and its Subsidiaries,

(b) sales of ABL Priority Collateral permitted under the ABL DIP Facility Documents and in accordance with the Intercreditor Agreement,

(c) the use or transfer of money or Cash Equivalents in a manner that is not prohibited by the terms of the Agreement or the other DIP Loan Documents,

(d) the licensing or sub-licensing of Intellectual Property rights in the ordinary course of business,

(e) the granting of Permitted Liens,

(f) the sale or discount, in each case without recourse, of accounts receivable arising in the ordinary course of business, but only in connection with the compromise or collection thereof,

(g) any involuntary loss, damage or destruction of property,

(h) any involuntary condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, or confiscation or requisition of use of property,

(i) the leasing or subleasing of assets of Parent or its Subsidiaries in the ordinary course of business,

(j) the making of Restricted Payments that are expressly permitted to be made pursuant to the Agreement,

(k) the making of Permitted Investments that are expressly permitted to be made pursuant to the Agreement,

(l) the expiration, abandonment or lapse of patents, trademarks, copyrights, domain names or other intellectual property of Parent and its Subsidiaries (i) to the extent immaterial or not economically desirable in the conduct of their business (ii) in accordance with their respective statutory terms, or (iii) in the ordinary course of business,

(m) sales or dispositions between or among Loan Parties,

(n) voluntary terminations of any Hedge Agreements,

(o) the discount or compromise of notes or accounts receivable (other than Eligible Accounts (as defined in the ABL DIP Facility Documents)) for less than the face value in the resolution of disputes that occur in the ordinary course of business,

(p) the sale or disposition of shares of Equity Interests of any Subsidiary of Borrower (i) in order to qualify members of the governing body of the Subsidiary if and to the extent required by applicable law or (ii) to nationals of the jurisdiction of organization of any Subsidiary to the extent required by applicable law, and

(q) so long as no Event of Default has occurred and is continuing, sales of fixed assets in Toronto for cash consideration in an amount not to exceed \$500,000 in the aggregate.

“Permitted Indebtedness” means:

(a) the DIP Facility Obligations, including Indebtedness evidenced by the Agreement or the other DIP Loan Documents,

(b) the Pre-Petition Term Obligations incurred by the Loan Parties pursuant to the Pre-Petition Term Facility,

(c) Indebtedness constituting Permitted Investments,

(d) Indebtedness of the Parent or any of its Subsidiaries arising from the honoring of a check, draft or similar instrument of such Person drawn against insufficient funds in the ordinary course of business, provided that such Indebtedness is extinguished within five Business Days of its incurrence;

(e) Indebtedness of the Parent or any Subsidiary in respect of (A) letters of credit, bankers’ acceptances or other similar instruments or obligations issued, or relating to liabilities or obligations incurred in the ordinary course of business under indemnity, performance, surety, statutory, appeal and similar bonds, worker’s compensation claims, bonds, letters of credit and completion guarantees, or (B) completion guarantees, surety, judgment, appeal or performance bonds, or other similar bonds, instruments or obligations, provided, or relating to liabilities or obligations incurred, in the ordinary course of business or (C) netting, overdraft protection and other arrangements arising under standard business terms of any bank at which the Parent or any of its Subsidiaries maintains an overdraft, cash pooling or other similar facility or arrangement,

(f) Indebtedness under the ABL DIP Facility Documents in an aggregate principal amount not to exceed the amount thereof permitted under the DIP Orders, together with any Refinancing (as defined in the Intercreditor Agreement) thereof in accordance with the Intercreditor Agreement,

(g) the Senior ABL Facility Obligations incurred by the Loan Parties pursuant to the Senior ABL Facility Documents, in a maximum principal amount for all such Indebtedness at any time outstanding not to exceed the amount thereof permitted under the DIP Orders, together with any Refinancing (as defined in the Intercreditor Agreement) thereof in accordance with the Intercreditor Agreement,

(h) Indebtedness incurred in the ordinary course of business in respect of credit cards, credit card processing services, debit cards, stored value cards, purchase cards (including so-called “procurement cards” or “P-cards”), or Cash Management Services,

- (i) Indebtedness permitted to be incurred in accordance with the DIP Orders,
- (j) Indebtedness incurred in the ordinary course of business owed to any Person providing property, casualty, liability, or other insurance to Parent or any of its Subsidiaries, so long as the amount of such Indebtedness is not in excess of the amount of the unpaid cost of, and shall be incurred only to defer the cost of, such insurance for the year in which such Indebtedness is incurred and such Indebtedness is outstanding only during such year,
- (k) endorsement of instruments or other payment items for deposit,
- (l) the incurrence by Parent or its Subsidiaries of Indebtedness under Hedge Agreements that are incurred for the bona fide purpose of hedging the interest rate, commodity, or foreign currency risks associated with Parent's and its Subsidiaries' operations and not for speculative purposes,
- (m) unsecured Indebtedness (subject to customary rights of setoff) incurred in respect of netting services, overdraft protection, and other like services, in each case, incurred in the ordinary course of business,
- (n) Indebtedness representing deferred compensation or similar obligations to employees incurred in the ordinary course of business,
- (o) accrual of interest, accretion or amortization of original issue discount, or the payment of interest in kind, in each case, on Indebtedness that otherwise constitutes Permitted Indebtedness,
- (p) to the extent constituting Indebtedness, unsecured Indebtedness consisting of take-or-pay obligations contained in supply agreements entered into by any Loan Party in the ordinary course of business consistent with past practices not to exceed at any time outstanding an amount equal to \$500,000,
- (q) Indebtedness in respect of workers' compensation claims, self-insurance obligations, export or import indemnities or similar instruments, customs bonds, governmental contracts and leases provided a by Loan Party in the ordinary course of its business and under any letters of credit, bank guarantees or similar instruments supporting the same,
- (r) Indebtedness in respect of taxes, assessments or governmental charges to the extent that payment thereof shall not at the time be required to be made in accordance with Section 5.5,
- (s) Indebtedness owing to a landlord arising under a lease of Real Property as a result of an ordinary course "build out" provision in connection with the financing by such landlord of leasehold improvements,
- (t) unsecured guarantees issued by (x) Loan Parties to guaranty the underlying Indebtedness of another Loan Party and (y) a Subsidiary of Parent that is not a Loan Party to guaranty the underlying indebtedness of any other Subsidiary of Parent to the extent that such Subsidiary is a party to an Intercompany Subordination Agreement, in each case to the extent

that such Indebtedness is permitted under this Agreement (other than guaranties by US Borrower (as defined in the ABL DIP Facility Agreement) or any US Guarantor (as defined in the ABL DIP Facility Agreement) of any Indebtedness of any Canadian Loan Party (as defined in the ABL DIP Facility Documents), except for the US Guaranty (as defined in the ABL DIP Facility Agreement)),

(u) Indebtedness of a Foreign Subsidiary (other than Canadian Borrower (as defined in the ABL DIP Facility Agreement) or any Subsidiary organized under the laws of Canada or a province thereof) in an aggregate principal amount not to exceed \$1,000,000 at any time, and

(v) Indebtedness outstanding on the Petition Date and set forth on Schedule 4.14 to the Agreement.

“Permitted Intercompany Advances” means loans and other Investments made by (a) a Loan Party to another Loan Party, (b) a Subsidiary of Parent that is not a Loan Party to another Subsidiary of Parent that is not a Loan Party, (c) a Subsidiary of Parent that is not a Loan Party to a Loan Party, so long as the parties thereto are party to the Intercompany Subordination Agreement, (d) a Loan Party to a Subsidiary of Parent that is not a Loan Party so long as (i) the aggregate amount of all such loans and other Investments after the Effective Date does not exceed the greater of \$500,000 outstanding at any one time and the amount of such loan or Investment permitted to be made as “other payables” under the Approved Budget, and (ii) at the time of the making of such loan or other Investment, no Default Event of Default has occurred and is continuing or would result therefrom, and (e) loans made from proceeds of a Canadian Borrowing (as defined in the ABL DIP Facility Agreement) by the Canadian Borrower (as defined in the ABL DIP Facility Agreement) to any US Borrower (as defined in the ABL DIP Facility Agreement) secured against assets of the US Borrowers (as defined in the ABL DIP Facility Agreement) pursuant to the DIP Orders, provided that such security is junior to the Liens securing the Existing Secured US Obligations (as defined in the ABL DIP Facility Agreement) and the US Obligations (as defined in the ABL DIP Facility Agreement).

“Permitted Investments” means:

- (a) Investments in cash and Cash Equivalents,
- (b) Investments in negotiable instruments deposited or to be deposited for collection in the ordinary course of business,
- (c) advances and extensions of trade credit made in connection with purchases of goods or services in the ordinary course of business and consistent with past practices,
- (d) Investments received in settlement of amounts due to any Loan Party or any of its Subsidiaries effected in the ordinary course of business or owing to any Loan Party or any of its Subsidiaries as a result of Insolvency Proceedings involving an Account Debtor, upon the foreclosure or enforcement of any Lien in favor of a Loan Party or its Subsidiaries or in connection with an out-of-court restructuring of an Account Debtor,
- (e) Investments owned by any Loan Party or any of its Subsidiaries on the Effective Date and set forth on Schedule P-1 to the Agreement,

- (f) guarantees permitted under the definition of Permitted Indebtedness,
- (g) Permitted Intercompany Advances,
- (h) receivables owing to the Parent or any of its Subsidiaries, if created or acquired in the ordinary course of business,
- (i) [reserved],
- (j) deposits of cash outstanding on the Petition Date made in the ordinary course of business to secure performance of operating leases,
- (k) Equity Interests or other securities acquired in connection with the satisfaction or enforcement of Indebtedness or claims due or owing to a Loan Party or its Subsidiaries (in bankruptcy of customers or suppliers or otherwise outside the ordinary course of business) or as security for any such Indebtedness or claims,
- (l) [reserved],
- (m) so long as no Event of Default has occurred and is continuing at the time such Investment is made or would result therefrom, any other Investments in an aggregate amount not to exceed the lesser of \$250,000 outstanding at any time and the amounts therefor permitted in compliance with the Approved Budget,
- (n) Investments (i) by Borrower or any Subsidiary that is a Loan Party in Borrower or any Subsidiary that is a Loan Party, (ii) by any non-Loan Party in any other non-Loan Party that is a Subsidiary and (iii) by any non-Loan Party in Borrower or any Subsidiary that is a Loan Party,
- (o) Investments consisting of obligations under Hedge Agreements permitted by Section 6.1,
- (p) advances in connection with purchases of goods or services in the ordinary course of business and consistent with past practice solely to the extent set forth in Approved Budget, and
- (q) Advances of payroll payments to employees in the ordinary course of business to the extent set forth in the Approved Budget.

“Permitted Liens” means

- (a) Liens granted to, or for the benefit of, Agent to secure any of the DIP Facility Obligations,
- (b) Liens for unpaid Taxes, assessments, or other governmental charges or levies, and other statutory inchoate Liens, in each case that either (i) are not more than thirty days past due or (ii) the underlying Taxes, assessments, charges, levies or other obligations are the subject of Permitted Protests,

(c) judgment Liens arising solely as a result of the existence of judgments, orders, or awards that do not constitute an Event of Default under Section 8.3 of the Agreement so long as such judgments are stayed during the pendency of the Chapter 11 Cases,

(d) the interests of lessors and sublessors under operating leases and subleases and non-exclusive licensors and sublicensors under license agreements and sublicense agreements, in each case, incurred in the ordinary course of business,

(e) Liens arising by operation of law in favor of warehousemen, landlords, carriers, mechanics, materialmen, laborers, contractor, or suppliers, construction liens and other like liens, in each case incurred in the ordinary course of business and not in connection with the borrowing of money, and which Liens either (i) are for sums not more than thirty days past due, or (ii) are the subject of Permitted Protests,

(f) Liens on amounts deposited to secure Parent's and its Subsidiaries obligations in connection with worker's compensation or other unemployment insurance and other social security legislation or other insurance related obligations (including obligations in respect of letters of credit, bank guarantees or similar instruments) securing the same,

(g) Liens on amounts or Cash Equivalents deposited to secure Parent's and its Subsidiaries obligations in connection with the making or entering into of bids, tenders, contracts, or leases in the ordinary course of business, or statutory obligations and, in each case not in connection with the borrowing of money,

(h) Liens on amounts deposited to secure Parent's and its Subsidiaries reimbursement obligations with respect to surety, performance, bid, or appeal bonds, completion guarantees and similar obligations, or letters of credit, bank guarantees or similar instruments obtained in the ordinary course of business,

(i) with respect to any Real Property, (i) easements, covenants, conditions, reservations, declarations, rights of way, and zoning restrictions (including deed restrictions utilized in connection with any Remedial Actions required under Environmental Laws) and other similar matters of record affecting title to such Real Property, (ii) any state of facts that a current accurate survey and visual inspection would disclose, in either case, that do not materially interfere with or impair the use or operation thereof and (iii) all Liens and other matters disclosed in any Mortgage title insurance policy,

(j) licenses and sublicenses of Intellectual Property rights in existence as of the Effective Date or thereafter in the ordinary course of business,

(k) Liens granted or authorized by the DIP Orders, including, without limitation, replacement Liens granted to Senior ABL Facility Agent and Liens granted by US Borrowers (as defined in the ABL DIP Facility Agreement) to the Canadian Borrower (as defined in the ABL DIP Facility Agreement) to secure Permitted Intercompany Advances,

(l) (i) rights of setoff or bankers' liens upon deposits of funds in favor of banks or other depository institutions, solely to the extent incurred in connection with the maintenance of Deposit Accounts in the ordinary course of business, (ii) Liens of a collection bank arising under

Section 4-208 of the Uniform Commercial Code on the items in the course of collection, and (iii) Liens attaching to commodity trading accounts or other commodities brokerage accounts incurred in the ordinary course of business and not for speculative purposes,

(m) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties not yet delinquent in connection with the importation of goods,

(n) Liens on amounts deposited to secure amounts incurred in the ordinary course of business owing to public utilities or to any municipalities or Governmental Authorities or other public authority when required by the utility, municipality or Governmental Authorities or other public authority in connection with the supply of services or utilities to any Loan Party,

(o) Liens on specific items of inventory or other goods and proceeds thereof of any Person securing such Person's obligations in respect of bankers' acceptances or letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or such other goods in the ordinary course of business,

(p) Liens securing the (x) Senior ABL Facility Obligations, (y) ABL DIP Facility Obligation, and (z) the Pre-Petition Term Facility Obligations,

(q) contractual rights of set-off relating to purchase orders and other agreements entered into in the ordinary course of business,

(r) inchoate Liens in respect of Canadian Priority Payables and Liens for which a "Canadian Priority Payables Reserve" (as defined therein) for the amount of such Lien has been established under the ABL DIP Facility Agreement,

(s) Liens set forth on Schedule 1.1A to the Agreement; provided, that to qualify as a Permitted Lien, any such Lien described on Schedule 1.1A to the Agreement shall only secure the Indebtedness that it secures on the Effective Date,

(t) Liens on assets securing the Senior ABL Facility Obligations subject to the Intercreditor Agreement,

(u) Liens granted in the ordinary course of business on the unearned portion of insurance premiums securing the financing of insurance premiums to the extent the financing is permitted under Section 6.1,

(v) Liens granted to, or for the benefit of, Pre-Petition Term Agent to secure the Pre-Petition Term Facility Obligations,

(w) Liens in the nature of precautionary UCC or PPSA filings (or similar filings) by lessors under operating leases,

(x) any interest of a lessee or sublessee or licensee under any lease or license of excess office, warehouse or other space by a Loan Party in the ordinary course of business consistent with past practices, and

(y) the Administration Charge (as defined in the ABL Facility Documents).

“Permitted Priority Lien” means Permitted Liens that, under applicable law, are senior to, and have not been subordinated to, the liens of the Agents under the DIP Loan Documents, but only to the extent that such liens are valid, enforceable and non-avoidable liens as of the Petition Date (or as may be permitted to be perfected on the Petition Date pursuant to Section 546 of the Bankruptcy Code).

“Permitted Protest” means the right of Parent or any of its Subsidiaries to protest any Lien (other than any Lien that secures the DIP Facility Obligations), Taxes, or rental or other lease payment, provided that (a) a reserve with respect to such obligation is established on Parent’s or its Subsidiaries’ books and records in such amount as is required under GAAP, (b) any such protest is instituted promptly and prosecuted in accordance with applicable law diligently by Parent or its Subsidiary, as applicable, in good faith, and (c) Agent is reasonably satisfied that, while any such protest is pending, there will be no impairment of the enforceability, validity, or priority of any of Agent’s Liens.

“Permitted Tax Distributions” means, except as otherwise noted in this definition below, for the calendar year (or portion thereof) ending December 31, 2019 and each calendar year (or portion thereof) ending December 31 thereafter, distributions in the aggregate amount (1) if (A) Parent is not a Flow Through Entity and (B) Borrower is not a Flow Through Entity and Parent is a member (other than the parent) of a consolidated, combined or other similar group for tax purposes, an amount necessary to permit the parent of the aforementioned group to pay estimated or final federal income tax attributable to the taxable income of Borrower and its Subsidiaries for U.S. federal income tax purposes, provided that such payments shall not exceed the amount Borrower and its Subsidiaries would be required to pay if they filed as part of a consolidated, combined, or other similar group for tax purposes separately from the common parent with Borrower as the parent of such hypothetical group, or (2) if Borrower, Holdings and Parent are all Flow Through Entities, an amount equal to the sum of the aggregate net taxable income of Borrower for U.S. federal income tax purposes for the taxable year multiplied by the Effective Tax Rate; provided that such aggregate net taxable income shall be computed (i) as if all excess taxable losses and excess taxable credits of the company were carried forward (taking into account the character of any such loss carryforward as capital or ordinary) and (ii) taking into account any special basis adjustment resulting from an election under IRC Section 754. Borrower shall be permitted to make estimated tax distributions based on good faith estimates of the taxable income of Borrower and its Subsidiaries. Within ten (10) days of the filing of the federal income tax return of Parent it shall provide Agent with a signed declaration of the accountant that prepared such return of the amount of taxable income or loss from Borrower and its Subsidiaries that was reflected on such tax return. To the extent estimated Permitted Tax Distributions exceed final Permitted Tax Distributions for any calendar year, such excess, if already distributed, shall be returned to the Borrower. For purposes of this definition, “taxable income” of Borrower and its Subsidiaries shall include the taxable income of Borrower and its Subsidiaries (included pursuant to Section 951 and Section 951A of the IRC) only to the extent Borrower and its Subsidiaries receive from such Excluded Subsidiary an amount sufficient to pay all income taxes attributable to such taxable income.

“Permitted Variances” means, with respect to determining compliance with Section 6.19 relating to the Borrower’s cash receipts, cash disbursements and net cash flow, (i) all variances favorable to the Borrowers and their Subsidiaries; (ii) with respect to determining compliance with Section 6.19(e) or 6.19(f) as of the end of any Testing Period, an unfavorable cumulative variance of 10.0% (in each case compared to the relevant amounts forecast for the same period in the Approved Budget); and (iii) with respect to determining compliance with Section 6.19(g) as of the end of any Testing Period, an unfavorable cumulative variance of 15.0% (in each case compared to the amount forecast for the same period in the Approved Budget).

“Persons” means natural persons, corporations, limited liability companies, limited partnerships, unlimited liability companies, general partnerships, limited liability partnerships, joint ventures, trusts, land trusts, business trusts, or other organizations, irrespective of whether they are legal entities, and governments and agencies and political subdivisions thereof.

“Petition Date” has the meaning specified therefor in the recitals.

“Plan Effective Date” means the date in which all conditions precedent to the effectiveness of a Proposed Plan has been satisfied or waived in accordance with the Proposed Plan.

“Post-Carve Out Trigger Notice Cap” has the meaning specified therefor in Section 2.14(d) of the Agreement.

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

“Pre-Petition Term Agent” means Barings Finance LLC in its capacity as agent for the Pre-Petition Term Lenders under the Pre-Petition Term Facility Documents, or any successor agent under the Pre-Petition Term Facility Documents.

“Pre-Petition Term Facility Agreement” means that certain Term Loan Credit Agreement, dated as of June 9, 2017, by and among the Borrower, the Parent Guarantors, the Pre-Petition Term Agent, the Pre-Petition Term Lenders, as the same may be amended, supplemented, waived or otherwise modified from time to time.

“Pre-Petition Term Facility” means the Pre-Petition Term Facility Agreement, any Pre-Petition Term Facility Documents, any notes issued pursuant thereto and any guarantee and collateral agreement, patent and trademark security agreement, mortgages, and other guarantees, pledge agreements, security agreements and collateral documents, and other instruments and documents, executed and delivered pursuant to or in connection with any of the foregoing, in each case as the same may be amended, supplemented, waived or otherwise modified from time to time.

“Pre-Petition Term Facility Documents” means the “Loan Documents” as defined in the Pre-Petition Term Facility Agreement, as the same may be amended, supplemented, waived, or otherwise modified from time to time.

“Pre-Petition Term Lenders” means the lenders from time to time party to the Pre-Petition Term Facility Agreement.

“Pre-Petition Term Liens” means the Liens securing the Pre-Petition Term Obligations.

“Pre-Petition Term Obligations” means the “Obligations” under and as defined in the Pre-Petition Term Facility Agreement.

“Prepayment Date” has the meaning specified therefor in Section 2.4(f) of the Agreement.

“Proposed Plan” has the meaning specified therefor in Section 8.9(m)(iv) of this Agreement.

“Pro Rata Share” means, as of any date of determination:

(a) with respect to a Lender’s obligation to make all or a portion of the DIP Loans of any tranche, with respect to such Lender’s right to receive payments of interest, fees, and principal with respect to the DIP Loans of such tranche, and with respect to all other computations and other matters related to the DIP Loans of such tranche, the percentage obtained by dividing (i) the DIP Loan Commitments (or, if such DIP Loan Commitments are terminated, the outstanding DIP Loans) of such tranche owed to such Lender by (ii) the aggregate DIP Loan Commitments (or, if such DIP Loan Commitments are terminated, the aggregate outstanding DIP Loans) of such tranche owed to all Lenders, and

(b) with respect to all other matters and for all other matters as to a particular Lender (including the indemnification obligations arising under Section 15.7 of the Agreement), the percentage obtained by dividing (i) the DIP Loan Commitments (or, if such DIP Loan Commitments are terminated, the outstanding DIP Loans) of the relevant tranche owed to such Lender by (ii) the aggregate DIP Loan Commitments (or, if such DIP Loan Commitments are terminated, the aggregate outstanding DIP Loans) of the relevant tranche owed to all Lenders, in any such case as the applicable percentage may be adjusted by assignments permitted pursuant to Section 13.1; provided, that if all of the DIP Loans of the relevant tranche have been repaid in full, and all DIP Loan Commitments of the relevant tranche have been terminated, Pro Rata Share under this clause shall be determined as if the DIP Loans of the relevant tranche had not been repaid and shall be based upon the DIP Loans of the relevant tranche as they existed immediately prior to their repayment.

“Qualified Equity Interests” means and refers to any Equity Interests issued by Parent (and not by one or more of its Subsidiaries) that is not a Disqualified Equity Interest.

“Real Property” means any estates or interests in real property now owned or hereafter acquired by Parent or one of its Subsidiaries and the improvements thereto, including without limitation the Real Property Collateral.

“Real Property Collateral” means the Real Property identified on Schedule R-1 to the Agreement and any Real Property hereafter acquired by any Loan Party in fee simple with a fair market value greater than \$1,000,000.

“Recipient” means (a) Agent and (b) any Lender, as applicable.

“Recognition Proceedings” means the recognition proceeding commenced under Part IV of the Companies’ Creditors Arrangement Act in the Ontario Superior Court of Justice (Commercial List) to recognize the Chapter 11 Cases as “foreign main proceedings”.

“Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

“Recovery Event” means any settlement of or payment in respect of any property or casualty insurance claim or any condemnation proceeding relating to any asset of any Loan Party giving rise to Net Cash Proceeds to such Loan Party, as the case may be, to the extent that such settlement or payment does not constitute reimbursement or compensation for amounts previously paid by the Borrower or any other Loan Party in respect of such casualty or condemnation.

“Register” has the meaning set forth in Section 13.1(h) of the Agreement.

“Registered Loan” has the meaning set forth in Section 13.1(h) of the Agreement.

“Related Agreements” means the DIP Loan Documents, the RSA and all other agreements or instruments executed in connection with the Related Transactions.

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

“Related Transactions” means (i) the execution, delivery and performance by the Loan Parties of this Agreement and each other DIP Loan Document to which they are a party, the initial borrowing under of the DIP Loan and the use of the proceeds thereof, and the grant of DIP Liens by the Borrower on the DIP Collateral pursuant to this Agreement, the DIP Orders and the Guaranty and Security Agreement, (ii) the commencement and filing of the Chapter 11 Cases and (iii) the payment of all fees, costs and expenses associated with all of the foregoing.

“Remedial Action” means all actions taken to (a) clean up, remove, remediate, contain, treat, monitor, assess, evaluate, or in any way address Hazardous Materials in the environment, (b) prevent or minimize a release or threatened release of Hazardous Materials so they do not migrate or endanger or threaten to endanger public health or welfare or the environment, (c) restore or reclaim natural resources or the environment, (d) perform any pre-remedial studies, investigations, or post-remedial operation and maintenance activities, or (e) conduct any other actions with respect to Hazardous Materials required by Environmental Laws.

“Replacement Lender” has the meaning specified therefor in Section 2.13(b) of the Agreement.

“Required Lenders” means, at any time, Lenders having or holding more than 50% of the sum of the aggregate outstanding DIP Loans of all Lenders; provided, that the outstanding DIP Loans of any Defaulting Lender shall be disregarded in the determination of the Required Lenders; provided, further, that if at any time there are two (2) or more Lenders, then at least two (2) Lenders shall be necessary to constitute Required Lenders (for purposes of this proviso, a Lender and any other Lenders that are Affiliates or Related Funds of such Lender shall be counted as a single Lender).

“Responsible Officer” of any Person means the chief executive officer, the president, executive vice president, any senior vice president, any vice president, the chief operating officer, the legal representative, the general manager or any Financial Officer of such Person and any other individual or similar official thereof responsible for the administration of the obligations of such Person in respect of the Agreement. Agent and each Lender shall be entitled to conclusively presume that (i) any document delivered hereunder that is signed by a Responsible Officer of a Loan Party has been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party, and (ii) such Responsible Officer has acted on behalf of such Loan Party.

“Restricted Asset Sale Proceeds” means, in respect of a Foreign Asset Sale, an amount equal to the Net Cash Proceeds attributable thereto if and solely to the extent that the repatriation of such Net Cash Proceeds to Borrower (a) would result in material (relative to the amount of the Foreign Asset Sale) adverse Tax consequences to Parent or any of its Subsidiaries (taking into account any foreign tax credit that would be realized in connection with such repatriation) or (b) would be prohibited (but only for so long as such prohibition is in effect) or restricted (but only to the extent of such restriction and, then, only for so long as such restriction is in effect) by applicable law, rule or regulation, organizational document of the applicable Foreign Subsidiary, or pre-existing contract (so long as (i) such contractual obligation or restriction or organizational document was not entered into or imposed in contemplation of such repatriation and (ii) unless such prohibition or restriction is required to be included under applicable law, rule, or regulation, if there are commercially reasonable measures available to remove such prohibition or restriction from its organizational documents, such Foreign Subsidiary has taken such commercially reasonable measures). For purposes of this definition, if an officer’s certificate setting forth a calculation in reasonable detail of the amount of Restricted Asset Sale Proceeds in respect of any Foreign Asset Sale is delivered to Agent, such certificate shall be prima facie evidence of such amount unless Agent or any Lender notifies Borrower within 10 Business Days after such certificate is received by Agent that it (i) disagrees with such determination (including a description of the basis upon which it disagrees) or (ii) reasonably requires additional information in order to determine whether it agrees or disagrees with such determination.

“Restricted Payment” means to (a) declare or pay any dividend or make any other payment or distribution, directly or indirectly, on account of Equity Interests issued by Parent (including any such payment in connection with any merger, amalgamation or consolidation involving Parent) or to the direct or indirect holders of Equity Interests issued by Parent in their capacity as such (other than dividends or distributions payable in Qualified Equity Interests issued by Parent), or (b) purchase, redeem, make any sinking fund or similar payment, or otherwise acquire or retire for value (including in connection with any merger, amalgamation or consolidation involving Parent) any Equity Interests issued by Parent, and (c) make any payment

to retire, or to obtain the surrender of, any outstanding warrants, options, or other rights to acquire Equity Interests of Parent now or hereafter outstanding.

“RSA” means a Restructuring Support Agreement, dated as of the date hereof, entered into by the Loan Parties, the Agent, and certain of the Pre-Petition Term Lenders, and the other parties thereto.

“Sanctioned Entity” means (a) a country or a government of a country, (b) an agency of the government of a country, (c) an organization directly or indirectly controlled by a country or its government, (d) a Person resident in or determined to be resident in a country, in each case, that is subject to a comprehensive country sanctions program administered and enforced by OFAC.

“Sanctioned Person” means a person named on the list of Specially Designated Nationals maintained by OFAC.

“S&P” has the meaning specified therefor in the definition of Cash Equivalents.

“SEC” means the United States Securities and Exchange Commission and any successor thereto.

“Securities Account” means a securities account (as that term is defined in the Code).

“Securities Act” means the Securities Act of 1933, as amended from time to time, and any successor statute.

“Security Documents” means the Guaranty and Security Agreement, each Mortgage related to any mortgaged real property, and all other similar security documents hereafter delivered to the Agent granting or perfecting a DIP Lien on any asset or assets of any Person to secure the obligations and liabilities of the Loan Parties hereunder and/or under any of the other DIP Loan Documents or to secure any guarantee of any such obligations and liabilities, in each case, as amended, supplemented, waived or otherwise modified from time to time. For the avoidance of doubt, the DIP Orders shall constitute “Security Documents” for all purposes hereunder.

“Selling Lender” has the meaning specified therefor in Section 13.1(l) of the Agreement.

“Senior ABL Agreement” means the Third Amended and Restated Credit Agreement, dated as of June 9, 2017, by and among the Parent Guarantors, Borrower, Hollander Sleep Products Canada Limited, certain subsidiaries of Parent, the Senior ABL Facility Agent, the lenders party thereto and the other parties thereto.

“Senior ABL Facility Agent” means Wells Fargo Bank, National Association, in its capacity as administrative agent under the Senior ABL Facility Documents, together with its successors and assigns.

“Senior ABL Facility” means the Senior ABL Agreement, any Senior ABL Facility Documents, any notes and letters of credit issued pursuant thereto and any guarantee and

collateral agreement, patent and trademark security agreement, mortgages, letter of credit applications and other guarantees, pledge agreements, security agreements and collateral documents, and other instruments and documents, executed and delivered pursuant to or in connection with any of the foregoing, in each case as the same may be amended, supplemented, waived or otherwise modified from time to time.

“Senior ABL Facility Documents” means the “Loan Documents” as defined in the Senior ABL Agreement, as the same may be amended, supplemented, waived, otherwise modified, extended, renewed, refinanced or replaced from time to time.

“Senior ABL Facility Lenders” means the lenders under the Senior ABL Agreement.

“Senior ABL Facility Obligations” means the “Obligations”, as defined in the Senior ABL Agreement.

“Sponsor” means Sentinel Capital Partners, L.L.C.

“Sponsor Affiliated Entity” means Sponsor or any of its Affiliates (other than Loan Parties or their Subsidiaries and other than operating portfolio companies of Sponsor and its Affiliates).

“Subsidiary” of a Person means a corporation, partnership, limited liability company, unlimited liability company or other entity in which that Person directly or indirectly owns or controls the Equity Interests having ordinary voting power to elect a majority of the Board of Directors of such corporation, partnership, limited liability company, unlimited liability company, or other entity.

“Taxes” or “taxes” means any taxes, levies, imposts, duties, fees, assessments or other charges of whatever nature now or hereafter imposed by any jurisdiction or by any political subdivision or taxing authority thereof or therein, and all interest, penalties or similar liabilities with respect thereto.

“Tax Lender” has the meaning specified therefor in Section 14.2(a) of the Agreement.

“Term Loan Priority Collateral” has the meaning specified therefor in the Intercreditor Agreement.

“Termination Event” has the meaning specified therefor in Section 8.9 of the Agreement.

“Testing Period” means (x) as of end of the week that is the third Friday after the Petition Date, the period commencing with the first day of the first calendar week covered by the Approved Budget and ending with the last day of such week; and (y) as of the end of each consecutive two-week period ending thereafter (ending with the last such full two-week period ending during the Life of the Case), the period commencing with the first day of the first calendar week covered by the Approved Budget and ending with the last day of the applicable week referenced in this clause (y).

“TL Deposit Account” means a non-interest bearing cash collateral account established and maintained by the Borrower at an office of the Collateral Account Bank in the name, and, subject to the DIP Orders, under the “control” (as defined in the Uniform Commercial Code as in effect from time to time in the State of New York) of the Agent for the benefit of the Secured Parties; provided that until such time as such account subject to a lien or control agreement securing the Obligations is established, TL Deposit Account shall mean arrangements of substantially similar effect reasonably satisfactory to the Agent (and set forth in the DIP Orders) for such funds to be deposited with and maintained in the Debtors’ account(s) at Wells Fargo). For the avoidance of doubt, any requirement to enter into a control agreement with respect to the TL Deposit Account shall be satisfied by entering into such agreement with the Agent, with control to be exercised in accordance with the DIP Orders.

“Trademark Security Agreement” has the meaning specified therefor in the Guaranty and Security Agreement.

“Unasserted Contingent Indemnification Obligations” means contingent indemnification obligations to the extent no demand or claim has been made with respect thereto and no claim giving rise thereto has been asserted.

“United States” means the United States of America.

“US Foreign Holdco” means any Subsidiary of Parent organized under the laws of a State of the United States or the District of Columbia substantially all of whose assets consist of stock or other equity (or instruments treated as equity for U.S. federal income tax purposes) of one or more CFCs and other assets of *de minimis* value (including, without limitation, any Canadian Subsidiary).

“US Person” means any Person that is a “United States Person” as defined in Section 7701(a)(30) of the IRC.

“Variance Report” has the meaning specified therefor in Section 5.2(a) of the Agreement.

“Voidable Transfer” has the meaning specified therefor in Section 17.8 of the Agreement.

“Weekly Cash Flow Forecast” has the meaning specified therefor in Section 5.2(a) of the Agreement.

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

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

Schedule 1.1A

Permitted Liens

Name of Debtor	Secured Party	Jurisdiction/Office	File Number/ Date Filed	Type of Lien	Description of Collateral
HOLLANDER SLEEP PRODUCTS, LLC	TOYOTA INDUSTRIES COMMERCIAL FINANCE, INC. NATIONWIDE LIFT TRUCKS INC.	Delaware - Secretary of State	2017 0983046 02/13/2017	UCC-1	Leased equipment
HOLLANDER SLEEP PRODUCTS, LLC	IBM CREDIT LLC	Delaware - Secretary of State	2017 7995188 12/04/2017	UCC-1	Leased equipment
HOLLANDER SLEEP PRODUCTS, LLC	CANNON FINANCIAL SERVICES, INC.	Delaware - Secretary of State	2018 3435233 05/21/2018	UCC-1	Leased equipment
HOLLANDER SLEEP PRODUCTS, LLC	HYG FINANCIAL SERVICES, INC.	Delaware - Secretary of State	2018 7480524 10/29/2018	UCC-1	Leased equipment
Hollander Sleep Products, LLC	MAC CROSSING, L.L.C.	Texas - Dallas County, Clerk	201800098247 04/16/2018	UCC-1	All of Debtor's property situated in or upon, or used in connection with, the Premises or the Project located at 2615 Gifford Street, Grand Prairie, Texas 75050
PACIFIC COAST FEATHER COMPANY	NMHG FINANCIAL SERVICES, INC.	Washington - Department of Licensing	2012-156-8434- 8 06/04/2012	UCC-1	Leased equipment
PACIFIC COAST FEATHER COMPANY	DE LANDEN FINANCIAL SERVICES, INC.	Washington - Department of Licensing	2013-259-9054- 4 09/16/2013	UCC-1	Leased equipment

Schedule 4.1(b)

Subscriptions, Options, Warrants, Calls of Parent

There are a total of 11,428,571 options issued with respect to all classes of the outstanding units in Dream II Holdings, LLC that include time and exit options as well as two classes of performance options.

Schedule 4.1(c)
Capitalization of Parent's Subsidiaries

Issuer	Holder	Class of Equity Interest	Number of Authorized Shares	Number of Shares Issued and Outstanding	Percentage Owned by Holder
Hollander Home Fashions Holdings, LLC	Dream II Holdings, LLC	Membership interests	1,358,214 Common Units	N/A	100%
Hollander Sleep Products, LLC	Hollander Home Fashions Holdings, LLC	Membership interests	1,000 units	N/A	100%
Hollander Sleep Products Kentucky, LLC	Hollander Sleep Products, LLC	Membership interests	1,000 units	N/A	100%
Hollander Home Fashions Trading (Shanghai) Co., Ltd.	Hollander Sleep Products, LLC	Membership interests	N/A	N/A	100%
Hollander Sleep Products Canada Limited	Dream II Holdings, LLC	Common shares	1 common share	1	100%
Pacific Coast Feather, LLC	Hollander Sleep Products, LLC	Membership interests	N/A	N/A	100%
Pacific Coast Feather Cushion, LLC	Pacific Coast Feather, LLC	Membership interests	N/A	N/A	100%
PCF (Shanghai) Quality Management Consulting Co., Ltd.	Pacific Coast Feather, LLC	Equity interest	N/A	N/A	100%

Schedule 4.1(d)

Subscriptions, Options, Warrants, Calls of Parent's Subsidiaries

None.

Schedule 4.6(a)

Litigation

1. The Bankruptcy Cases, the Recognition Proceedings and any litigation resulting therefrom

Schedule 4.10

Benefit Plans

None.

Schedule 4.11

Environmental Matters

None.

Schedule 4.14

Permitted Indebtedness

1. To the extent constituting Indebtedness, Capitalized Lease Obligations secured by the Liens set forth on Schedule P-2

Schedule 4.25

Immaterial Subsidiaries

None.

Schedule 4.26

Intellectual Property

Schedules 2, 4 and 6 to the Guaranty and Security Agreement are herein incorporated by reference.

Schedule 4.27

Insurance

COVERAGE	INSURER	POLICY NUMBER	POLICY TERM
Workers Compensation/Employers Liability	Safety First Insurance Co.	FCL 4059909	1/1/19-1/1/20
Automobile Liability & Physical Damage	Safety National Casualty Corp	CAF 4059905	1/1/19-1/1/20
General Liability	Safety National Casualty Corp	GLF 4059904	1/1/19-1/1/20
Umbrella Liability Excess Umbrella	Continental Insurance Co. The Ohio Casualty Insurance Co.	TBD TBD	1/1/19-1/1/20
Foreign Package	Insurance Co. of the State of PA (AIG)	WS11001075	1/1/19-1/1/20
Property Terrorism	Lexington Insurance Co. (Primary) James River Ins. Co. (\$25MM xs \$25MM) Landmark American (\$50MM xs \$50MM) Lloyds of London (Hiscox)	061818976 000812520 LHD903070 UTS2555987.19	2/1/18-2/1/19 2/1/18-2/1/19 2/1/18-2/1/19 1/1/19-2/1/20
Stock Throughput/Cargo	Lloyds of London	B0509MARCW1900022	1/1/19-1/1/20
Commercial Crime	Travelers	106205672	1/1/19-1/1/20
Cyber (Privacy & Network Liability)	ACE American Insurance Co.	G25666707004	1/1/19-1/1/20
Special Crime (K&R)	National Union Fire Ins Co (AIG)	82867529	1/1/18-11/1/19
Employment Practices Liability	Travelers Casualty and Surety Company of America	106876796	1/1/19-1/1/20

Schedule 6.10

Affiliate Transactions

1. Last Out DIP Obligations

Exhibit D

DIP ABL Fee Letter

Filed Under Seal

Exhibit E

DIP Term Loan Fee Letter

Filed Under Seal

THIS IS EXHIBIT "M" REFERRED TO IN THE
AFFIDAVIT OF EVAN BARZ SWORN
ON MAY 23, 2019.

A handwritten signature in black ink, appearing to read 'Patrick Welsh', written over a horizontal line.

A Commissioner for Taking Affidavits

Patrick Welsh
60322P

Joshua A. Sussberg, P.C.
Christopher T. Greco, P.C.
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

Joseph M. Graham (*pro hac vice* pending)
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
300 North LaSalle
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Proposed Counsel to the Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	
	)	Chapter 11
HOLLANDER SLEEP PRODUCTS, LLC, <i>et al.</i> , ¹	)	Case No. 19-11608 (____)
)	
Debtors.	)	(Joint Administration Requested)
)	

**DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS
(I) AUTHORIZING THE DEBTORS TO PAY PREPETITION CLAIMS OF (A) LIEN
CLAIMANTS, (B) IMPORT CLAIMANT, (C) 503(B)(9) CLAIMANTS, (D) FOREIGN
VENDORS, AND (E) CRITICAL VENDORS, (II) CONFIRMING ADMINISTRATIVE
EXPENSE PRIORITY OF OUTSTANDING ORDERS, AND (III) GRANTING
RELATED RELIEF**

The above-captioned debtors and debtors in possession (collectively, the "Debtors") respectfully state as follows in support of this motion:

Relief Requested

1. The Debtors seek entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, (a) authorizing the Debtors to pay in the ordinary course of business prepetition claims held by certain (i) Lien Claimants, (ii) Import Claimant,

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors' service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

(iii) 503(b)(9) Claimants, (iv) Foreign Vendors, and (v) Critical Vendors (each as defined below and, collectively, the “Vendor Claimants”), collectively, in an amount not to exceed \$4.0 million on an interim basis and \$6.0 million on a final basis, (b) confirming the administrative expense priority status of outstanding orders, and (c) granting related relief. In addition, the Debtors request that the Court (as defined herein) schedule a final hearing within approximately 25 days from the date hereof (the “Petition Date”) to consider approval of this motion on a final basis.

Jurisdiction and Venue

2. The United States Bankruptcy Court for the Southern District of New York (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012. The Debtors confirm their consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The bases for the relief requested herein are section 105(a), 363, 503(b), 1107(a) and 1108 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), Bankruptcy Rules 6003 and 6004, and Rule 9013-1(a) of the Local Bankruptcy Rules for the Southern District of New York (the “Local Rules”).

Background²

5. Hollander Sleep Products is the largest pillow and mattress pad manufacturer in North America. The Debtors also manufacture comforters and other basic bedding products. The Debtors have their own brands, including Great Sleep®, I AM®, LC®, PCF®, and Restful Nights®, and also manufacture and sell licensed brands, including Simmons®, Ralph Lauren®, CHAPS®, Calvin Klein®, Therapedic®, Nautica®, 37.5®, and Dr. Maas®. The Debtors are headquartered in Boca Raton, Florida, operate a main showroom in New York City, and have thirteen manufacturing facilities throughout the United States and Canada. The Debtors generated approximately \$526.9 million in net revenue in fiscal year 2018 and currently employ more than 2,300 people across the United States and Canada. As of the date hereof, the Debtors have approximately \$233 million in funded debt.

6. On the Petition Date, each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their business and managing their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors have concurrently filed a motion requesting procedural consolidation and joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b).

The Vendor Claimants

7. The Debtors' business depends on the flow of materials, products, and other goods through its supply chain and distribution network, including the purchase, import, storage, and shipment of the Debtors' merchandise and other personal property. The vendors and suppliers that comprise the Debtors' supply chain are located around the world. Because of

² The facts and circumstances supporting this motion are set forth in the *Declaration of Marc Pfefferle, Chief Executive Officer of Hollander Sleep Products, LLC, in Support of Chapter 11 Petitions and First Day Motions* (the "First Day Declaration"), filed contemporaneously herewith and incorporated by reference herein.

substantial production lead and transport time necessary to receive goods, the Debtors receive orders up to five months after placement. Accordingly, the Debtors are required to plan and forecast substantially ahead of time when placing orders. As such, the Debtors have a limited ability to react and place orders with other suppliers in the event of a supply chain disruption. Any major disruptions could jeopardize the Debtors' ability to meet the large orders placed by their customers. It is, therefore, necessary to the Debtors' go-forward business that the Debtors minimize the disruption to their supply chain caused by these chapter 11 cases (and the substantial stress placed on the supply chain in the lead up to the Petition Date) by having the ability to pay a portion of the prepetition claims of only those Vendor Claimants that are essential to the Debtors' supply chain.

8. As of the Petition Date, the Debtors owe approximately \$95 million on account of all accounts payable to the Debtors' trade creditors. By this motion, the Debtors are only seeking authority to pay an amount necessary to preserve the value of their estates, which shall not exceed \$4.0 million on an interim basis and \$6.0 million on a final basis on account of prepetition claims held by certain Vendor Claimants and accrued in the ordinary course of business (collectively, the "Vendor Obligations"). Accordingly, the Debtors request authorization to pay, in accordance with the agreed upon budget for the Debtors' financing facilities, a limited number of outstanding prepetition obligations on account of the Vendor Obligations, subject to the limitations set forth in the interim and final order. Because the Debtors cannot satisfy anywhere near all of the Vendor Obligations, the Debtors intend to apply their business judgement and discretion on a case-by-case basis and pay only those Vendor Obligations that are absolutely critical to maintaining the supply chain.³

³ Notwithstanding the relief requested herein, the Debtors reserve all of their rights and remedies under the Bankruptcy Code and other applicable law to pursue any cause of action against any Vendor Claimants on

I. The Lien Claimants.

9. The Debtors' ability to deliver products in a timely manner is important to their financial performance and depends on a seamless interaction with various third-party service providers. Thus, the Debtors rely on certain vendors to transport their products. After leaving overseas factories, the Debtors' products go to a consolidated freight station or directly to port before sailing on freight vessels to ports on the West and East Coast of the United States and Canada. From there the products are delivered by truck to the Debtors' facilities across North America or to a third-party warehouse (the "Warehouseman"), where products are stored until they are utilized to fulfill a retail, wholesale, or an e-commerce customer order.⁴ The Debtors also regularly use third-party delivery companies to transport certain products between their facilities, and to deliver finished goods directly to their customers' facilities.

10. As discussed above, the Debtors' utilize multiple carriers (collectively, the "Shippers" and together with the Warehouseman, the "Lien Claimants") to transport their merchandise (a) from the consolidator or the oversea facility to port to facilities, (b) between facilities for the reassignment of goods, and (c) to the facilities of the Debtors' customers. There is significant danger that if the Debtors stop all payments to the Lien Claimants, the Lien Claimants may discontinue shipping and refuse to release the Debtors' products to allow the Debtors to continue to do business in the ordinary course.

account of, among other things, any violation of the automatic stay pursuant to section 362(a)(6) of the Bankruptcy Code.

⁴ Prior to the Petition Date, the Debtors used the services of one third-party warehouseman and otherwise stored their products in four Debtor-operated warehouses or in their other facilities in North America. Additionally, the Debtors may have infrequently asked certain Shippers to delay shipment to the Debtor's facilities and store the Debtors' goods at such times when the Debtors' facilities did not have immediate capacity to store any additional goods. As such, Shippers may have, in the ordinary course of business, charged the Debtors additional fees on account of such short-term storage services.

11. Under certain non-bankruptcy laws, the Lien Claimants may be able to assert liens on the goods in their possession to secure payment of the charges or expenses incurred in connection with the lien charges, including shipping and storage charges (collectively, the “Lien Charges”).⁵ Accordingly, if the Lien Charges remain unpaid, the Lien Claimants may attempt to assert such possessory liens, and may refuse to deliver or release goods in their possession until their claims are satisfied and their liens redeemed. The Lien Claimants’ possession (and retention) of the Debtors’ materials and products would disrupt the Debtors’ operations and affect the Debtors’ ability to efficiently administer these chapter 11 cases. The cost of such disruption to the Debtors’ estates would likely be greater than the limited number of Lien Charges that the Debtors may pay under the requested authority.

II. The Import Claimant.

12. As described in greater detail below, in the ordinary course of their business, the Debtors import materials and products from suppliers around the world, which is critical to the Debtors’ business operations. In connection with the import of goods, the Debtors utilize a licensed custom broker (the “Import Claimant”), who in turns pay various charges on behalf of the Debtors to clear customs, including customs duties, detention and demurrage fees, tariffs and excise taxes, freight forwarding, and other similar obligations (collectively, the “Import Charges”). In addition, the Debtors pay the Import Claimant annual fees for their customs brokerage services (together with the Import Charges, the “Import Expenses”), which services are integral to the Debtors’ operations. Absent such payment, parties to whom the Debtors ultimately owe Import Charges may interfere with the transportation of the imported goods.

⁵ For example, section 7-307 of the Uniform Commercial Code provides, in pertinent part, that “[a] carrier has a lien on the goods covered by a bill of lading or on the proceeds thereof in its possession for charges after the date of the carrier’s receipt of the goods for storage or transportation, including demurrage and terminal charges, and for expenses necessary for preservation of the goods incident to their transportation or reasonably incurred in their sale pursuant to law.” U.C.C. § 7-307(a) (2003).

Any interruption in the flow of imported goods will deprive the Debtors of materials and products necessary to meet the needs of the Debtors' wholesale and online retail customers.

III. The 503(b)(9) Claimants.

13. The Debtors may have received in the ordinary course of business certain goods from various foreign and domestic vendors (collectively, the "503(b)(9) Claimants") within the 20-day period immediately preceding the Petition Date. As further described below, many of the Debtors' relationships with the 503(b)(9) Claimants are not governed by long-term executory contracts but, rather, the Debtors obtain inventory, goods, or other materials from such claimants on an order-by-order basis. As a result, a 503(b)(9) Claimant may refuse to supply new orders without payment of its prepetition claims (each, a "503(b)(9) Claim"). Such refusal could negatively affect the Debtors' estates as the Debtors' business is dependent on the steady flow of goods through their supply chain.

IV. Foreign Vendors and Critical Vendor Claims

14. The Debtors' industry is highly competitive and their ability to remain competitive is, in large part, dependent on brand name recognition, customer satisfaction, and the Debtors' ability to provide a level of service that meets the expectations of high-velocity, high-volume retailers. The Debtors' ability to deliver on that model depends on their access to and relationships with a limited network of domestic and international vendors and suppliers. If the Debtors cannot deliver their products to their retail and wholesale customers, their customers—some of the largest and most well-known retailers—will simply move on to the Debtors' competitors to the detriment of the Debtors' estates. Accordingly, to maintain stability during this critical stage of these chapter 11 cases and to avoid jeopardizing the Debtors' sales and business operations going forward, the Debtors, by this motion, seek the ability to pay only certain vendors and suppliers that provide critical products and services to the Debtors. Because

the relief sought herein is much less than the amount of outstanding Vendor Obligations, the Debtors intend to apply their business judgement and discretion on a case-by-case basis to pay only those claims that are essential to prevent disruption to the Debtors' supply chain and maintain the integrity of their go-forward operations

A. Foreign Vendor Claims.

15. As a result of the global nature of their operations, a critical component of the Debtors' supply chain involves transacting with foreign vendors (collectively, the "Foreign Vendors"), located across ten countries, including China, Pakistan, and India. Many of these Foreign Vendors supply products and services to the Debtors that are crucial to the Debtors' ongoing U.S. operations. In some instances, the Debtors' business represents over 50 percent of the Foreign Vendors' business. Without any payment of past due amounts, the Foreign Vendors' go-forward business could be at risk, which in turn, will jeopardize the integrity of the Debtors' supply chain and their ability to meet customer orders.

16. Foreign suppliers often have skeptical reactions to the United States bankruptcy process because many of them are unfamiliar with chapter 11. Accordingly, nonpayment of all prepetition claims may cause Foreign Vendors to take other precipitous actions, including delaying shipments until more certainty develops with respect to the Debtors' reorganization.

17. In light of these consequences, the Debtors believe that payment of certain prepetition claims held by the Foreign Vendors (the "Foreign Vendor Claims") on the terms set forth herein is essential to avoid disruption of the Debtors' operations during these chapter 11 cases. The Debtors' estimate of the Foreign Vendor Claims pale in comparison to the potential damage to the Debtors' businesses if the Debtors' were to experience significant delays in the shipment of products. Therefore, the Debtors, their estates, and their stakeholders would benefit

from the Debtors' ability to pay some of the Foreign Vendors that are essential to the Debtors' supply chain.

B. Critical Vendors Claims.

18. The Debtors' supply chain consists, in addition to the Foreign Vendors, of certain domestic vendors (collectively, the "Critical Vendors") that supply products and services that are essential to the Debtors' go-forward operations. These products and services generally fall into the following categories (collectively, the "Critical Products and Services"): (a) materials, including fabric, polyester, down and feather, foam, and packaging, among others, used for the production and distribution of finished products; (b) pillow and comforter shells; and (c) retail-ready, labor intensive products, such as comforters and mattress pads.

19. The Debtors obtain the Critical Products and Services from a limited number of highly-specialized vendors—often on an order by order basis and without long-term contracts. Additionally, not only do the Debtors rely heavily on the Critical Vendors to deliver current orders, but they also rely on such Critical Vendors for all future deliveries. Therefore, it is essential that the Debtors retain the ability to pay a portion of Critical Vendors claims that are necessary to maintain the stability of the Debtors' supply chain. The Debtors cannot afford a severe disruption to their flow of merchandise at this critical juncture in these chapter 11 cases. For example, some of the Debtors' Critical Vendors carry unique products that the Debtors rely upon to provide top-quality product to their customers. Additionally, some Critical Vendors supply a high percentage of the Debtors' product in one particular product category.

20. The Debtors rely on timely and frequent delivery of these Critical Products and Services and any interruption in this supply disrupts the Debtors' operations and could potentially cause irreparable harm to their businesses, goodwill, customer base, and market

share. While the Debtors will not be in a position to pay anywhere near all prepetition claims held by certain Critical Vendors and accrued in the ordinary course of business (collectively, the “Critical Vendor Claims”), the Debtors’ ability to pay a limited set of such Critical Vendor Claims would enable the Debtors to minimize the disruption to their supply chain.

21. Additionally, the Debtors operate on an order-to-order basis with most Critical Vendors, meaning that a Critical Vendor may refuse to supply new orders without payment of some of its prepetition claims. A lack of consistent and stable inventory flow negatively impacts the Debtors’ liquidity position and severely limits potential cash collections.

22. The interruption of business with or absence of the Critical Vendors would reduce the efficiency of the Debtors’ operations and, in certain instances, require the suspension of operations altogether. Finally, prior to the Petition Date, and in the face of their liquidity struggles, the Debtors have significantly delayed payments on outstanding invoices for the Critical Products and Services. As such, the Debtors believe that some Critical Vendors may refuse to supply the Critical Products and Services without payment of a portion of their prepetition claims. Accordingly, maintaining the ability to pay some of the prepetition claims of Critical Vendors under the relief requested herein will help maintain stakeholder value.

V. Trade Terms Conditions.

23. Subject to the Court’s approval, the Debtors intend to pay only those Vendor Obligations necessary to avoid disruption of the Debtors’ supply chain and preserve their operations on a go-forward basis. To that end, in return for paying a Vendor Obligation either in full or in part, the Debtors propose that they be authorized to require that a Vendor Claimant provides favorable trade terms for the postpetition procurement of goods and services from such Vendor Claimant. Specifically, the Debtors seek authorization to condition payment of Vendor Obligations upon each Vendor Claimant’s agreement to continue—or recommence—supplying

goods and services to the Debtors in accordance with trade terms (including credit limits, pricing, timing of payments, availability, and other terms) at least as favorable to the Debtors as those in place during the twelve months prior to the Petition Date, or on terms satisfactory to the Debtors in their reasonable discretion (the “Customary Terms”).

24. More specifically, the Debtors may condition the payment of Vendor Obligations upon such party’s agreement to continue supplying goods or services on Customary Terms for the duration of these chapter 11 cases. Such Customary Terms, once agreed to and accepted by a Vendor Claimant, shall be a legally binding contractual arrangement between the parties governing the commercial trade relationship as provided therein.

25. In addition, the Debtors request that if a payee, after receiving a payment under an order approving this motion, ceases to provide Customary Terms, then the Debtors may, in their reasonable discretion, deem such payment to apply instead to any postpetition amount that may be owing to such payee or treat such payment as an avoidable postpetition transfer of property.

VI. Outstanding Orders.

26. Prior to the Petition Date, and in the ordinary course of business, the Debtors may have ordered goods which will not be delivered until after the Petition Date (collectively, the “Outstanding Orders”). To avoid becoming general unsecured creditors of the Debtors’ estates with respect to such goods, certain suppliers may refuse to ship or transport such goods (or may recall such shipments) with respect to such Outstanding Orders unless the Debtors issue substitute purchase orders postpetition. To prevent any disruption to the Debtors’ business operations, and given that goods delivered after the Petition Date are afforded administrative expense priority under section 503(b) of the Bankruptcy Code, the Debtors seek an order (a) granting administrative expense priority under section 503(b) of the Bankruptcy Code to all undisputed obligations of the Debtors arising from the postpetition acceptance of goods subject

to Outstanding Orders and (b) authorizing the Debtors to satisfy such obligations in the ordinary course of business, subject to the limitations set forth in the interim order and final order.

Basis for Relief

I. Payment of the Vendor Obligations as Provided Herein Is a Sound Exercise of the Debtors' Business Judgment and a Valid Exercise of the Debtors' Fiduciary Duties.

27. Courts in this district generally acknowledge that it is appropriate to authorize the payment of prepetition obligations where necessary to protect and preserve the estate, including an operating business's going-concern value. *See, e.g., In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (granting authority to pay prepetition wages); *Armstrong World Indus., Inc. v. James A. Phillips, Inc. (In re James A. Phillips, Inc.)*, 29 B.R. 391, 398 (S.D.N.Y. 1983) (granting authority to pay prepetition claims of suppliers); *see also In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002). In so doing, these courts have found that sections 105(a) and 363(b) of the Bankruptcy Code support the payment of prepetition claims as provided herein.

28. Pursuant to section 363(b) of the Bankruptcy Code, courts may authorize payment of prepetition obligations where a sound business purpose exists for doing so. *See Ionosphere Clubs Inc.*, 98 B.R. at 175 (noting that section 363(b) provides "broad flexibility" to authorize a debtor to honor prepetition claims where supported by an appropriate business justification); *see also James A. Phillips, Inc.*, 29 B.R. at 397 (relying upon section 363 as a basis to allow a contractor to pay the prepetition claims of suppliers who were potential lien claimants). Indeed, courts have recognized that there are instances when a debtor's fiduciary duty can "only be fulfilled by the pre-plan satisfaction of a prepetition claim." *CoServ*, 273 B.R. at 497.

29. Courts also may authorize payment of prepetition claims in appropriate circumstances based on section 105(a) of the Bankruptcy Code. Section 105(a) codifies the

Court's inherent equitable powers to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." Under section 105(a), courts may authorize pre-plan payments of prepetition obligations when essential to the continued operation of a debtor's businesses. *See In re C.A.F. Bindery, Inc.*, 199 B.R. 828, 835 (Bankr. S.D.N.Y. 1996); *see also In re Fin. News Network Inc.*, 134 B.R. 732, 735–36 (Bankr. S.D.N.Y. 1991) (holding that the "doctrine of necessity" stands for the principle that a bankruptcy court may allow pre-plan payments of prepetition obligations where such payments are critical to the debtor's reorganization); *Ionosphere Clubs*, 98 B.R. at 176 (holding that a court may authorize payments of prepetition obligations under section 105(a) of the Bankruptcy Code pursuant to the "necessity of payment" rule (also referred to as the "doctrine of necessity"))).

30. The relief requested herein is appropriate and warranted under the circumstances. The authority to satisfy some of the Vendor Obligations either in full or in part in the initial days of these chapter 11 cases without disrupting the Debtors' operations will maintain the integrity of the Debtors' supply chain, facilitate the sale of inventory and the Debtors' accounts receivable collection, and allow the Debtors to efficiently administer these chapter 11 cases. Failure to pay some of the Vendor Obligations could potentially destroy value that would otherwise inure to the benefit of the Debtors' estates. Where, as here, debtors have shown that the payment of prepetition claims is critical to maximize the value of their estates, courts in this district and other jurisdiction have routinely authorized payments similar to those described in this motion. *See, e.g., In re Windstream Holdings, Inc.*, No. 19-22312 (RDD) (Bankr. S.D.N.Y. Apr. 22, 2019) (authorizing the payment of prepetition claims of critical vendors, lien claimants, and section 503(b)(9) on the basis that they could cease to provide specialized goods and services necessary to maintain the smooth operation of the debtors' business otherwise); *In re Aegean*

Marine Petroleum Network Inc., No. 18-13374 (MEW) (Bankr. S.D.N.Y. Dec. 6, 2018) (approving the payment of prepetition claims of foreign vendors, shipper and warehousemen claimants, and 503(b)(9) claimants who could refuse to deliver or return the debtors' goods if prepetition claims were not satisfied); *In re Nine West Holdings, Inc.*, No. 18-10497 (SCC) (Bankr. S.D.N.Y. May 7, 2018) (approving the payment of prepetition claims of shippers, warehousemen, and other critical claimants on the basis that shippers and warehousemen could refuse to deliver or return the debtors' goods if prepetition claims were not satisfied); *In re ATD Corp.*, No. 12221 (KJC) (Bankr. D. Del. Oct. 24, 2018) (approving payment of prepetition claims of foreign vendors, lien claimants, and 503(b)(9) claimants on the basis that absent the relief request, such vendors could retain goods of the debtor or cease doing business with the debtors, severely disrupting the debtors' supply chain); *In re VER Techs. Holdco LLC*, No. 18-10834 (KG) (Bankr. D. Del. May 4, 2018) (approving payment of prepetition claims of foreign vendors, shippers, lien claimants, and 503(B)(9) claimants that could threaten to interrupt conducting business with the debtors and jeopardize the success of the debtors' reorganization).⁶

31. Allowing the Debtors to pay Vendor Obligations as set forth herein is especially appropriate where, as here, doing so is consistent with the "two recognized policies" of chapter 11 of the Bankruptcy Code—preserving going concern value and maximizing the value of property available to satisfy creditors. *See Bank of Am. Nat'l Trust Savs. Ass'n v. 203 N. LaSalle St. P'Ship.*, 526 U.S. 434, 453 (1999). Based on these circumstances, the Debtors submit that the relief requested herein represents a sound exercise of the Debtors' business judgment, is necessary to avoid immediate and irreparable harm to the Debtors' estates, and is therefore justified under sections 105(a) and 363(b) of the Bankruptcy Code.

⁶ Because of the voluminous nature of the orders cited herein, such orders have not been attached to this motion. Copies of these orders are available upon request of the Debtors' proposed counsel.

II. Failure to Make Timely Payment of Lien Charges Would Threaten the Debtors' Ability to Operate and May Subject the Debtors' Assets to the Perfection of Liens.

32. As noted above, certain Lien Claimants may be entitled under applicable non-bankruptcy law to assert certain possessory liens on the Debtors' goods or equipment in their possession (notwithstanding the automatic stay under section 362 of the Bankruptcy Code) in an attempt to secure payment of their prepetition claim. Under section 362(b)(3) of the Bankruptcy Code, the act of perfecting such liens, to the extent consistent with section 546(b) of the Bankruptcy Code, is expressly excluded from the automatic stay.⁷ As a result, the Debtors anticipate that certain of the Lien Claimants may assert or perfect liens, simply refuse to turn over goods in their possession, or stop performing their ongoing obligations. Even absent a valid lien, to the extent certain Lien Claimants have possession of the Debtors' inbound materials or products or outbound products, mere possession or retention would disrupt the Debtors' operations.

33. Furthermore, paying the Lien Claimants should not impair unsecured creditor recoveries in these chapter 11 cases. In instances where the amount owed to Lien Claimants is less than the value of the goods that could be held to secure a shipping, such parties may be fully-secured creditors of the Debtors' estates. In such instances, payment now only provides such parties with what they might be entitled to receive under a plan of reorganization, only without any interest costs that might otherwise accrue during these chapter 11 cases. Conversely, all creditors will benefit from the seamless transition of the Debtors' operations into bankruptcy and the ultimate delivery and sale of the Debtors' products to their customers.

⁷ See 11 U.S.C. § 546(b)(1)(A) (providing that a debtor's lien avoidance powers "are subject to any generally applicable law that . . . permits perfection of an interest in property to be effective against an entity that acquires rights in such property before the date of perfection").

34. Where debtors have shown that the payment of prepetition claims is critical to maximize the value of their estates, courts in this district and other jurisdictions have routinely authorized payments to shippers under similar circumstances. *See, e.g., In re Windstream Holdings, Inc.*, No. 19-22312 (RDD) (Bankr. S.D.N.Y. Apr. 22, 2019) (authorizing payment of certain lien claimants' prepetition claims when lien claimants are able to assert possessory liens on the debtors' goods in the event of non-payment); *In re Aegean Marine Petroleum Network Inc.*, No. 18-13374 (MEW) (Bankr. S.D.N.Y. Dec. 16, 2018) (same); *In re Nine West Holdings, Inc.*, No. 18-10497 (SCC) (Bankr. S.D.N.Y. May 7, 2018) (same); *In re Cenveo, Inc.*, No. 18-22178 (RDD) (Bankr. S.D.N.Y. Mar. 8, 2018) (same); *In re Avaya Inc.*, No. 17-10089 (SMB) (Bankr. S.D.N.Y. Feb. 10, 2017) (same).

III. The Court Should Authorize the Payment of Import Expenses.

35. Further, most of the Import Expenses, if not all, would likely be paid in full under any plan of reorganization pursuant to section 507(a)(8) of the Bankruptcy Code, which provides eighth priority status to the claims of a governmental unit based on a customs duty arising out of the importation of certain merchandise. Thus, payment of the Import Expenses as proposed in this motion merely accelerates the distribution that the import providers would receive in any event upon confirmation of a plan. Therefore, granting this motion with respect to the Import Expenses may have no substantial effect on the relative distribution of the estates' assets.

36. For these reasons, courts have authorized the payment of prepetition import claims under similar circumstances in recent retail chapter 11 cases. *See, e.g., In re Nine West Holdings, Inc.*, No. 18-10947 (SCC) (Bankr. S.D.N.Y. May 7, 2018) (authorizing payment of customs duties, detention and demurrage fees, tariffs and excise taxes, freight forwarding, and other similar obligations to third party vendor); *In re BCBG Max Azria Glob. Holdings, LLC*, No. 17-10466 (SCC) (Bankr. S.D.N.Y. Mar. 29, 2017) (approving payment of import charges

incurred in connection with transportation of merchandise); *In re Things Remembered, Inc.*, No. 19-10234 (KG) (Bankr. D. Del. Feb. 26, 2019) (approving payment of custom duties, detention and demurrage fees, tariffs and excise taxes, customs broker fees and other similar obligations in connection with the import and export of goods); *In re Brookstone Holdings Corp.*, No. 18-11780 (BLS) (Bankr. D. Del. Aug. 8, 2018) (approving payment of custom charges, broker fees, and distribution charges to third party vendor in connection with the transportation of goods); *In re Charming Charlie Holdings Inc.*, No. 17-12906 (CSS) (Bankr. D. Del. Dec. 11, 2017) (approving payment of customs duties, detention and demurrage fees, tariffs and excise taxes, and other similar obligations in connection with the import and export of goods).

IV. The Court Should Authorize the Payment of 503(b)(9) Claims.

37. Section 503(b)(9) of the Bankruptcy Code provides administrative priority for the “value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which goods have been sold to the debtor in the ordinary course of such debtor’s business.” These claims must be paid in full for the Debtors to confirm a chapter 11 plan. *See* 11 U.S.C. § 1129(a)(9)(A). Consequently, payment of such claims now only provides such parties with what they would be entitled to receive under a chapter 11 plan.

38. Moreover, the Bankruptcy Code does not prohibit a debtor from paying administrative claims prior to confirmation. As administrative claims incurred in the ordinary course of business, the Debtors believe that they may be able to pay such claims in accordance with their business judgment pursuant to section 363(c)(1) of the Bankruptcy Code. *See, e.g., In re Dura Auto. Sys. Inc.*, No. 06-11202 (KJC) (Bankr. D. Del. Oct. 31, 2006) Hr’g Tr. 49:21–23 (“I think arguably the [D]ebtor could pay its 503(b)(9) claimants without court approval.”). The timing of such payments also lies squarely within the Court’s discretion. *See In re Glob. Home Prods., LLC*, No. 06-10340 (KG), 2006 WL 3791955, at *3

(Bankr. D. Del. Dec. 21, 2006) (agreeing with parties that “the timing of the payment of that administrative expense claim is left to the discretion of the Court”).

39. The Debtors’ ongoing ability to obtain materials and products as provided herein is key to their reorganization and necessary to preserve the value of their estates. Absent the payment of some 503(b)(9) Claims at the outset of these chapter 11 cases—which may merely accelerate the timing of payment and not the ultimate treatment of such claims—the Debtors could be denied access to materials and products necessary to maintain the Debtors’ business operations and maximize the value of the Debtors’ estates.

40. Instead of satisfying all 503(b)(9) Claims after confirmation of a plan of reorganization (at which time such payments may be too late to benefit the Debtors’ estates), the Debtors seek authority to pay some of these claims in the ordinary course of business, while such payments can still induce 503(b)(9) Claimants to adhere to favorable trade terms and do business with the Debtors on a go-forward basis. Failure to honor these claims in the ordinary course of business may also cause the Debtors’ vendor base to withhold support for the Debtors during the chapter 11 process. Such vendors could accelerate or eliminate favorable trade terms. The payment of certain 503(b)(9) Claims is in the best interests of the Debtors’ estates because favorable trade terms will prevent foreseeable disruptions to the Debtors’ operations, and the Court’s time and resources will not be burdened with numerous motions from individual vendors requesting payment on account of their administrative priority expense claims. Such costs and distractions could impair the Debtors’ ability to stabilize their operations at this critical juncture to the detriment of all stakeholders.

41. For these reasons, courts in this district and others have regularly authorized the payment of claims arising under section 503(b)(9) of the Bankruptcy Code in the ordinary course

of business. *See, e.g., In re Windstream Holdings, Inc.*, No. 19-22312 (RDD) (Bankr. S.D.N.Y. Apr. 22, 2019) (authorizing payment of section 503(b)(9) claims); *In re Aegean Marine Petroleum Network Inc.*, No. 18-13374 (MEW) (Bankr. S.D.N.Y. Nov. 9, 2018) (same); *In re Nine West Holdings, Inc.*, No. 18-10947 (SCC) (Bankr. S.D.N.Y. May 7, 2018) (same); *In re Cenveo, Inc.*, No. 18-22178 (RDD) (Bankr. S.D.N.Y. Mar. 8 2018) (same); *In re BCBG Max Aziza Global Holdings, LLC*, No. 17-10466 (SCC) (Bankr. S.D.N.Y. Mar. 29, 2017) (same).

V. The Court Should Authorize the Payment of the Foreign Vendor Claims and Critical Vendor Claims.

42. As described above, the Debtors require a steady stream of products and services from their Critical Vendors and Foreign Vendors to ensure the continued operation of their business. The Debtors' failure to pay some of the Critical Vendor Claims and Foreign Vendor Claims as set forth herein could harm the Debtors' ability to obtain necessary supplies or services, prevent the Debtors from preserving favorable trade terms, and increase the likelihood for significant disruptions to the Debtors' operations. This failure could, in turn, jeopardize numerous customer relationships and could significantly impair the value of the Debtors' business. For these reasons, the Debtors believe the relief requested herein is necessary to preserve the value of their estates for the benefit of all stakeholders in these chapter 11 cases and should be granted.

43. Indeed, reflecting the recognition that payment of prepetition claims of certain critical vendors and foreign vendors, in fact, is both critical to a debtor's ability to preserve going-concerns and maximize creditor recovery—thereby increasing prospects for a successful reorganization—courts in this district routinely grant relief consistent to that which the Debtors are seeking herein. *See, e.g., In re Windstream Holdings, Inc.*, No. 19-22312 (RDD) (Bankr. S.D.N.Y. Apr. 22, 2019) (authorizing payments of up to \$80 million in prepetition claims to

critical vendors); *In re Aegean Marine Petroleum Network Inc.*, No. 18-13374 (MEW) (Bankr. S.D.N.Y. Dec. 6, 2018) (authorizing payments of up to \$3 million in prepetition claims to foreign vendors); *In re Nine West Holdings, Inc.*, No. 18-10947 (SCC) (Bankr. S.D.N.Y. May 7, 2018) (authorizing payments of up to \$1.3 million and \$38.4 million in prepetition claims to critical vendors and foreign vendors, respectively); *In re Avaya Inc.*, No. 17-10089 (SMB) (Bankr. S.D.N.Y. Feb. 10, 2017) (authorizing payments of up to \$39.5 million in prepetition claims to critical vendors); *In re MPM Silicones, LLC*, No. 14-22503 (RDD) (Bankr. S.D.N.Y. May 16, 2014) (authorizing payments of up to \$16.5 million and \$3.3 million in prepetition claims to critical vendors and foreign vendors, respectively).

VI. The Court Should Confirm that Outstanding Orders Are Administrative Expense Priority Claims and that Payment of Such Claims Is Authorized.

44. Pursuant to section 503(b) of the Bankruptcy Code, most obligations that arise in connection with the postpetition delivery of goods and services, including goods ordered prepetition, are administrative expense priority claims because they benefit the estate postpetition. *See* 11 U.S.C. § 503(b)(1)(A) (providing that the “actual [and] necessary costs and expenses of preserving the estate” are administrative expenses); *see also In re John Clay & Co.*, 43 B.R. 797, 809–10 (Bankr. D. Utah 1984) (holding that goods ordered prepetition but delivered postpetition are entitled to administrative priority). Thus, the granting of the relief sought herein with respect to the Outstanding Orders will not provide the suppliers with any greater priority than they would otherwise have if the relief requested herein were not granted, and will not prejudice any other party in interest.

45. Absent such relief, however, the Debtors may be required to expend substantial time and effort reissuing the Outstanding Orders to provide the suppliers with assurance of such administrative priority. Any disruption to the continuous and timely flow of goods to the

Debtors could result in substantial delays in the Debtors' operations, which could lead to dissatisfied customers and reduced sales. Accordingly, the Debtors submit that the Court should confirm the administrative expense priority status of the Outstanding Orders and should authorize the Debtors to pay the Outstanding Orders in the ordinary course of business.

Processing of Checks and Electronic Fund Transfers Should Be Authorized

46. The Debtors have sufficient funds to pay any amounts described in this motion in the ordinary course of business by virtue of expected cash flows from ongoing business operations and anticipated access to cash collateral and postpetition financing. In addition, under the Debtors' existing cash management system, the Debtors can readily identify checks or wire transfer requests as relating to any authorized payment in respect of the relief requested herein. Accordingly, the Debtors believe there is minimal risk that checks or wire transfer requests that the Court has not authorized will be inadvertently made. Therefore, the Debtors respectfully request that the Court authorize all applicable financial institutions, when requested by the Debtors, to receive, process, honor, and pay any and all checks or wire transfer requests in respect of the relief requested in this motion; provided that sufficient funds are on deposit and standing in the Debtors' credit in the applicable bank accounts to cover such payments.

The Requirements of Bankruptcy Rule 6003 Are Satisfied

47. Bankruptcy 6003 empowers a court to grant relief within the first 21 days after the Petition Date "to the extent that relief is necessary to avoid immediate and irreparable harm." For the reasons discussed above, the Debtors believe an immediate and orderly transition into chapter 11 is critical to the viability of their operations and that any delay in granting the relief requested could hinder the Debtors' operations and cause irreparable harm. Furthermore, the failure to receive the requested relief during the first 21 days of these chapter 11 cases would severely disrupt the Debtors' operations at this important juncture. For the reasons discussed

herein, the relief requested is necessary for the Debtors to operate their businesses in the ordinary course and preserve the ongoing value of the Debtors' operations and maximize the value of their estates for the benefit of all stakeholders. Accordingly, the Debtors submit that they have satisfied the "immediate and irreparable" standard of Bankruptcy Rule 6003 to support granting the relief requested herein.

Waiver of Bankruptcy Rule 6004(a) and 6004(h)

48. To implement the foregoing successfully, the Debtors request that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a) and that the Debtors have established cause to exclude such relief from the 14-day stay period under Bankruptcy Rule 6004(h).

Reservation of Rights

49. Nothing contained herein or any actions taken pursuant to such relief requested is intended to or should be construed as (a) an admission as to the validity of any prepetition claim against a Debtor entity, (b) a waiver of the Debtors' or any other party in interest's right to dispute any prepetition claim on any grounds, (c) a promise or requirement to pay any prepetition claim, (d) an implication or admission that any particular claim is of a type specified or defined in this motion or any order granting the relief requested by this motion, (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code, (f) a waiver of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law, or (g) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the relief requested in this motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

Motion Practice

50. This motion includes citations to the applicable rules and statutory authorities upon which the relief requested herein is predicated and a discussion of their application to this motion. Accordingly, the Debtors submit that this motion satisfies Local Rule 9013-1(a).

Notice

51. The Debtors will provide notice of this motion to: (a) the Office of the United States Trustee for the Southern District of New York; (b) the holders of the 50 largest unsecured claims against the Debtors (on a consolidated basis); (c) the administrative agent for the Debtors' term loan facility and counsel thereto; (d) the administrative agent for the Debtors' asset-based loan credit facility and counsel thereto; (e) the administrative agent for the Debtors' proposed debtor in possession term loan financing facility and counsel thereto; (f) the administrative agent for the Debtors' proposed debtor in possession asset-based loan credit facility and counsel thereto; (g) the United States Attorney's Office for the Southern District of New York; (h) the Internal Revenue Service; (i) the attorneys general for the states in which the Debtors operate; and (j) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

52. No prior request for the relief sought in this motion has been made to this or any other court.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

WHEREFORE, the Debtors respectfully request entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, respectively, granting the relief requested herein and granting such other relief as is just and proper.

New York, New York

Dated: May 19, 2019

/s/ Joshua A. Sussberg

Joshua A. Sussberg, P.C.

Christopher T. Greco, P.C.

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

601 Lexington Avenue

New York, New York 10022

Telephone: (212) 446-4800

Facsimile: (212) 446-4900

- and -

Joseph M. Graham (*pro hac vice* pending)

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

300 North LaSalle Street

Chicago, Illinois 60654

Telephone: (312) 862-2000

Facsimile: (312) 862-2200

Proposed Counsel to the Debtors and Debtors in Possession

Exhibit A

Proposed Interim Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	
	)	Chapter 11
)	
HOLLANDER SLEEP PRODUCTS, LLC, <i>et al.</i> , ¹	)	Case No. 19-11608 (___)
)	
Debtors.	)	(Joint Administration Requested)
)	
	)	Re: Docket No. __

**INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO PAY
PREPETITION CLAIMS OF (A) LIEN CLAIMANTS, (B) IMPORT CLAIMANT,
(C) 503(B)(9) CLAIMANTS, (D) FOREIGN VENDORS, AND (E) CRITICAL VENDORS,
(II) CONFIRMING ADMINISTRATIVE EXPENSE PRIORITY OF OUTSTANDING
ORDERS, AND (III) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an interim order (this “Interim Order”), (a) authorizing the Debtors to pay in the ordinary course of business prepetition claims held by certain (i) Lien Claimants, (ii) Import Claimant, (iii) 503(b)(9) Claimants, (iv) Foreign Vendors, and (v) Critical Vendors, collectively, in an amount not to exceed \$4.0 million on an interim basis, (b) confirming the administrative expense priority of outstanding orders, (c) setting a final hearing on the relief requested in the Motion on a final basis, and (d) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012; and this Court having found that venue of this proceeding and the

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors’ service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefore, it is HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis as set forth herein.
2. The final hearing (the "Final Hearing") on the Motion shall be held on _____, 2019, at __:__ .m., prevailing Eastern Time. Any objections or responses to entry of a final order on the Motion must be filed with the Court on or before 4:00 p.m., prevailing Eastern Time, on _____, 2019.
3. The Debtors are authorized, but not directed, in their sole discretion, to pay Vendor Obligations in an aggregate amount not to exceed \$4.0 million on an interim basis.
4. Nothing in this Interim Order authorizes the Debtors to accelerate any payments not otherwise due prior to the date of the Final Hearing.
5. The Debtors are authorized, but not directed, in their sole discretion, to require that, as a condition to receiving any payment under this Interim Order, a payee maintain or apply, as applicable, Customary Terms. The Debtors' reserve the right to require more favorable trade terms with any holder of a Vendor Obligation as a condition to payment of any prepetition claim. If a payee, after receiving a payment under this Interim Order, ceases to provide Customary Terms, then the Debtors may, in their reasonable business judgment, deem such

payment to apply instead to any postpetition amount that may be owing to such payee or treat such payment as an avoidable postpetition transfer of property. Any party that accepts payment from the Debtors on account of a Vendor Obligation shall be deemed to have agreed to the terms and provisions of this Interim Order.

6. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors' or any other party in interest's right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Interim Order or the Motion or a finding that any particular claim is an administrative expense or other priority claim; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the rights of any party in interest under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

7. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized and directed to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, whether such checks or other requests were submitted prior to, or after, the Petition Date, provided that sufficient funds are on deposit and standing in the Debtors' credit in the applicable bank accounts to cover such payments, and all such banks and financial

institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order without any duty of further inquiry and without liability for following the Debtors' instructions.

8. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with the relief granted herein.

9. Notwithstanding the relief granted in this Interim Order, any payment made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with any orders entered by the Court approving the Debtors' entry into any postpetition debtor-in-possession financing facility and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and any budget in connection therewith.

10. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

11. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

12. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

13. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

14. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

New York, New York

Dated: _____, 2019

UNITED STATES BANKRUPTCY JUDGE

Exhibit B

Proposed Final Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	
	)	Chapter 11
)	
HOLLANDER SLEEP PRODUCTS, LLC, <i>et al.</i> , ¹	)	Case No. 19-11608 (___)
)	
Debtors.	)	(Joint Administration Requested)
)	
	)	Re: Docket No. __

**FINAL ORDER (I) AUTHORIZING THE DEBTORS TO PAY
PREPETITION CLAIMS OF (A) LIEN CLAIMANTS, (B) IMPORT CLAIMANT,
(C) 503(B)(9) CLAIMANTS, (D) FOREIGN VENDORS, AND (E) CRITICAL VENDORS,
(II) CONFIRMING ADMINISTRATIVE EXPENSE PRIORITY OF OUTSTANDING
ORDERS, AND (III) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of this final order (this “Final Order”), (a) authorizing the Debtors to pay in the ordinary course of business prepetition claims held by certain (i) Lien Claimants, (ii) Import Claimant, (iii) 503(b)(9) Claimants, (iv) Foreign Vendors, and (v) Critical Vendors, collectively, in an amount not to exceed \$4.0 million on an interim basis and \$6.0 million on a final basis, (b) confirming the administrative expense priority of outstanding orders, and (c) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012; and this Court having the power to enter a final order consistent with Article III of the United States

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors’ service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted on a final basis as set forth herein.
2. The Debtors are authorized, but not directed, in their sole discretion, to pay the Vendor Obligations in an aggregate amount not to exceed \$6.0 million on a final basis.
3. The Debtors are authorized, but not directed, in their sole discretion, to require that, as a condition to receiving any payment under this Final Order, a payee maintain or apply, as applicable, Customary Terms. The Debtors' reserve the right to require more favorable trade terms with any holder of a Vendor Obligation as a condition to payment of any prepetition claim. If a payee, after receiving a payment under this Final Order, ceases to provide Customary Terms, then the Debtors may, in their sole judgment, deem such payment to apply instead to any postpetition amount that may be owing to such payee or treat such payment as an avoidable postpetition transfer of property. Any party that accepts payment from the Debtors on account of a Vendor Obligation shall be deemed to have agreed to the terms and provisions of this Final Order.

4. Notwithstanding the relief granted in this Final Order and any actions taken pursuant to such relief, nothing in this Final Order shall be deemed: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors' or any other party in interest's right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Final Order or the Motion or a finding that any particular claim is an administrative expense or other priority claim; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the rights of any party in interest under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

5. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized and directed to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, whether such checks or other requests were submitted prior to, or after, the Petition Date, provided that sufficient funds are on deposit and standing in the Debtors' credit in the applicable bank accounts to cover such payments, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Final Order without any duty of further inquiry and without liability for following the Debtors' instructions.

6. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with the relief granted herein.

7. Notwithstanding the relief granted in this Final Order, any payment made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with any orders entered by the Court approving the Debtors' entry into any postpetition debtor-in-possession financing facility and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and any budget in connection therewith.

8. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

9. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

10. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Final Order in accordance with the Motion.

11. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.

New York, New York
Dated: _____, 2019

UNITED STATES BANKRUPTCY JUDGE

THIS IS EXHIBIT "N" REFERRED TO IN THE
AFFIDAVIT OF EVAN BARZ SWORN
ON MAY 23, 2019.



A Commissioner for Taking Affidavits

Patrick Welsh
603229

Joshua A. Sussberg, P.C.
Christopher T. Greco, P.C.
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

Joseph M. Graham (*pro hac vice* pending)
KIRKLAND & ELLIS LLP
KIRKLAND & ELLIS INTERNATIONAL LLP
300 North LaSalle
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Proposed Counsel to the Debtors and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	
	)	Chapter 11
HOLLANDER SLEEP PRODUCTS, LLC, <i>et al.</i> , ¹	)	Case No. 19-11608 (____)
)	
Debtors.	)	(Joint Administration Requested)
)	

**DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS
(A) AUTHORIZING THE DEBTORS TO MAINTAIN AND ADMINISTER THEIR
EXISTING CUSTOMER PROGRAMS AND HONOR CERTAIN PREPETITION
OBLIGATIONS RELATED THERETO AND (B) GRANTING RELATED RELIEF**

The above-captioned debtors and debtors in possession (collectively, the "Debtors") respectfully state as follows in support of this motion:

Relief Requested

1. By this motion, the Debtors seek entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, (a) authorizing the Debtors to maintain and administer their Customer Programs (as defined herein) and honor certain prepetition obligations to customers in the ordinary course of business consistent with past practice and in

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors' service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

the Debtors' sound business judgment and (b) granting related relief. In addition, the Debtors request that the Court (as defined herein) schedule a final hearing within approximately 25 days from the date hereof (the "Petition Date") to consider approval of this motion on a final basis.

Jurisdiction and Venue

2. The United States Bankruptcy Court for the Southern District of New York (the "Court") has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012. The Debtors confirm their consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The bases for the relief sought herein are sections 105(a) and 363(b) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the "Bankruptcy Code"), Bankruptcy Rule 6003, and Rule 9013-1(a) of the Local Bankruptcy Rules for the Southern District of New York (the "Local Rules").

Background²

5. Hollander Sleep Products is the largest pillow and mattress pad manufacturer in North America. The Debtors also manufacture comforters and other basic bedding products. The Debtors have their own brands, including Great Sleep®, I AM®, LC®, PCF®, and Restful

² The facts and circumstances supporting this motion are set forth in the *Declaration of Marc Pfefferle, Chief Executive Officer of Hollander Sleep Products, LLC, in Support of Chapter 11 Petitions and First Day Motions* (the "First Day Declaration"), filed contemporaneously herewith and incorporated by reference herein.

Nights®, and also manufacture and sell licensed brands, including Simmons®, Ralph Lauren®, CHAPS®, Calvin Klein®, Therapedic®, Nautica®, 37.5®, and Dr. Maas®. The Debtors are headquartered in Boca Raton, Florida, operate a main showroom in New York City, and have thirteen manufacturing facilities throughout the United States and Canada. The Debtors generated approximately \$527 million in net revenue in fiscal year 2018 and currently employ more than 2,300 people across the United States and Canada. As of the date hereof, the Debtors have approximately \$233 million in funded debt.

6. On the Petition Date, each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors have concurrently filed a motion requesting procedural consolidation and joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b).

Description of Customer Programs³

7. The Debtors have a nationwide geographic footprint and deliver goods to a broad wholesale and retail customer base. The majority of the Debtors' sales come from wholesale distribution in the United States, meaning that a significant portion of their customers include department stores, specialty chains, discount retailers, and mass merchants. The Debtors also serve direct consumers through their online retail store.

8. Prior to the Petition Date, in the ordinary course of the Debtors' business and as is customary in their industry, the Debtors offered and engaged in certain customer practices,

³ Although the description of the Customer Programs set forth in this motion is intended to be comprehensive, the Debtors may have inadvertently omitted some of the Customer Programs. The Debtors request relief with respect to all Customer Programs, regardless of whether any individual Customer Program is specifically identified herein.

including markdown allowances, discounts, returns, and cooperative marketing programs (collectively, the “Customer Programs”).

9. To effectuate a smooth transition into chapter 11, the Debtors must maintain customer loyalty and goodwill by continuing to honor their obligations under the Customer Programs. The Debtors compete in highly competitive businesses and must regularly provide both existing and potential customers with programs similar to (or better than) those offered by their competitors. The Debtors have implemented each of the Customer Programs in the ordinary course of their businesses as a means to maintain positive, productive, and profitable relationships with their customers that ultimately promote customer satisfaction, encourage new purchases, and ensure that the Debtors remain competitive.

10. Failure to continue the Customer Programs, or failure by the Debtors to meet their obligations under such programs, would damage the Debtors’ standing with their current and potential customers at this critical time in their operations. The success and viability of the Debtors’ businesses, and ultimately the Debtors’ ability to maximize the value of their assets, is dependent upon the continued patronage and loyalty of their customers. Any delay in honoring obligations to customers and third parties on account of the Customer Programs would severely and irreparably impair customer relations and drive away valuable customers, thereby harming the Debtors’ efforts to maximize the value of their assets to the benefit of all interested parties.

11. Accordingly, by this motion, the Debtors seek authority to honor any prepetition obligations related to their Customer Programs and to continue to honor the Customer Programs in the ordinary course of their businesses on a postpetition basis without disruption. A description of each of the Customer Programs and estimates of the Debtors’ prepetition Customer Program obligations are set forth below. The Debtors estimate that, of the prepetition

obligations under the Customer Programs, approximately \$10.7 million constitutes accrued credits, adjustments, discounts, or other similar obligations owing to their customers that does not entail the expenditure of cash.

A. Markdown Allowances.

12. The Debtors offer a number of discounts and markdowns to their wholesale customers by which the Debtors agree to provide special rates and credits to aid in the effective promotion of their goods and maintain goodwill with those customers (collectively, the “Markdown Allowances”). The Markdown Allowances vary by customer and are sometimes negotiated on a case-by-case basis. Typical Markdown Allowances include allowances for damaged goods, freight costs, and volume of goods purchased. The Markdown Allowances are consistent with industry practices and essential to maintaining goodwill with the Debtors’ wholesale customers. Indeed, failure to honor the Markdown Allowances could result in the Debtors’ wholesale customers no longer distributing the Debtors’ merchandise.

13. In the event a customer is entitled to Markdown Allowances pursuant to its arrangement with the Debtors, the Markdown Allowance is satisfied either by netting the amount of such Markdown Allowances against the Debtors’ accounts receivable or through a chargeback.

B. Returns.

14. It is standard industry practice for companies such as the Debtors to accept returns from their customers when, for example, the seller ships a higher quantity of merchandise than ordered or there is a quality issue with the delivered merchandise. Consistent with industry practice, the Debtors maintain a policy to accommodate approved returns made by customers in such circumstances (the “Returns”). If a customer seeks to return merchandise, the Returns are

only authorized once agreed upon by the Debtors. If the Debtors believe that the requested Returns are not warranted, the Debtors will demand payment from the customer for the applicable merchandise. In the event that the Debtors determine that a customer is entitled to Returns, the Returns are satisfied by netting the amount of such Returns against the Debtors' accounts receivable.

C. Co-Op Advertising.

15. Many of the Debtors' wholesale customers require that the Debtors fund cooperative advertising programs to promote sales of the Debtors' merchandise (collectively, "Co-Op Advertising"). Co-Op Advertising is effectively a partnership between product manufacturers, such as the Debtors, and their customers to share the cost of advertising. This type of program is an important means for the Debtors to improve the quality of advertising and broaden the scope of the advertising of the Debtors' merchandise. Moreover, Co-Op Advertising is a standard practice in the Debtors' industry. The Debtors' share of Co-Op Advertising costs (the "Co-Op Advertising Costs") is satisfied by netting the amount of such Co-Op Advertising Costs against the Debtors' accounts receivable.

D. Credit Card and Other Payment Processors.

16. In the ordinary course, the Debtors accept Visa, MasterCard, Discover, and American Express credit cards, PayPal, Amazon Pay, and checks (collectively, the "Non-Cash Payments") as customer payment methods in addition to cash. The Debtors accept the Non-Cash Payments both from their wholesale customers as well as retail customers that purchase their products from the Debtors' website. To process the Non-Cash Payments, the Debtors are party to an agreement (the "Payment Processing Agreement") with a payment processor (the "Payment Processing Company"). Pursuant to the Payment Processing Agreement, the Debtors generally

receive the net customer sales less any chargebacks, returns, and processing fees that the Payment Processing Company charges. The processing fees charged by the Payment Processing Company are approximately \$795 per month (collectively, the “Processing Fees”). In addition to the fixed fee, the Debtors pay the Payment Processing Company between seven and twelve cents per transaction that the Payment Processing Company processes. The Processing Fees that arise from the Debtors’ sales are processed on a daily basis and set off from the funds that the Payment Processing Company remits to the Debtors on account of the Non-Cash Payments on a daily basis.

17. When customers either return merchandise to the Debtors following a purchase made by Non-Cash Payment or dispute charges with a Payment Processing Company, the Debtors may be obligated to refund to the Payment Processing Company the purchase price of the returned or disputed merchandise, subject to certain adjustments (the “Processing Obligations”). Generally, the Processing Obligations are satisfied by netting the amount charged against pending payments owed by a Payment Processing Company to the Debtors under the Payment Processing Agreements. It is possible that certain Processing Obligations incurred by the Debtors immediately prior to the Petition Date may not have been fully netted out against the payments received by the Debtors prior to the Petition Date.

18. The Debtors’ continued acceptance of Non-Cash Payments is essential to the operation of the Debtors’ businesses because the majority of the Debtors’ sales are made using Non-Cash Payments. The Debtors’ failure to accept Non-Cash Payments would have a severe negative effect on the Debtors’ ongoing operations, the ultimate cost of which would be borne by their estates and stakeholders. To avoid disrupting these vital payment processing services, the Debtors seek the authority to continue paying the Processing Obligations in the ordinary course

of their businesses pursuant to the terms of the Payment Processing Agreements, and request that the Court authorize the Payment Processing Companies to continue to set off the Processing Obligations against amounts remitted to the Debtors, whether arising before or after the Petition Date, in a manner consistent with past practices.

Basis for Relief

19. Courts in this district generally acknowledge that it is appropriate to authorize the payment of prepetition obligations where necessary to protect and preserve the estate, including an operating business's going-concern value. *See In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (granting authority to pay prepetition wages); *Armstrong World Indus., Inc. v. James A. Phillips, Inc. (In re James A. Phillips, Inc.)*, 29 B.R. 391, 398 (S.D.N.Y. 1983) (granting authority to pay prepetition claims of suppliers); *see also In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002). In so doing, these courts have found that sections 105(a) and 363(b) of the Bankruptcy Code support the payment of prepetition claims as requested herein.

20. Pursuant to section 363(b) of the Bankruptcy Code, courts may authorize payment of prepetition obligations where a sound business purpose exists for doing so. *See Ionosphere Clubs*, 98 B.R. at 175 (noting that section 363(b) provides "broad flexibility" to authorize a debtor to honor prepetition claims where supported by an appropriate business justification); *see also James A. Phillips, Inc.*, 29 B.R. at 397 (relying upon section 363 as a basis to allow a contractor to pay the prepetition claims of suppliers who were potential lien claimants). Indeed, courts have recognized that there are instances when a debtor's fiduciary duty can "only be fulfilled by the pre-plan satisfaction of a prepetition claim." *CoServ*, 273 B.R. at 497.

21. Section 105(a) codifies the Court’s inherent equitable powers to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. 105(a). Under section 105(a), courts may authorize pre-plan payments of prepetition obligations when essential to the continued operation of a debtor’s business. *See In re C.A.F. Bindery, Inc.*, 199 B.R. 828, 835 (Bankr. S.D.N.Y. 1996); *see also In re Fin. News Network Inc.*, 134 B.R. 732, 735–36 (Bankr. S.D.N.Y. 1991) (holding that the “doctrine of necessity” stands for the principle that a bankruptcy court may allow pre-plan payments of prepetition obligations where such payments are critical to the debtor’s reorganization); *Ionosphere Clubs*, 98 B.R. at 176 (holding that a court may authorize payments of prepetition obligations under section 105(a) of the Bankruptcy Code pursuant to the “necessity of payment” rule (also referred to as the “doctrine of necessity”)).

22. Here, continuing to administer the Customer Programs without interruption during the pendency of these chapter 11 cases is critical to preserve the value of the Debtors’ assets by preserving customer goodwill and market share. The commencement of the Debtors’ chapter 11 cases will no doubt create apprehension on the part of current or potential customers regarding their willingness to commence or continue doing business with the Debtors. This concern is even more acute here, where the Debtors operate in an economic environment where many retailers are themselves faced with operational and financial challenges. The Debtors’ failure to honor prepetition obligations on account of the Customer Programs could push certain retailers to decide to discontinue use of the Debtors’ products, and therefore the Debtors seek to ensure their customers of the Debtors’ commitment to continued productive relationships.

23. The success of the Debtors’ businesses is dependent upon the Debtors’ ability to attract and retain customers. Any curtailment of the Debtors’ ability to continue the Customer

Programs, and the resulting negative public perception, may enable the Debtors' competitors to take advantage of the Debtors' reorganization proceedings, causing substantial harm to the Debtors' businesses, their estates, and their stakeholders. Conversely, the value from continuing to comply with all obligations under the Customer Programs will inure to the benefit of the Debtors' estates and their stakeholders.

24. Courts in this jurisdiction have granted similar relief where retaining the loyalty and patronage of customers is critical to successful chapter 11 cases. *See, e.g., In re Windstream Holdings, Inc.*, No. 19-22312 (RDD) (Bankr. S.D.N.Y. Apr. 22, 2019) (authorizing debtors to continue to maintain and administer prepetition customer programs in the ordinary course of business and honor prepetition obligations related to same); *In re Nine West Holdings, Inc.*, No. 18-10947 (SCC) (Bankr. S.D.N.Y. May 7, 2018) (same); *In re Cenveo, Inc.*, No. 18-22178 (RDD) (Bankr. S.D.N.Y. Mar. 8, 2018) (same); *In re Century Oncology Holdings, Inc.*, No. 17-22770 (RDD) (Bankr. S.D.N.Y. June 20, 2017) (same); *In re BCBG Max Azria Glob. Holdings, LLC*, No. 17-10466 (SCC) (Bankr. S.D.N.Y. Mar. 29, 2017) (same).⁴

25. Accordingly, the Debtors submit that the substantial benefit conferred on the Debtors' estates by the Customer Programs warrants the authority to honor the Customer Programs and any prepetition obligations relating thereto and therefore respectfully request the authority to continue the Customer Programs and honor prepetition commitments related thereto in the ordinary course of the Debtors' businesses.

⁴ Because of the voluminous nature of the orders cited herein, such orders have not been attached to this motion. Copies of these orders are available upon request of the Debtors' proposed counsel.

Processing of Checks and Electronic Fund Transfers Should Be Authorized

26. The Debtors have sufficient funds to pay any amounts described in this motion in the ordinary course of business by virtue of expected cash flows from ongoing business operations and anticipated access to cash collateral and postpetition financing. In addition, under the Debtors' existing cash management system, the Debtors can readily identify checks or wire transfer requests as relating to any authorized payment in respect of the relief requested herein. Accordingly, the Debtors believe there is minimal risk that checks or wire transfer requests that the Court has not authorized will be inadvertently made. Therefore, the Debtors respectfully request that the Court authorize all applicable financial institutions, when requested by the Debtors, to receive, process, honor, and pay any and all checks or wire transfer requests in respect of the relief requested in this motion; provided that sufficient funds are on deposit and standing in the Debtors' credit in the applicable bank accounts to cover such payments.

The Requirements of Bankruptcy Rule 6003 Are Satisfied

27. Bankruptcy Rule 6003 empowers a court to grant relief within the first 21 days after the Petition Date "to the extent that relief is necessary to avoid immediate and irreparable harm." For the reasons discussed above, the Debtors believe an immediate and orderly transition into chapter 11 is critical to the viability of their operations and that any delay in granting the relief requested could hinder the Debtors' operations and cause irreparable harm. Furthermore, the failure to receive the requested relief during the first 21 days of these chapter 11 cases would severely disrupt the Debtors' operations at this important juncture. For the reasons discussed herein, the relief requested is necessary for the Debtors to operate their businesses in the ordinary course and preserve the ongoing value of the Debtors' operations and maximize the value of their estates for the benefit of all stakeholders. Accordingly, the Debtors submit that they have

satisfied the “immediate and irreparable” standard of Bankruptcy Rule 6003 to support granting the relief requested herein.

Waiver of Bankruptcy Rule 6004(a) and 6004(h)

28. To implement the foregoing successfully, the Debtors request that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a) and that the Debtors have established cause to exclude such relief from the 14-day stay period under Bankruptcy Rule 6004(h).

Reservation of Rights

29. Nothing contained herein or any actions taken pursuant to such relief requested is intended to or should be construed as (a) an admission as to the validity of any prepetition claim against a Debtor entity, (b) a waiver of the Debtors’ or any other party in interest’s right to dispute any prepetition claim on any grounds, (c) a promise or requirement to pay any prepetition claim, (d) an implication or admission that any particular claim is of a type specified or defined in this motion or any order granting the relief requested by this motion, (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code, (f) a waiver of the Debtors’ or any other party in interest’s rights under the Bankruptcy Code or any other applicable law, or (g) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the relief requested in this motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

Motion Practice

30. This motion includes citations to the applicable rules and statutory authorities upon which the relief requested herein is predicated and a discussion of their application to this motion. Accordingly, the Debtors submit that this motion satisfies Local Rule 9013-1(a).

Notice

31. The Debtors will provide notice of this motion to: (a) the Office of the United States Trustee for the Southern District of New York; (b) the holders of the 50 largest unsecured claims against the Debtors (on a consolidated basis); (c) the administrative agent for the Debtors' term loan facility and counsel thereto; (d) the administrative agent for the Debtors' asset-based loan credit facility and counsel thereto; (e) the administrative agent for the Debtors' proposed debtor in possession term loan financing facility and counsel thereto; (f) the administrative agent for the Debtors' proposed debtor in possession asset-based loan credit facility and counsel thereto; (g) the United States Attorney's Office for the Southern District of New York; (h) the Internal Revenue Service; (i) the attorneys general for the states in which the Debtors operate; and (j) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

32. No prior request for the relief sought in this motion has been made to this or any other court.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

WHEREFORE, the Debtors respectfully request entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, respectively, granting the relief requested herein and granting such other relief as is just and proper.

New York, New York

Dated: May 19, 2019

/s/ Joshua A. Sussberg

Joshua A. Sussberg, P.C.

Christopher T. Greco, P.C.

KIRKLAND & ELLIS LLP

**KIRKLAND & ELLIS INTERNATIONAL
LLP**

601 Lexington Avenue

New York, New York 10022

Telephone: (212) 446-4800

Facsimile: (212) 446-4900

- and -

Joseph M. Graham (*pro hac vice* pending)

KIRKLAND & ELLIS LLP

**KIRKLAND & ELLIS INTERNATIONAL
LLP**

300 North LaSalle Street

Chicago, Illinois 60654

Telephone: (312) 862-2000

Facsimile: (312) 862-2200

*Proposed Counsel to the Debtors and Debtors in
Possession*

Exhibit A

Proposed Interim Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	
	)	Chapter 11
)	
HOLLANDER SLEEP PRODUCTS, LLC., <i>et al.</i> , ¹	)	Case No. 19-11608 (___)
)	
Debtors.	)	(Joint Administration Requested)
)	
	)	Re: Docket No. __

**INTERIM ORDER (A) AUTHORIZING THE
DEBTORS TO MAINTAIN AND ADMINISTER THEIR EXISTING
CUSTOMER PROGRAMS AND HONOR CERTAIN PREPETITION
OBLIGATIONS RELATED THERETO AND (B) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an interim order (this “Interim Order”), (a) authorizing the Debtors to maintain and administer the Customer Programs and honor certain prepetition obligations related thereto, (b) scheduling a final hearing to consider approval of the Motion on a final basis, and (c) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors’ notice of the Motion and opportunity for a hearing on the Motion were appropriate under the

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors’ service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the “Hearing”); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis as set forth herein.
2. The final hearing (the “Final Hearing”) on the Motion shall be held on _____, 2019, at ____:____.m., prevailing Eastern Time. Any objections or responses to entry of a final order on the Motion must be filed with the Court on or before 4:00 p.m., prevailing Eastern Time, on _____, 2019.
3. The Debtors are authorized, but not directed, to continue to administer the Customer Programs in the ordinary course and to honor any prepetition obligations related to the Customer Programs.
4. Nothing in this Interim Order authorizes the Debtors to accelerate any payments not otherwise due prior to the date of the Final Hearing.
5. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors’ or any other party in interest’s right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Interim Order or the Motion or a finding that any particular claim is an administrative expense or other priority claim; (e) a request or

authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the rights of any party in interest under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

6. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, whether such checks or other requests were submitted prior to, or after, the Petition Date, provided that sufficient funds are on deposit and standing in the Debtors' credit in the applicable bank accounts to cover such payments, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order without any duty of further inquiry and without liability for following the Debtors' instructions.

7. Notwithstanding the relief granted in this Interim Order, any payment made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with any orders entered by the Court approving the Debtors' entry into any postpetition debtor in possession financing facility and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and any budget in connection therewith.

8. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored

as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with any Customer Programs.

9. Nothing contained in the Motion or this Interim Order is intended or should be construed to create an administrative priority claim on account of any of the Customer Programs.

10. The contents of this Motion satisfy the requirements of Bankruptcy Rule 6003(b).

11. Notice of the Motion as provided therein shall be deemed good and sufficient notice of the Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

12. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

13. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

14. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

New York, New York

Dated: _____, 2019

UNITED STATES BANKRUPTCY JUDGE

Exhibit B

Proposed Final Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	
	)	Chapter 11
)	
HOLLANDER SLEEP PRODUCTS, LLC., <i>et al.</i> , ¹	)	Case No. 19-11608 (___)
)	
Debtors.	)	(Joint Administration Requested)
)	
	)	Re: Docket No. ___

**FINAL ORDER (A) AUTHORIZING THE DEBTORS
TO MAINTAIN AND ADMINISTER THEIR EXISTING
CUSTOMER PROGRAMS AND HONOR CERTAIN PREPETITION
OBLIGATIONS RELATED THERETO AND (B) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of a final order (this “Final Order”), (a) authorizing the Debtors to maintain and administer the Customer Programs and honor certain prepetition obligations related thereto, and (b) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012; and this Court having the power to enter this Final Order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors’ notice of the Motion and opportunity for a hearing on the Motion were

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors’ service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court; and this Court having determined that the legal and factual bases set forth in the Motion and at the hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted on a final basis as set forth herein.
2. The Debtors are authorized, but not directed, to continue to administer the Customer Programs in the ordinary course and to honor any prepetition obligations related to the Customer Programs.
3. Notwithstanding the relief granted in this Final Order and any actions taken pursuant to such relief, nothing in this Final Order shall be deemed: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors' or any other party in interest's right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Final Order or the Motion or a finding that any particular claim is an administrative expense or other priority claim; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the rights of any party in interest under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

4. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, whether such checks or other requests were submitted prior to, or after, the Petition Date, provided that sufficient funds are on deposit and standing in the Debtors' credit in the applicable bank accounts to cover such payments, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Final Order without any duty of further inquiry and without liability for following the Debtors' instructions.

5. Notwithstanding the relief granted in this Final Order, any payment made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with any orders entered by the Court approving the Debtors' entry into any postpetition debtor in possession financing facility and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and any budget in connection therewith.

6. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with any Customer Programs.

7. Nothing contained in the Motion or this Final Order is intended or should be construed to create an administrative priority claim on account of any of the Customer Programs.

8. Notice of the Motion as provided therein shall be deemed good and sufficient notice of the Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

9. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

10. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Final Order in accordance with the Motion.

11. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.

New York, New York

Dated: _____, 2019

UNITED STATES BANKRUPTCY JUDGE

THIS IS EXHIBIT "O" REFERRED TO IN THE
AFFIDAVIT OF EVAN BARZ SWORN
ON MAY 23, 2019.



A Commissioner for Taking Affidavits

Patricia Welch
603 728

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

HOLLANDER SLEEP PRODUCTS, LLC., *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 19-11608 (MEW)
)
) (Jointly Administered)
)
) **Re: Docket No. 11**

**ORDER (A) AUTHORIZING HOLLANDER SLEEP PRODUCTS, LLC TO
ACT AS FOREIGN REPRESENTATIVE AND (B) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”), (a) authorizing Hollander Sleep Products, LLC (“Hollander”) to act as foreign representative on behalf of the Debtors’ estates pursuant to section 1505 of the Bankruptcy Code and (b) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012; and this Court having the power to enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors’ notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors’ service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

² Capitalized terms used but not otherwise defined herein shall have the meanings set forth to them in the Motion.

reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the “Hearing”); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. Hollander is hereby authorized to act as the Foreign Representative on behalf of the Debtors’ estates in connection with the Canadian Proceeding. As Foreign Representative, Hollander shall be authorized and shall have the power to act in any way permitted by applicable foreign law, including (a) seeking recognition of the Debtors’ chapter 11 cases in the Canadian Proceeding, (b) requesting that the Canadian Court lend assistance to this Court in protecting the Debtors’ property, and (c) seeking any other appropriate relief from the Canadian Court that Hollander deems just and proper in the furtherance of the protection of the Debtors’ estates.
3. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.
4. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

New York, New York
Dated: May 22, 2019

s/Michael E. Wiles
THE HONORABLE MICHAEL E. WILES
UNITED STATES BANKRUPTCY JUDGE

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

HOLLANDER SLEEP PRODUCTS, LLC,

Debtor.

Tax I.D. No. 27-0542143

) Chapter 11

) Case No. 19-11608 (MEW)

In re:

DREAM II HOLDINGS, LLC,

Debtor.

Tax I.D. No. 47-1927915

) Chapter 11

) Case No. 19-11607 (MEW)

In re:HOLLANDER HOME FASHIONS
HOLDINGS, LLC,

Debtor.

Tax I.D. No. 27-0542063

) Chapter 11

) Case No. 19-11609 (MEW)

In re:HOLLANDER SLEEP PRODUCTS
KENTUCKY, LLC,

Debtor.

Tax I.D. No. 90-1014119

) Chapter 11

) Case No. 19-11610 (MEW)

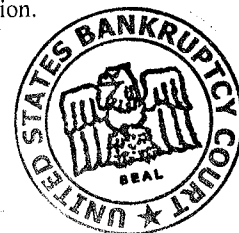


In re:	)	Chapter 11
PACIFIC COAST FEATHER, LLC,	)	Case No. 19-11611 (MEW)
Debtor.)	
Tax I.D. No. 91-0891445)	
<hr/>		
In re:	)	Chapter 11
PACIFIC COAST FEATHER CUSHION, LLC,	)	Case No. 19-11612 (MEW)
Debtor.)	
Tax I.D. No. 93-1063119)	
<hr/>		
In re:	)	Chapter 11
HOLLANDER SLEEP PRODUCTS CANADA LIMITED,	)	Case No. 19-11613 (MEW)
Debtor.)	
Tax I.D. No. 13902-3477)	
		Re: Docket No. 2

**ORDER (A) DIRECTING JOINT ADMINISTRATION
OF CHAPTER 11 CASES AND (B) GRANTING RELATED RELIEF**

Upon the motion (the "Motion")¹ of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for entry of an order (this "Order") (a) directing the joint administration of the Debtors' chapter 11 cases for procedural purposes only and (b) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern*

¹ Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.



District of New York, dated January 31, 2012; and this Court having the power to enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. The above-captioned chapter 11 cases are consolidated for procedural purposes only and shall be jointly administered by this Court under Case No. 19-11608 (MEW).
3. The caption of the jointly administered cases should read as follows:

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:	)	Chapter 11
HOLLANDER SLEEP PRODUCTS, LLC, <i>et al.</i> ¹,	)	Case No. 19-11608 (MEW)
Debtors.	)	(Joint Administration Requested)

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors' service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.



4. The foregoing caption satisfies the requirements set forth in section 342(c)(1) of the Bankruptcy Code.

5. A docket entry, substantially similar to the following, shall be entered on the docket of each of the Debtors other than Hollander Sleep Products, LLC to reflect the joint administration of these chapter 11 cases:

An order has been entered in accordance with rule 1015(b) of the Federal Rules of Bankruptcy Procedure directing the joint administration of the chapter 11 cases of: Dream II Holdings, LLC; Hollander Home Fashions Holdings, LLC; Hollander Sleep Products, LLC; Pacific Coast Feather, LLC; Hollander Sleep Products Kentucky, LLC; Pacific Coast Feather Cushion, LLC; and Hollander Sleep Products Canada Limited. All further pleadings and other papers shall be filed in and all further docket entries shall be made in Case No. 19-11608 (MEW).

6. One consolidated docket, one file, and one consolidated service list shall be maintained by the Debtors and kept by the Clerk of the Court with the assistance of the notice and claims agent retained by the Debtors in these chapter 11 cases.

7. The Debtors may file their monthly operating reports required by the *Operating Guidelines and Reporting Requirements for Debtors in Possession and Trustees*, issued by the U.S. Trustee, by consolidating the information required for each Debtor in one report that tracks and breaks out all of the specific information (e.g., receipts, disbursements, etc.) on a debtor-by-debtor basis in each monthly operating report.

8. Nothing contained in the Motion or this Order shall be deemed or construed as directing or otherwise effecting a substantive consolidation of these chapter 11 cases and this Order shall be without prejudice to the rights of the Debtors to seek entry of an order substantively consolidating their respective cases.



9. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rules and the Local Rules are satisfied by such notice.

10. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

11. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

New York, New York
Dated: May 22, 2019

s/Michael E. Wiles

THE HONORABLE MICHAEL E. WILES
UNITED STATES BANKRUPTCY JUDGE

I HEREBY ATTEST AND CERTIFY ON May 22nd, 2019
THAT THIS DOCUMENT IS A FULL, TRUE AND CORRECT
COPY OF THE ORIGINAL FILED ON OUR COURT'S
ELECTRONIC CASE FILING SYSTEM.

CLERK, US BANKRUPTCY COURT, SDNY

BY: Francis Ferguson DEPUTY CLERK



**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	
	)	Chapter 11
)	
HOLLANDER SLEEP PRODUCTS, LLC, <i>et al.</i> , ¹	)	Case No. 19-11608 (MEW)
)	
Debtors.	)	(Jointly Administered)
)	
	)	Re: Docket No. 5

**INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO (A) PAY PREPETITION
EMPLOYEE WAGES, SALARIES, OTHER COMPENSATION, AND REIMBURSABLE
EMPLOYEE EXPENSES AND (B) CONTINUE EMPLOYEE BENEFITS PROGRAMS
AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an interim order (this “Interim Order”), (a) authorizing the Debtors to (i) pay certain prepetition employee wages, salaries, other compensation, and reimbursable employee expenses, and (ii) continue employee benefits programs in the ordinary course, including payment of certain prepetition obligations related thereto, (b) scheduling a final hearing to consider approval of the Motion on a final basis, and (c) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors’ service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis as set forth herein.
2. The final hearing (the "Final Hearing") on the Motion shall be held on June 13, 2019, at 11:00 a.m., prevailing Eastern Time. Any objections or responses to entry of a final order on the Motion must be filed with the Court on or before 4:00 p.m., prevailing Eastern Time, on June 6, 2019.
3. The Debtors are authorized, but not directed, to continue and/or modify, change, or discontinue the Employee Compensation and Benefits Programs all in accordance with historical practice and to honor and pay, in the ordinary course and in accordance with the Debtors' prepetition policies and prepetition practices, any obligations on account of the Employee Compensation and Benefits Programs, irrespective of whether such obligations arose prepetition or postpetition.
4. Nothing herein shall be deemed to authorize the payment of any prepetition amounts above the statutory cap imposed by section 507(a)(4) of the Bankruptcy Code with respect to prepetition amounts owed on account of the Employee Compensation and Benefits Programs, except upon further order of this Court.

5. Nothing in this Interim Order authorizes the Debtors to accelerate any payments not otherwise due prior to the date of the Final Hearing, including, for the avoidance of doubt, payments on account of insurance programs.

6. Nothing herein shall be deemed to authorize the payment of any amounts which violates or implicates section 503(c) of the Bankruptcy Code, *provided* that nothing herein shall prejudice the Debtors' ability to seek approval of relief pursuant to section 503(c) of the Bankruptcy Code at a later time.

7. Pursuant to section 362(d) of the Bankruptcy Code, (a) Employees are authorized to proceed with their workers' compensation claims in the appropriate judicial or administrative forum under the Workers' Compensation Program, and the Debtors are authorized to pay all prepetition amounts relating thereto in the ordinary course of business and (b) the notice requirements pursuant to Bankruptcy Rule 4001(d) with respect to clause (a) are waived. This modification of the automatic stay pertains solely to claims under the Workers' Compensation Program and any such claims must be pursued in accordance with the applicable Workers' Compensation Program. Payment on account of any recoveries obtained in connection with a claim brought pursuant to this paragraph is limited to the terms and conditions of the applicable Workers' Compensation Program, including with regard to any policy limits or caps.

8. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors' or any other party in interest's right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Interim Order or the Motion or a finding that any particular

claim is an administrative expense or other priority claim; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the rights of any party in interest under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

9. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, whether such checks or other requests were submitted prior to, or after, the Petition Date, *provided* that sufficient funds are on deposit and standing in the Debtors' credit in the applicable bank accounts to cover such payments, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order without any duty of further inquiry and without liability for following the Debtors' instructions.

10. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with the relief granted herein.

11. Notwithstanding the relief granted in this Interim Order, any payment made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with any orders entered by the Court approving the Debtors' entry into any postpetition

debtor-in-possession financing facility and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and any budget in connection therewith.

12. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

13. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

14. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

15. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

16. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

New York, New York
Dated: May 22, 2019

s/Michael E. Wiles

THE HONORABLE MICHAEL E. WILES
UNITED STATES BANKRUPTCY JUDGE

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

)	
In re:	)	Chapter 11
)	
HOLLANDER SLEEP PRODUCTS, LLC., <i>et al.</i> , ¹	)	Case No. 19-11608 (MEW)
)	
Debtors.	)	(Jointly Administered)
)	
	)	Re: Docket No. 4

**INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO
(A) CONTINUE TO OPERATE THEIR CASH MANAGEMENT SYSTEM,
(B) HONOR CERTAIN PREPETITION OBLIGATIONS RELATED THERETO,
(C) MAINTAIN EXISTING BUSINESS FORMS, AND (D) CONTINUE TO PERFORM
INTERCOMPANY TRANSACTIONS, AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an interim order (this “Interim Order”), (a) authorizing the Debtors to (i) continue to operate their Cash Management System as illustrated on **Exhibit 1** hereto and maintain their existing Bank Accounts, (ii) honor certain prepetition obligations related thereto, (iii) maintain existing business forms, and (iv) continue to perform Intercompany Transactions with each other and with a non-debtor affiliate consistent with historical practice, (b) scheduling a final hearing to consider approval of the Motion on a final basis, and (c) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors’ service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

District of New York, dated January 31, 2012; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis as set forth herein.
2. The final hearing (the "Final Hearing") on the Motion shall be held on June 13, 2019, at 11:00 a.m., prevailing Eastern Time. Any objections or responses to entry of a final order on the Motion must be filed with the Court on or before 4:00 p.m., prevailing Eastern Time, on June 6, 2019.
3. The Debtors are authorized, but not directed, to: (a) continue using the Cash Management System and honor any prepetition obligations related to the use thereof, including any Bank Fees; (b) designate, maintain, close, and continue to use on an interim basis their existing Bank Accounts, including, but not limited to, the Bank Accounts identified on Exhibit 2 hereto, in the names and with the account numbers existing immediately before the Petition Date; (c) deposit funds in, and withdraw funds from, the Bank Accounts by all usual means, including checks, wire transfers, ACH transfers, and other debits; (d) treat their prepetition Bank Accounts for all purposes as debtor in possession accounts; and (e) open new debtor in possession Bank Accounts.

4. The Debtors are authorized, but not directed, to continue using the Purchase Cards and to pay any prepetition or postpetition amounts in connection therewith in the ordinary course of business and consistent with prepetition practices. The Debtors are further authorized to continue to use the Purchase Card Program under the Card Agreement, subject to the terms and conditions thereof and further subject to the terms of any applicable debtor-in-possession financing orders and related loan documents pursuant to which the obligations arising under the Card Agreement are included as obligations thereunder. Wells Fargo may rely on the representations of the Debtors with respect to its use of the Purchase Card Program pursuant to the Card Agreement, and Wells Fargo shall not have any liability to any party for relying on such representations by a Debtor as provided for herein.

5. The Debtors are authorized, but not directed, to continue using, in their present form, the Business Forms, as well as checks and other documents related to the Bank Accounts existing immediately before the Petition Date, *provided, however*, that once the Debtors have exhausted their existing stock of Business Forms and checks, they shall ensure that any new Business Forms and checks are clearly labeled “Debtor in Possession” and *provided, further*, that with respect to any Business Forms and checks that are generated electronically, the Debtors shall ensure that such electronic Business Forms and checks are clearly labeled “Debtor in Possession.”

6. The Cash Management Banks at which the Bank Accounts are maintained are authorized to (a) continue to service and administer the Bank Accounts as accounts of the Debtors as debtors in possession, without interruption and in the ordinary course, and to receive, process, honor, and pay any and all checks, drafts, wire transfers, and ACH transfers issued, whether before or after the Petition Date, and drawn on the Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be, and (b) debit the Debtors’ accounts in the ordinary course

of business without the need for further order of this Court for (i) all checks drawn on the Debtors' accounts which are cashed at such Cash Management Bank's counters or exchanged for cashier's checks by the payees thereof prior to the Petition Date, (ii) all checks or other items deposited in one of the Debtors' accounts with such Cash Management Bank prior to the Petition Date which have been dishonored or returned unpaid for any reason, together with any fees and costs in connection therewith, to the same extent the Debtor was responsible for such items prior to the Petition Date, and (iii) all applicable fees and expenses, including the Bank Fees, associated with the nature of the deposit and cash management services rendered to the Debtors, whether arising prepetition or postpetition, from the applicable Bank Accounts consistent with historical practice, and further, to charge back to the appropriate accounts of the Debtors any amounts resulting from returned checks or other returned items, including returned items that result from ACH transactions, wire transfers, or other electronic transfers of any kind, regardless of whether such returned items were deposited or transferred prepetition or postpetition and regardless of whether the returned items relate to prepetition or postpetition items or transfers.

7. The Debtors will instruct the Banks as to which checks, drafts, wire transfers (excluding any wire transfers that the Cash Management Banks are obligated to settle), or other items presented, issued, or drawn, shall not be honored. Except for those checks, drafts, wires, or other ACH transfers that are authorized or required to be honored under an order of the Court, no Debtor shall instruct or request any Cash Management Bank to pay or honor any check, draft, or other payment item issued on a Bank Account prior to the Petition Date but presented to such Cash Management Bank for payment after the Petition Date.

8. The Cash Management Banks may rely on the representations of the Debtors with respect to whether any check, draft, wire, transfer, or other payment order drawn or issued by

the Debtors prior to the Petition Date should be honored pursuant to this Interim Order or any other order of the Court, and such Cash Management Banks shall not have any liability to any party for relying on such representations by the Debtors as provided for herein, and should a Cash Management Bank honor a prepetition check or other item drawn on any account that is the subject of this Interim Order (a) at the direction of the Debtors to honor such prepetition check or item, (b) in a good faith belief that the Court has authorized such prepetition check or item to be honored, or (c) as the result of an innocent mistake made despite implementation of customary item handling procedures, the Cash Management Bank shall not be deemed to be nor shall be liable to the Debtors, their estates, or any other party on account of such prepetition check or other item being honored postpetition or otherwise be in violation of this Interim Order.

9. Those certain existing deposit agreements between the Debtors and the Cash Management Banks shall continue to govern the postpetition cash management relationship between the Debtors and the Cash Management Banks, and all of the provisions of such agreements, including, without limitation, the termination, right of offset, analysis fees, overdrafts, and fee and expense provisions, shall remain in full force and effect. Either the Debtors or the Cash Management Banks may, without further order of the Court, implement changes to the cash management systems and procedures in the ordinary course of business pursuant to the terms of those existing deposit agreements and the DIP Orders, as applicable, including, without limitation, the opening and closing of bank accounts.

10. As soon as practicable after entry of this Interim Order, the Debtors shall serve a copy of this Interim Order on the Cash Management Banks.

11. The requirement to establish separate accounts for tax payments is hereby waived.

12. The Debtors are authorized to (a) continue performing Intercompany Transactions in the ordinary course of business and (b) set off mutual postpetition obligations relating to intercompany receivables and payables through the Cash Management System; *provided* that Intercompany Transactions between the Debtors and their non-Debtor affiliates shall not exceed \$250,000 in the aggregate unless otherwise ordered by the Court. In connection therewith, the Debtors shall continue to maintain current records with respect to all transfers of cash so that all transactions, including the Intercompany Transactions, may be readily ascertained, traced, and recorded properly on applicable intercompany accounts. All Intercompany Claims arising after the Petition Date shall be accorded administrative expense status in accordance with section 503(b) and 364(b) of the Bankruptcy Code. Notwithstanding the foregoing, the Canadian Intercompany Superiority Administrative Claims (as defined in the DIP Orders) shall be treated in accordance with the DIP Orders.

13. The Debtors are authorized to open new bank accounts or close any existing Bank Accounts as they may deem necessary and appropriate in their reasonable business judgment, *provided* that any new bank account shall be at a bank that is an authorized depository or at a bank that is willing to execute a Uniform Depository Agreement with the U.S. Trustee.

14. Except as otherwise provided herein, in the event that a Bank Account does not comply or ceases to comply with the requirements of section 345(b) of the Bankruptcy Code, the Debtors shall have forty-five days thereafter, without prejudice to seeking an additional extension, to come into compliance with section 345(b) of the Bankruptcy Code or sufficient time, in the Debtors' sole discretion, to close such Bank Account or to seek appropriate relief from the Court.

15. Nothing in this Interim Order shall be deemed: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors' or any other party in interest's right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Interim Order or the Motion or a finding that any particular claim is an administrative expense or other priority claim; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the rights of any party in interest under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

16. Nothing contained in this Interim Order or any action taken by the Debtors in implementing this Interim Order shall be deemed a waiver of the rights of any party-in-interest to dispute the amount of, basis for, validity, or treatment of any Intercompany Claim or the allocation of expenses or other costs between any Debtor entities.

17. Notwithstanding the relief granted in this Interim Order, any payment made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with any orders entered by the Court approving the Debtors' entry into any postpetition debtor-in-possession financing facility and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and any budget in connection therewith.

18. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

19. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

20. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

21. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

22. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

New York, New York
Dated: May 22, 2019

s/Michael E. Wiles

THE HONORABLE MICHAEL E. WILES
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Cash Management System Diagram

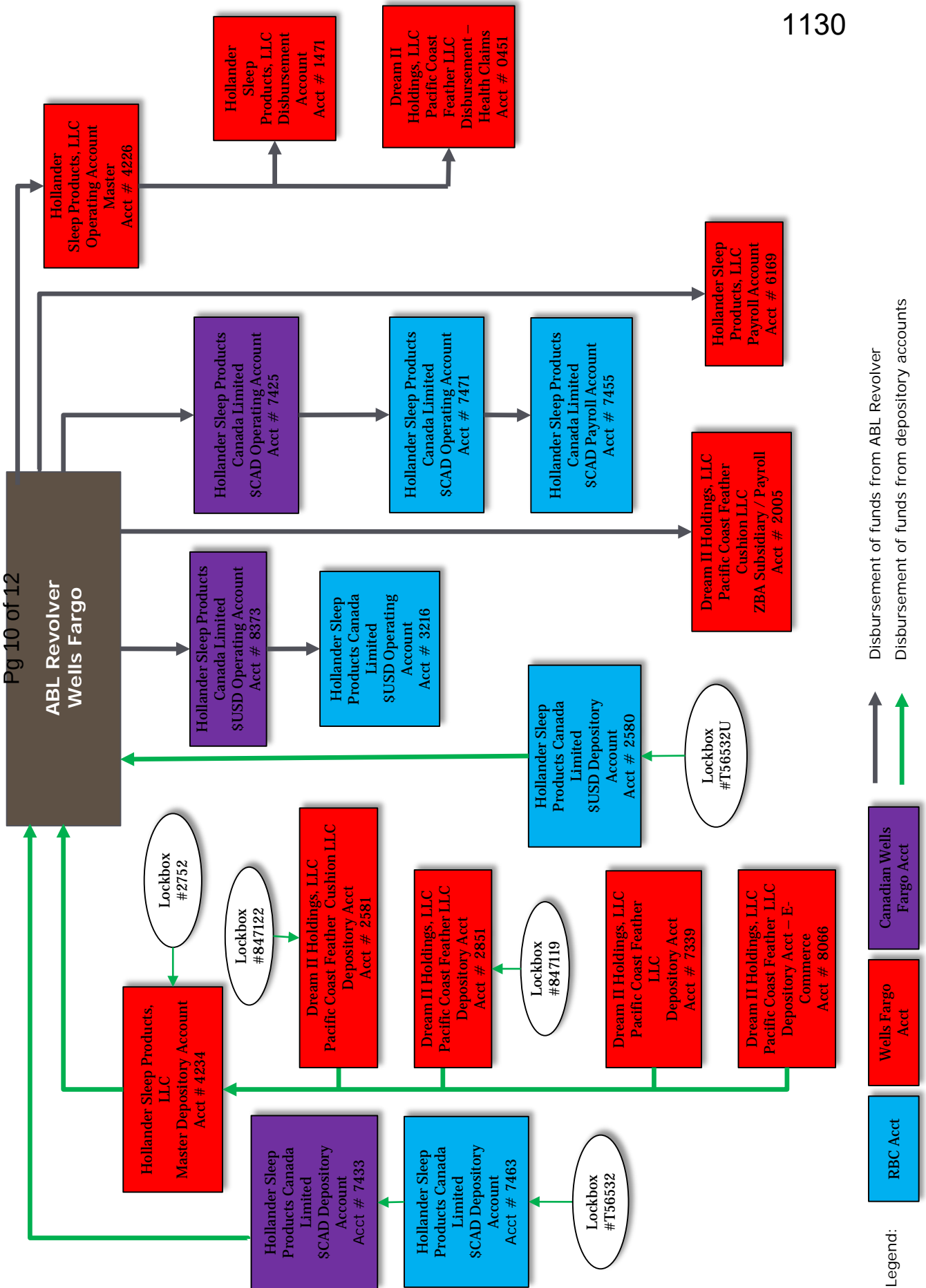


Exhibit 2

Debtor and Non-Debtor Affiliate Bank Accounts

	Entity	Bank Name	Account Number	Account Type
1	Hollander Sleep Products, LLC	Wells Fargo	x4226	Operating
2	Hollander Sleep Products, LLC	Wells Fargo	x4234	Depository
3	Hollander Sleep Products, LLC	Wells Fargo	x1471	Checking
4	Hollander Sleep Products, LLC	Wells Fargo	x6169	Checking
5	Dream II Holdings, LLC Pacific Coast Feather Cushion, LLC	Wells Fargo	x2581	Depository
6	Dream II Holdings, LLC Pacific Coast Feather, LLC	Wells Fargo	x2851	Depository
7	Dream II Holdings, LLC Pacific Coast Feather, LLC	Wells Fargo	x0451	Checking
8	Dream II Holdings, LLC Pacific Coast Feather, LLC	Wells Fargo	x8006	Depository
9	Dream II Holdings, LLC Pacific Coast Feather Cushion, LLC	Wells Fargo	x2005	Checking
10	Dream II Holdings, LLC Pacific Coast Feather Cushion, LLC	Wells Fargo	x7339	Depository
11	Hollander Sleep Products Canada Limited	Wells Fargo	x7425	Checking
12	Hollander Sleep Products Canada Limited	Royal Bank of Canada	x7471	Checking
13	Hollander Sleep Products Canada Limited	Royal Bank of Canada	x7455	Checking
14	Hollander Sleep Products Canada Limited	Wells Fargo	x7433	Depository
15	Hollander Sleep Products Canada Limited	Royal Bank of Canada	x7463	Depository
16	Hollander Sleep Products Canada Limited	Wells Fargo	x8373	Operating
17	Hollander Sleep Products Canada Limited	Royal Bank of Canada	x3216	Operating
18	Hollander Sleep Products Canada Limited	Royal Bank of Canada	x2580	Depository

	Entity	Bank Name	Account Number	Account Type
19	Hollander Sleep Products Trading (Shanghai) Co., LTD.	Shanghai Pudong Development	x0327	Operating
20	Hollander Sleep Products Trading (Shanghai) Co., LTD.	Shanghai Pudong Development	x0875	Operating

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	
	)	Chapter 11
)	
HOLLANDER SLEEP PRODUCTS, LLC, <i>et al.</i> , ¹	)	Case No. 19-11608 (MEW)
)	
Debtors.	)	(Jointly Administered)
)	

**INTERIM ORDER (A) AUTHORIZING THE DEBTORS TO OBTAIN POSTPETITION
FINANCING, (B) AUTHORIZING THE DEBTORS TO USE CASH COLLATERAL,
(C) GRANTING LIENS AND PROVIDING SUPERPRIORITY ADMINISTRATIVE
EXPENSE STATUS, (D) GRANTING ADEQUATE PROTECTION TO
THE PREPETITION LENDERS, (E) MODIFYING THE AUTOMATIC STAY,
(F) SCHEDULING A FINAL HEARING, AND (G) GRANTING RELATED RELIEF**

Upon the motion, dated May 19, 2019 (the “DIP Motion”) of Hollander Sleep Products, LLC (the “DIP Term Loan Borrower”) and Hollander Home Fashions Holdings, LLC, Hollander Sleep Products Kentucky, LLC, Hollander Sleep Products Canada Limited, Pacific Coast Feather, LLC and Pacific Coast Feather Cushion, LLC (collectively the “DIP ABL Borrowers” and together with the Term Loan Borrower, the “Borrowers”) on behalf of themselves and their affiliated debtors and debtors-in possession (together with Dream II Holdings, LLC (“Parent”), collectively, the “Debtors”) in the above-captioned chapter 11 cases (collectively, the “Cases”), seeking entry of an order (this “Interim Order”) and a Final Order (as defined herein) pursuant to sections 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), 364(d), 364(e), 507 and 552 of chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002, 4001, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), Local Rule 4001-2, *inter alia*:

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors’ service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

(i) authorizing the Debtors to obtain \$90 million senior secured postpetition financing on a superpriority basis (the “DIP ABL Credit Facility” and the loans under the DIP ABL Credit Facility, the “DIP ABL Loans”) pursuant to the terms and conditions of that certain Debtor-in-Possession Credit Agreement (as the same may be amended, restated, supplemented, or otherwise modified from time to time, the “DIP ABL Credit Agreement”), by and among the DIP ABL Borrowers, Parent, as guarantor, and such other guarantors thereto from time to time (the “DIP ABL Guarantors,” together with the DIP ABL Borrowers, the “DIP ABL Loan Parties”), Wells Fargo Bank, National Association, as agent (in such capacity, the “DIP ABL Agent”), for and on behalf of itself and the other lenders party thereto (the “DIP ABL Lenders”), the Issuing Lenders (as therein defined) and the Bank Product Providers (as therein defined) (collectively, the “DIP ABL Parties”), substantially in the form of **Exhibit B** attached to the DIP Motion;

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

(iii) granting the DIP ABL Credit Facility and all obligations owing thereunder and under the DIP ABL Documents to the DIP ABL Agent and DIP ABL Parties (collectively, and including all “Obligations” as described in the DIP ABL Credit Agreement (including the Last Out DIP Obligations)², the “DIP ABL Obligations”) allowed superpriority administrative expense claim status in each of the Cases and any Successor Cases (as defined herein), subject to the Carve Out;

² “Last Out DIP Obligations” shall have the meaning ascribed to the term “Last Out Obligations” in the DIP ABL Credit Agreement.

(iv) authorizing the Debtors (other than Debtor Hollander Sleep Products Canada Limited) to obtain senior secured postpetition financing on a superpriority basis in the aggregate principal amount of up to \$28,000,000.00 (the “DIP Term Loan Credit Facility,” and the loans thereunder, the “DIP Term Loans,” and the DIP Term Loan Credit Facility together with the DIP ABL Credit Facility, the “DIP Facilities”) pursuant to the terms and conditions of that certain superpriority secured Debtor-in-Possession Term Loan Credit Agreement (as the same may be amended, restated, supplemented, or otherwise modified from time to time, the “DIP Term Loan Credit Agreement,” and together with the DIP ABL Credit Agreement, the “DIP Agreements”), by and among the DIP Term Loan Borrower, the guarantors party thereto from time to time (the “DIP Term Loan Guarantors,” and together with the DIP ABL Guarantors, the “DIP Guarantors”) (the DIP Term Loan Guarantors, together with the DIP Term Loan Borrower, the “DIP Term Loan Parties”) (the DIP Term Loan Parties, together with the DIP ABL Loan Parties, the “DIP Parties”), the financial institutions party thereto from time to time as lenders (collectively, the “DIP Term Loan Lenders,” and together with the DIP Term Loan Agent (defined below), the “DIP Term Loan Secured Parties”) (the DIP Term Loan Secured Parties, together with the DIP ABL Parties, the “DIP Lenders”), and Barings Finance LLC, as administrative agent (in such capacity, the “DIP Term Loan Agent,” and, together with the DIP ABL Agent, collectively, the “DIP Agents”) for and on behalf of itself and the DIP Term Loan Lenders, substantially in the form of **Exhibit C** attached to the DIP Motion;

(v) authorizing the Debtors party thereto to execute and deliver the DIP Term Loan Credit Agreement and any other agreements and documents related thereto (collectively with the DIP Term Loan Credit Agreement, the “DIP Term Loan Documents,” and together with the DIP

ABL Documents, the “DIP Documents”) and to perform such other acts as may be necessary or desirable in connection with the DIP Term Loan Documents;

(vi) granting the DIP Term Loan Credit Facility and all obligations owing thereunder and under the DIP Term Loan Documents to the DIP Term Loan Agent and DIP Term Loan Lenders (collectively, and including all “Obligations” as described in the DIP Term Loan Credit Agreement, the “DIP Term Loan Obligations,” and together with the DIP ABL Obligations, the “DIP Obligations”) allowed superpriority administrative expense claim status in each of the Cases and any Successor Cases, in each case subject to the Carve Out (as defined herein);

(vii) granting to the DIP Agents, for the benefit of themselves and the DIP Lenders and the DIP Obligations, automatically perfected security interests in and liens on all of the DIP ABL Collateral (as defined below), or DIP Term Collateral (as defined herein), as applicable, including, without limitation, all property constituting “Cash Collateral” as defined in section 363(a) of the Bankruptcy Code, which liens shall be subject to the Carve Out and the priorities set forth herein;

(viii) authorizing and directing the Debtors to pay the principal, interest, fees, expenses and other amounts payable under the DIP Documents as such become due, including, without limitation, letter of credit fees (including issuance and other related charges), continuing commitment fees, closing fees, audit fees, appraisal fees, liquidator fees, structuring fees, administrative agent’s fees, the reasonable fees and disbursements of the DIP Agents’ and DIP Lenders’ respective attorneys, advisors, accountants and other consultants, all to the extent provided in, and in accordance with, the applicable DIP Documents;

(ix) authorizing the Debtors to use the Prepetition Collateral, including the Cash Collateral (each as defined below) of the Prepetition ABL Secured Parties and Prepetition ABL Obligations under the Prepetition ABL Documents and the Prepetition Term Loan Secured Parties

under the Prepetition Term Loan Documents (each as defined below), and providing adequate protection to the Prepetition ABL Secured Parties, Prepetition ABL Obligations and Prepetition Term Loan Secured Parties for any Diminution in Value (as defined below) of their respective interests in the Prepetition Collateral, including the Cash Collateral, as applicable, and subject to the Carve Out;

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

(xi) scheduling a final hearing (the “Final Hearing”) to consider the relief requested in the DIP Motion and approving the form of notice with respect to the Final Hearing.

The Court having considered the DIP Motion, the exhibits attached thereto, the *Declaration of Saul Burian in Support of the Debtors’ Motion for Entry of Interim and Final Orders (A) Authorizing the Debtors to Obtain Postpetition Financing, (B) Authorizing the Debtors to Use Cash Collateral, (C) Granting Liens and Providing Superpriority Administrative Expense Status, (D) Granting Adequate Protection to the Prepetition Lenders, (E) Modifying the Automatic Stay, (F) Scheduling a Final Hearing, and (G) Granting Related Relief*, the DIP Documents, the *Declaration of Marc Pfefferle, Chief Executive Officer of Hollander Sleep Products, LLC, in Support of Debtors’ Chapter 11 Petitions and First Day Motions*, and the evidence submitted and argument made at the interim hearing (the “Interim Hearing”); and notice of the Interim Hearing having been given in accordance with Bankruptcy Rules 2002, 4001(b), (c) and (d), and all applicable Local Rules; and the Interim Hearing having been held and concluded; and certain modifications to the proposed interim order having been made at the direction of the Court, as reflected herein; and it appearing that approval of the interim relief requested in the DIP Motion

is necessary to avoid immediate and irreparable harm to the Debtors and their estates pending the Final Hearing, and otherwise is reasonable and in the best interests of the Debtors, their estates and all parties-in-interest, and is essential for the continued operation of the Debtors' businesses and the preservation of the value of the Debtors' assets; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the Debtors' entry into the DIP Agreements is a sound and prudent exercise of the Debtors' business judgment; and after due deliberation and consideration, and good and sufficient cause appearing therefor, the Court hereby enters this Interim Order.

Deemed Modifications to DIP Loan Agreement and DIP Loan Documents

Subject to the reserved rights of the parties pursuant to the last paragraph of this section, the DIP Agreements and the other DIP Documents are hereby deemed to have been amended as follows for purposes of this Interim Order and for purposes of the interim financing authorized under this Interim Order. All references in this Interim Order to any of the DIP Agreements and DIP Documents shall constitute references to the DIP Agreements and DIP Documents as so amended. Any provision in the DIP Agreements and DIP Documents that is contrary to the deemed modifications and amendments set forth below shall be deemed to have been stricken from the DIP Agreements and DIP Documents for purposes of this Interim Order and the interim financing authorized hereunder.

- a. The proposed milestones described in the DIP Agreements and DIP Documents have not been approved and will be considered only after the appointment of an Official Committee of Unsecured Creditors. Except as expressly provided in Paragraph 31 of this Interim Order, any failure to meet or satisfy the milestones set forth in the DIP

Agreements or the DIP Documents shall not constitute a default during the period covered by this Interim Order.

b. No restructuring support agreement or plan support agreement has been approved by the Court, and any provision of the DIP Agreements or DIP Documents that purports to obligate the Debtors to the terms of such an agreement, or that purports to make it a default if the Debtors breach any such agreement, shall not be effective during the period covered by this Interim Order.

c. No provision of this Interim Order or of the DIP Agreements or DIP Documents shall: (i) permit payment of any amount owed with respect to secured financings that predated the filing of these bankruptcy cases except for the adequate protection payments that are explicitly authorized in this Interim Order and the gradual roll-up of the obligations under the Prepetition ABL Credit Agreement as provided below.

d. During the period covered by this Interim Order, adequate protection payments shall be provided only to the extent set forth in this Interim Order. Any provision of the proposed DIP Agreements or the proposed DIP Documents that purports to require other adequate protection payments, or that conditions the obligations of the DIP Lenders upon the receipt of other adequate protection payments, or that purports to declare a default in the event that other adequate protection payments are not made, shall be of no force and effect during the period covered by this Interim Order.

e. Notwithstanding any other provision of the DIP Agreements and the DIP Documents, there shall be no waiver or limitation upon the potential effect of sections 506(c) or 552 of the Bankruptcy Code during the period covered by this Interim Order, and

the failure to provide for such a waiver or limitation shall not constitute a default under the DIP Agreements and the DIP Documents.

f. Any provisions of the proposed DIP Agreements and proposed DIP Documents that contemplate that the DIP Lenders will have liens on avoidance actions pursuant to sections 544 through 551 of the Bankruptcy Code, or on the proceeds of such actions, shall be without effect and shall be deemed to have been deleted for purposes of the period covered by this Interim Order.

g. All provisions in the proposed DIP Agreements and DIP Documents that purport to confirm the DIP Lender's credit bidding rights shall be of no force and effect for purposes of the financing authorized by this Interim Order. Credit bidding rights (or disputes as to the same) will be resolved in connection with separate motions or proceedings.

h. Any condition, default provision or other term in the proposed DIP Agreements and DIP Documents that purports to bar the Debtors or an official committee from making motions or requesting further relief of any kind, or that purport to establish defaults in the event motions or other requests are made, are deemed to be deleted and of no force and effect during the period covered by this Interim Order.

i. Any proposed limits in the Budget regarding the fees payable to counsel for an Unsecured Creditors Committee, and any provision of the proposed DIP Agreements and DIP Documents that purports to limit such amounts, shall be subject to negotiation with the Unsecured Creditors Committee once that Committee has been approved and, if agreement is not reached, shall be in such amounts as the Court determines to be reasonable. Any approval by the Court of a permitted amount of fees to that is in excess

of the amounts specified in the Budget for the period covered by this Interim Order shall not constitute a default under the DIP Agreements and the DIP Documents. Notwithstanding the foregoing, the amount that may be incurred by professionals retained by an Unsecured Creditors Committee in the investigation and pursuit of a Challenge (as defined in paragraph 42) shall be \$50,000. Any prohibition in the proposed DIP Agreements or DIP Documents, and the proposed Budget, shall be deemed modified to conform to the provisions of this paragraph.

j. No agreements with regard to exit financing, the terms of a plan of reorganization, or the distributions to be proposed or made in connection with a plan of reorganization have been approved at this stage of the case, and no such agreement in the DIP Agreements and DIP Documents shall be effective during the period covered by this Interim Order.

The DIP Agreements and DIP Documents, as amended by the foregoing terms, shall constitute the agreements pursuant to which the interim financing is provided. The parties shall retain the right, with respect to any provision deleted from the DIP Agreements and DIP Documents pursuant to the foregoing amendments, to seek the reinstatement and approval of such a provision at the final hearing and in connection with the entry of a final order.

Findings of Fact and Conclusions of Law

Based on the record at the Interim Hearing, the Court makes the following findings of fact and conclusions of law:³

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

A. **Petition Date.** On May 19, 2019 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the Southern District of New York (the “Court”).

B. **Debtors in Possession.** The Debtors have continued in the management and operation of their businesses and properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Cases.

C. **Jurisdiction and Venue.** This Court has jurisdiction over the Cases, the DIP Motion and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157 and 1334. Consideration of the Motion constitutes a core proceeding pursuant to 28 U.S.C. § 157(b)(2). This Court may enter a final order consistent with Article III of the United States Constitution. Venue for the Cases and the proceedings on the Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The bases for the relief sought in the Motion and granted in this Interim Order are sections 105, 361, 362, 363, 364, and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6004, and 9014, and the Local Rules.

D. **Committee Formation.** As of the date hereof, the United States Trustee for the Southern District of New York (the “U.S. Trustee”) has not appointed an official committee of unsecured creditors in these Cases pursuant to section 1102 of the Bankruptcy Code (a “Creditors’ Committee”).

E. **Notice.** Proper, timely, adequate, and sufficient notice of the Motion has been provided in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, and no other or further notice of the Motion with respect to the relief requested at the Interim Hearing or the entry of this Interim Order shall be required. The interim relief granted herein is

necessary to avoid immediate and irreparable harm to the Debtors and their estates pending a Final Hearing.

F. **Debtors' Stipulations.** After consultation with their attorneys and financial advisors, and without prejudice to the rights of parties-in-interest as set forth in paragraph 39 herein, the Debtors, on their behalf and on behalf of their estates, admit, stipulate, acknowledge, and agree as follows (paragraphs F(i) through F(xv) below are referred to herein, collectively, as the "Debtors' Stipulations"), which Debtors' Stipulations shall not constitute a finding of fact, a conclusion of law or an Order of this Court in accordance with Local Bankruptcy Rule 4001-2(g)(4):

(i) *Prepetition ABL Facility.* Pursuant to that certain Third Amended and Restated Credit Agreement dated as of June 9, 2017 (as amended, restated, supplemented, or otherwise modified from time to time, the "Prepetition ABL Credit Agreement," and collectively with any other agreements and documents executed or delivered in connection therewith, each as may be amended, restated, supplemented, or otherwise modified from time to time, the "Prepetition ABL Documents"), among (a) the borrowers thereunder (the "Prepetition ABL Borrowers") and together with the "Guarantors" as defined in the Prepetition ABL Credit Agreement, the "Prepetition ABL Loan Parties"), (b) Dream II Holdings, LLC as parent, (c) Wells Fargo Bank, National Association, as agent (in such capacity, the "Prepetition ABL Agent"), sole lead arranger and sole book runner, and (d) the lenders party thereto (the "Prepetition ABL Lenders," and collectively with the Prepetition ABL Agent, the "Issuing Lenders" (as defined under the Prepetition ABL Credit Agreement), and the "Bank Product Providers" (as defined under the Prepetition ABL Credit Agreement) the "Prepetition ABL Secured Parties"), the Prepetition ABL Lenders provided credit and other financial accommodations to, and issued letters of credit

for the account of, the Prepetition ABL Borrowers pursuant to the Prepetition ABL Documents (the “Prepetition ABL Credit Facility”).

(ii) *Prepetition Put Agreement and Existing Participation Agreement.* Pursuant to that certain (i) Put Agreement dated as of November 27, 2018 (the “Put Agreement”) among Sentinel Capital Partners V, L.P., Sentinel Dream Blocker, Inc., and Sentinel Capital Investors V, L.P. (the “Put Purchasers”), Wells Fargo Bank, National Association and SunTrust Bank, as lenders under the Prepetition ABL Credit Agreement, and the Prepetition ABL Agent, in consideration of providing the Prepetition ABL Borrowers with “Last Out Loans” (as defined in the Prepetition ABL Credit Agreement) (the “Last Out Loans”) (the Last Out Loans and any interest, fees, costs, charges, indemnities and other amounts accrued thereon, the “Last Out Obligations”), the Put Purchasers agreed to purchase a one hundred percent subordinated participation interest in the Last Out Loans provided to the Prepetition ABL Borrowers pursuant to the Prepetition ABL Credit Agreement and (ii) Existing Participation Agreement (as defined in the DIP ABL Credit Agreement) and the occurrence of the “Exercise Date” (as defined in the Existing Participation Agreement) upon the occurrence of the Petition Date and “Notice of Put Exercise” provided by Prepetition ABL Agent, the Put Purchasers acquired the Participation Interest (as defined in the Existing Participation Agreement) in respect of the Last Out Loans and Last Out Loan Obligations (as defined in the Prepetition ABL Credit Agreement).

(iii) *Prepetition ABL Obligations.* The Prepetition ABL Facility provided the Borrowers with, among other things, (x) \$125,000,000 in aggregate Commitments (as defined in the Prepetition ABL Credit Agreement). As of May 17, 2019, the aggregate principal amount of loans outstanding under the Prepetition ABL Facility was not less than \$61,697,731 plus \$5,136,180 in respect of letters of credit (together with accrued and unpaid interest, and

outstanding letters of credit, any reimbursement obligations (contingent or otherwise) in respect of letters of credit, any fees, expenses and disbursements (including, without limitation, attorneys' fees, accountants' fees, auditor fees, appraisers' fees and financial advisors' fees, and related expenses and disbursements), treasury, cash management, bank product and derivative obligations, indemnification obligations, guarantee obligations, and other charges, amounts and costs of whatever nature owing, whether or not contingent, whenever arising, accrued, accruing, due, owing, or chargeable in respect of any of the Prepetition ABL Borrower's and certain of the Prepetition ABL Guarantors' obligations pursuant to the Prepetition ABL Documents, including all "Obligations" as defined in the Prepetition ABL Credit Agreement, including the Last Out Obligations, "Existing Secured Canadian Obligations" (as defined in the DIP ABL Credit Agreement), and "Existing Secured US Obligations" (as defined in the DIP ABL Credit Agreement) (collectively, the "Prepetition ABL Obligations").

(iv) *Prepetition ABL Liens and Prepetition ABL Priority Collateral.* As more fully set forth in the Prepetition ABL Documents, prior to the Petition Date, the Prepetition ABL Borrowers and the Prepetition ABL Guarantors granted to the Prepetition ABL Agent, for the benefit of itself and the Prepetition ABL Secured Parties and Prepetition ABL Obligations, a security interest in and continuing lien on (the "Prepetition ABL Liens") substantially all of their assets and property, including, without limitation, (a) a first priority security interest in and continuing lien on the ABL Priority Collateral (as defined in that certain DIP Intercreditor Agreement referred to and as defined below) and all substitutions, replacements, accessions, products and proceeds of any of the ABL Priority Collateral, in any form, including insurance proceeds and all claims against third parties for loss or damage to, or destruction of, or other voluntary conversion (including claims in respect of condemnation or expropriation) of any kind

or nature of any or all of the foregoing (the “Prepetition ABL Priority Collateral”), and (b) a second priority security interest in and continuing lien on the Term Loan Priority Collateral (as defined in that certain DIP Intercreditor Agreement referred to and as defined below) and all substitutions, replacements, accessions, products and proceeds of any of the Term Loan Priority Collateral, in any form, including insurance proceeds and all claims against third parties for loss or damage to, or destruction of, or other voluntary conversion (including claims in respect of condemnation or expropriation) of any kind or nature of any or all of the foregoing (collectively, the “Prepetition Term Loan Priority Collateral,” and together with the Prepetition ABL Priority Collateral, the “Prepetition Collateral”).

(v) *Roll-Up of Obligations Under Prepetition ABL Credit Agreement.* All Cash Collateral (defined below) consisting of proceeds of Prepetition ABL Priority Collateral (defined below) securing the Existing Secured Obligations (as defined under the DIP ABL Credit Agreement as all “Obligations” under the Prepetition ABL Credit Agreement (as defined below)), shall be used exclusively to repay outstanding obligations under the Prepetition ABL Facility on a dollar-for-dollar basis and, contemporaneously therewith, increase availability under the DIP ABL Credit Facility, by a corresponding amount, subject to the other terms, conditions and provisions of the DIP ABL Credit Facility. Notwithstanding the foregoing, nothing in this Interim Order shall impact the ability for the Court to unwind or partially unwind, after notice and a hearing, the pay down of Obligations under the Prepetition ABL Credit Agreement, in the event there is a timely and successful Challenge (as defined below) to the validity, enforceability, extent, perfection or priority of the Prepetition ABL Lenders’ liens or claims, or a determination that the Prepetition

⁴ Prepetition Term Loan Obligations and does not include any ABL Canadian Collateral (as defined in the Intercreditor Agreement).

ABL Obligations were undersecured as of the Petition Date, or that the roll-up of Obligations under the Prepetition ABL Credit Agreement unduly advantaged the Prepetition ABL Lenders.

(vi) *Prepetition Term Loan Facilities.* Pursuant to that certain Term Loan Credit Agreement dated as of June 9, 2017 (as amended, restated or otherwise modified from time to time, the “Prepetition Term Loan Credit Agreement,” and collectively with any other agreements and documents executed or delivered in connection therewith, each as may be amended, restated, supplemented, or otherwise modified from time to time, the “Prepetition Term Loan Documents,” and together with the Prepetition ABL Documents, the “Prepetition Documents”) among (a) the borrower thereto (the “Prepetition Term Loan Borrower” and together with the “Guarantors” as defined in the Prepetition Term Loan Credit Agreement, the “Prepetition Term Loan Parties”), (b) Dream II Holdings, LLC and Hollander Home Fashions Holdings, LLC, as parent guarantors, (c) Barings Finance LLC, as administrative agent (in such capacity, the “Prepetition Term Loan Administrative Agent,” and together with the Prepetition ABL Agent, the “Prepetition Agents”), and (d) the lenders party thereto (the “Prepetition Term Loan Lenders,” and together with the Prepetition Term Loan Agent, the “Prepetition Term Loan Secured Parties”) (the Prepetition Term Loan Lenders, together with the Prepetition ABL Lenders, the “Prepetition Lenders”) (the Prepetition Term Loan Secured Parties, together with the Prepetition ABL Secured Parties, the “Prepetition Secured Parties”), the Prepetition Term Loan Lenders provided first lien term loans to the Prepetition Term Loan Borrower (the “Prepetition Term Loan Credit Facility,” and together with the Prepetition ABL Facility, the “Prepetition Secured Facilities”).

(vii) *Prepetition Term Loan Obligations.* The Prepetition Term Loan Credit Facility provided the Prepetition Term Loan Borrower with commitments to provide term loans in the aggregate principal amount of up to \$190,000,000. As of the Petition Date, the aggregate

principal amount outstanding under the Prepetition Term Loan Credit Agreement Facility was \$166,472,407.49 (together with accrued and unpaid interest, any fees, expenses and disbursements (including, without limitation, attorneys' fees, accountants' fees, appraisers' fees and financial advisors' fees, and related expenses and disbursements), indemnification obligations, and other charges, amounts and costs of whatever nature owing, whether or not contingent, whenever arising, accrued, accruing, due, owing, or chargeable in respect of any of the Prepetition Term Loan Borrowers and certain Prepetition Term Loan Guarantors' obligations pursuant to the Prepetition Term Loan Documents, including all "Obligations" as defined in the Prepetition Term Loan Credit Agreement, the "Prepetition Term Loan Obligations," and together with the Prepetition ABL Obligations, the "Prepetition Secured Obligations").

(viii) *Prepetition Term Loan Liens and Prepetition Term Loan Priority Collateral.*

As more fully set forth in the Prepetition Term Loan Documents, prior to the Petition Date, the Prepetition Term Loan Parties granted to the Prepetition Term Loan Agent, for the benefit of itself and the Prepetition Term Loan Lenders security interests in and continuing liens on (the "Prepetition Term Loan Liens," and together with the Prepetition ABL Liens, the "Prepetition Liens") substantially all of their assets and property, including, without limitation, (a) first priority security interests in and continuing liens on the Prepetition Term Loan Priority Collateral, and (b) second priority security interests in and continuing liens on the Prepetition ABL Priority Collateral, provided however that the Prepetition Term Loan Secured Parties do not have liens on and security interests in the assets of the Canadian Loan Parties (as defined in the DIP Intercreditor Agreement).

(ix) *Priority of Prepetition Liens; Prepetition Intercreditor Agreement; DIP Intercreditor Agreement.* The Prepetition Agents entered into that certain Intercreditor Agreement

dated as of June 9, 2017 (as amended, restated, supplemented, or otherwise modified in accordance with its terms, the “Prepetition Intercreditor Agreement”) to govern the respective rights, interests, obligations, priority, and positions of the Prepetition Secured Parties with respect to the assets and properties of the Debtors and other obligors, including the Prepetition ABL Priority Collateral and Prepetition Term Loan Priority Collateral. Each of the Prepetition ABL Borrowers and Prepetition Term Loan Borrower acknowledged the Prepetition Intercreditor Agreement. The Prepetition Intercreditor Agreement is binding and enforceable against the Borrowers, the other “Grantors” thereunder and Prepetition Secured Parties in accordance with its terms and the Borrowers, such Grantors and the Prepetition Secured Parties are not entitled to take any action that would be contrary to the provisions thereof. As of the Petition Date, the ABL Agent and Term Loan Agent entered into the Amended and Restated Intercreditor Agreement, amending and restating the Prepetition Intercreditor Agreement in its entirety (the “DIP Intercreditor Agreement”). The DIP Intercreditor Agreement is binding and enforceable against the Borrowers, the other “Grantors” thereunder, the Prepetition Secured Parties and the DIP Lenders in accordance with its terms and the Borrowers, the Prepetition Secured Parties and DIP Lenders are not entitled to take any action that would be contrary to the provisions thereof.

(x) *Validity, Extent, Perfection and Priority of Prepetition ABL Liens and Prepetition ABL Obligations.* The Debtors acknowledge and agree that as of the Petition Date: (a) the Prepetition ABL Liens on the Prepetition Collateral were valid, binding, enforceable, non-avoidable and properly perfected and were granted to, or for the benefit of, the Prepetition ABL Secured Parties and Prepetition ABL Obligations, for fair consideration and reasonably equivalent value; (b) the Prepetition ABL Liens were senior in priority over any and all other liens on the Prepetition Collateral, subject only to (1) the Prepetition Term Loan Liens on the Prepetition Term

Loan Priority Collateral, and (2) certain liens otherwise permitted by the Prepetition ABL Documents (solely to the extent any such permitted liens were valid, properly perfected, non-avoidable and senior in priority to the Prepetition ABL Liens as of the Petition Date, the “Prepetition ABL Permitted Prior Liens”); (c) the Prepetition ABL Obligations constitute legal, valid, binding, and non-avoidable obligations of the Prepetition ABL Loan Parties enforceable in accordance with the terms of the applicable Prepetition ABL Documents; (d) no offsets, challenges, objections, defenses, claims or counterclaims of any kind or nature to any of the Prepetition ABL Liens or Prepetition ABL Obligations exist, and no portion of the Prepetition ABL Liens or Prepetition ABL Obligations (including the Last Out Obligations) is subject to any challenge or defense including, without limitation, avoidance, disallowance, disgorgement, recharacterization, or subordination (equitable or otherwise) pursuant to the Bankruptcy Code or applicable non- bankruptcy law; (e) the Debtors and their estates have no claims, objections, challenges, causes of action, and/or choses in action, including without limitation, avoidance claims under Chapter 5 of the Bankruptcy Code or applicable state law equivalents or actions for recovery or disgorgement, against any of the Prepetition ABL Secured Parties or the Put Purchasers (as to the Put Purchasers, subject to and only effective upon the Disinterested Director’s Determination (as defined below)) or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors and employees arising out of, based upon or related to the Prepetition ABL Facility (including the Last Out Obligations) and entry into the Put Agreement and Existing Participation Agreement; (f) the Debtors have waived, discharged, and released any right to challenge any of the Prepetition ABL Obligations (including the Last Out Obligations), the priority of the Prepetition ABL Loan Parties’ obligations thereunder, and the validity, extent, and priority of the liens securing the Prepetition ABL Obligations; and (g) the Prepetition ABL

Obligations constitute allowed, secured claims within the meaning of sections 502 and 506 of the Bankruptcy Code. Notwithstanding the foregoing, all of the Debtors' rights and remedies (whether at law or in equity) in connection with any potential claim or cause of action against the Put Purchasers which are, or may be, the subject to investigation by the Debtors' disinterested director are preserved (and nothing shall impair any of the Debtors' right or remedies against the Put Purchasers) until (a) the completion of the investigation by the Debtors' disinterested director and (b) the disinterested director's determination that there are no such claims or causes of action against the Put Purchasers or their respective affiliates or agents (collectively (a) and (b), the "Disinterested Director's Determination").

(xi) *Validity, Extent, Perfection and Priority of Prepetition Term Loan Liens and Prepetition Term Loan Obligations.* The Debtors further acknowledge and agree that, as of the Petition Date: (a) the Prepetition Term Loan Liens were senior in priority over any and all other liens on the Prepetition Collateral (other than ABL Canadian Collateral), subject only to (1) the Prepetition ABL Liens on the Prepetition ABL Priority Collateral and (2) certain liens otherwise permitted by the Prepetition Term Loan Documents (solely to the extent any such permitted liens were valid, properly perfected, non-avoidable and senior in priority to the Prepetition Term Loan Liens as of the Petition Date, the "Prepetition Term Loan Permitted Prior Liens," and together with the Prepetition ABL Permitted Prior Liens, the "Permitted Prior Liens");⁵ (b) the Prepetition Term Loan Liens on the Prepetition Collateral (other than ABL Canadian Collateral) were valid, binding, enforceable, non-avoidable and properly perfected and were granted to, or for the benefit of, the

⁵ Nothing herein shall constitute a finding or ruling by this Court that any such Permitted Prior Lien is valid, senior, enforceable, prior, perfected or non-avoidable. Moreover, nothing shall prejudice the rights of any party-in-interest, including, but not limited to the Debtors, the DIP Agents, the Prepetition ABL Parties, the Prepetition Term Loan Secured Parties, or a Creditors' Committee (if appointed), to challenge the validity, priority, enforceability, seniority, avoidability, perfection or extent of any alleged Permitted Prior Lien and/or security interests. The Debtors and the DIP Lenders have not agreed to treat the right of a seller of goods to reclaim such goods under section 546(c) of the Bankruptcy Code as a Permitted Prior Lien, and the priority of any such right will be determined by the Court.

Prepetition Term Loan Secured Parties for fair consideration and reasonably equivalent value; (c) the Prepetition Term Loan Obligations constitute legal, valid, binding, and non-avoidable obligations of the Prepetition Term Loan Parties enforceable in accordance with the terms of the applicable Prepetition Term Loan Documents; (d) no offsets, challenges, objections, defenses, claims or counterclaims of any kind or nature to any of the Prepetition Term Loan Liens or Prepetition Term Loan Obligations exist, and no portion of the Prepetition Term Loan Liens or Prepetition Term Loan Obligations is subject to any challenge or defense including, without limitation, avoidance, disallowance, disgorgement, recharacterization, or subordination (equitable or otherwise) pursuant to the Bankruptcy Code or applicable non-bankruptcy law; (e) the Debtors and their estates have no claims, objections, challenges, causes of action, and/or choses in action, including without limitation, avoidance claims under Chapter 5 of the Bankruptcy Code or applicable state law equivalents or actions for recovery or disgorgement, against any of the Prepetition Term Loan Secured Parties, or any of their respective affiliates, agents, attorneys, advisors, professionals, officers, directors and employees arising out of, based upon or related to the Prepetition Term Loan Facilities; (f) the Debtors have waived, discharged, and released any right to challenge any of the Prepetition Term Loan Obligations, the priority of the Debtors' obligations thereunder, and the validity, extent, and priority of the liens securing the Prepetition Term Loan Obligations; and (g) the Prepetition Term Loan Obligations constitute allowed, secured claims within the meaning of sections 502 and 506 of the Bankruptcy Code.

(xii) *Default by the Debtors.* The Debtors acknowledge and stipulate that the Prepetition ABL Loan Parties are in default of their obligations under the Prepetition ABL Documents and Prepetition Term Loan Parties are in default of their obligations under the Prepetition Term Loan Documents.

(xiii) [RESERVED]

(xiv) *Cash Collateral*. All cash, securities or other properties of the DIP Parties (and the proceeds therefrom) as of the Petition Date, including, without limitation, all cash, securities or other property (and the proceeds therefrom) and other amounts on deposit or maintained by the DIP Parties in any account or accounts were subject to rights of set-off under the Prepetition Documents and applicable law, for the benefit of the Prepetition Secured Parties and Prepetition Secured Obligations, subject to the terms of the DIP Intercreditor Agreement. All proceeds of the Prepetition Collateral (including cash on deposit in any account or accounts as of the Petition Date, securities or other property, whether subject to control agreements or otherwise, in each case that constitutes Prepetition Collateral) are “Cash Collateral” of the applicable Prepetition Secured Parties and Prepetition Secured Obligations within the meaning of section 363(a) of the Bankruptcy Code (the “Cash Collateral”), subject to the Carve Out and the terms of the DIP Intercreditor Agreement.

(xv) *DIP Intercreditor Agreement*. Pursuant to section 510 of the Bankruptcy Code, except as expressly provided by the terms of this Interim Order, the DIP Intercreditor Agreement and any other intercreditor agreement or subordination agreement between and/or among any Prepetition ABL Loan Party, any Prepetition Term Loan Party, any Debtor or affiliate thereof, and any other applicable intercreditor or subordination provisions contained in any of the Prepetition Documents (i) shall remain in full force and effect, (ii) shall continue to govern the relative priorities, rights and remedies of the Prepetition ABL Secured Parties and the Prepetition Term Loan Secured Parties (including the relative priorities, rights and remedies of such parties with respect to the replacement liens and administrative expense claims and superpriority administrative expense claims granted, or amounts payable, by the Debtors under this Interim

Order or otherwise and the modification of the automatic stay), and (iii) shall not be deemed to be amended, altered or modified by the terms of this Interim Order or the DIP Documents, unless expressly set forth herein. The DIP ABL Credit Facility is an ABL Document as that term is used in the DIP Intercreditor Agreement, and any repayment of the Prepetition ABL Obligations pursuant to this Interim Order shall not be deemed to constitute a “Payment in Full of ABL Debt” as such term is defined in the DIP Intercreditor Agreement. The DIP Term Loan Credit Facility is a Term Loan Document as that term is used in the DIP Intercreditor Agreement.

G. Findings Regarding Postpetition Financing

(i) *Request for Postpetition Financing.* The Debtors seek authority to (a) enter into the DIP Facilities on the terms described herein and in the DIP Documents, and (b) use Cash Collateral on the terms described herein to administer their Cases and fund their operations. At the Final Hearing, the Debtors will seek final approval of the proposed postpetition financing and use of Cash Collateral arrangements pursuant to a proposed final order (the “Final Order”), which except as otherwise ordered by the Court shall be in form and substance acceptable to each of the DIP Agents, and DIP Term Loan Lenders holding in excess of fifty percent (50%) of the outstanding loans and commitments under the DIP Term Loan Credit Facility (the “Required DIP Term Loan Lenders”) (the Required DIP Term Loan Lenders or the “Required Lenders” under the DIP ABL Credit Agreement, as applicable, the “Required DIP Lenders”). Notice of the Final Hearing and Final Order will be provided in accordance with this Interim Order.

(ii) *Priming of the Prepetition Liens.* The priming of the Prepetition Secured Parties on the Prepetition Collateral under section 364(d) of the Bankruptcy Code, as contemplated by the DIP Facilities and as further described below, will enable the Debtors to obtain the DIP Facilities and to continue to operate their businesses to the benefit of their estates and creditors.

The Prepetition ABL Secured Parties, the Prepetition ABL Obligations and the Prepetition Term Loan Secured Parties are each entitled to receive adequate protection as set forth in this Interim Order pursuant to sections 361, 363, and 364 of the Bankruptcy Code, for any diminution in value (“Diminution in Value”) of each of their respective interests in the Prepetition Collateral (including Cash Collateral), subject to the Carve Out.

(iii) *Need for Postpetition Financing and Use of Cash Collateral.* The Debtors have an immediate and critical need to obtain the financing pursuant to the DIP Facilities and to continue to use the Prepetition Collateral (including Cash Collateral) in order to, among other things, (i) permit the orderly continuation of the operation of their businesses, (ii) maintain business relationships with customers, vendors and suppliers, (iii) make payroll, and (iv) satisfy other working capital and operational needs. The access by the DIP Parties to sufficient working capital and liquidity through the use of Cash Collateral and other Prepetition Collateral, incurrence of new indebtedness under the DIP Documents and other financial accommodations provided under the DIP Documents are necessary and vital to the preservation and maintenance of the going concern value of the DIP Parties and to a successful reorganization of the DIP Parties and DIP Obligations. The terms of the proposed financing are fair and reasonable, reflect each DIP Parties’ exercise of prudent business judgment, and are supported by reasonably equivalent value and fair consideration. The adequate protection provided in this Interim Order and other benefits and privileges contained herein are consistent with and authorized by the Bankruptcy Code.

(iv) *No Credit Available on More Favorable Terms.* The DIP Facilities are the best source of debtor in possession financing available to the Debtors. Given their current financial condition, financing arrangements, and capital structure, the Debtors have been and continue to be unable to obtain financing from sources other than the DIP Lenders on terms more favorable than

the DIP Facilities. The Debtors are unable to obtain unsecured credit allowable under Bankruptcy Code section 503(b)(1) as an administrative expense. The Debtors have also been and are unable to obtain: (a) unsecured credit having priority over that of administrative expenses of the kind specified in sections 503(b), 507(a) and 507(b) of the Bankruptcy Code; (b) credit secured solely by a lien on property of the Debtors and their estates that is not otherwise subject to a lien; or (c) credit secured solely by a junior lien on property of the Debtors and their estates that is subject to a lien. Financing on a postpetition basis is not otherwise available without granting the DIP Agents, for the benefit of themselves and the DIP Lenders and on account of the obligations under the DIP Facilities (including the Last Out DIP Obligations): (1) perfected security interests in and liens on (each as provided herein) all of the Debtors' existing and after-acquired assets with the priorities set forth in paragraph 6 hereof, (2) superpriority claims and liens, and (3) the other protections set forth in this Interim Order.

(v) *Use of proceeds of the DIP Facilities.* As a condition to entry into the DIP Documents, the extension of credit under the DIP Facilities and the authorization to use Cash Collateral, the DIP Agents, the DIP Lenders, and the Prepetition Secured Parties require, and the Debtors have agreed, that proceeds of the DIP Facilities shall be used, in each case in a manner consistent with the terms and conditions of this Interim Order and the DIP Documents and in accordance with the budget attached hereto as **Exhibit A**, as the same may be modified from time to time consistent with the terms of the DIP Documents, and subject to such variances as permitted in the DIP Agreements (such budget, as so modified, the "**Approved Budget**"),⁶ solely for: (a) working capital and letters of credit; (b) other general corporate purposes of the Debtors; (c) permitted payment of costs of administration of the Cases; (d) (1) payment of such prepetition

⁶ A copy of the initial Approved Budget is attached hereto as **Exhibit 1**.

expenses of the Prepetition Term Loan Secured Parties as consented to by the DIP Term Agent and the Required DIP Term Loan Lenders, and (2) payment of such prepetition expenses of the Prepetition ABL Secured Parties as consented to by the DIP ABL Agent in its sole discretion, in each case under clauses (1) and (2) as approved by the Court; (e) payment of interest, fees and expenses (including without limitation, legal and other professionals' fees and expenses of the DIP Agents) owed under the DIP Documents; (f) payment of certain adequate protection amounts to the Prepetition Secured Parties and Prepetition Secured Obligations, as set forth in paragraph 16 hereof; (g) the reduction of the Prepetition ABL Obligations pending entry of the Final Order (or as otherwise required under any recognition orders by the Canadian Court (as defined in the DIP ABL Credit Agreement)) in respect of the Canadian Borrower (as defined in the DIP ABL Credit Agreement); (h) the Canadian Borrower to borrow under the DIP ABL Credit Agreement and lend such borrowed amounts to any Debtor other than the Canadian Borrower on a superpriority administrative expense basis pursuant to section 507(b) of the Bankruptcy Code (the "Canadian Intercompany Superpriority Administrative Claims"); and (i) payment of the Carve Out shall be in accordance with paragraph 39 of this Interim Order. The reduction of the Prepetition ABL Obligations from the Cash Collateral consisting of ABL Priority Collateral in accordance with this Interim Order is necessary as the Prepetition ABL Parties have not otherwise consented to the use of their Cash Collateral or the subordination of their liens to the DIP Liens (as defined below), and the DIP ABL Agent and the DIP ABL Lenders will not otherwise consent to providing the DIP ABL Credit Facility and extending credit to the Debtors thereunder. Further the DIP ABL Agent and DIP ABL Lenders are not willing to provide the DIP ABL Credit Facility unless the Canadian Borrower is a joint and several obligor with respect to the DIP ABL Obligations.

(vi) *Application of Proceeds of Collateral.* As a condition to entry into the DIP Agreements, the extension of credit under the DIP Facilities and authorization to use Cash Collateral, the Debtors, the DIP Agents, the DIP Lenders, the Prepetition ABL Secured Parties and the Prepetition Term Loan Secured Parties have agreed that, as of and commencing on the date of the Interim Hearing, the Debtors shall apply the proceeds of DIP Collateral in accordance with this Interim Order and the DIP Intercreditor Agreement.

H. **Adequate Protection.** Subject to the Carve Out and solely to the extent of any Diminution in Value, the Prepetition ABL Agent, for the benefit of itself and the Prepetition ABL Secured Parties on account of the Prepetition ABL Obligations (including the Last Out Obligations), and the Prepetition Term Loan Agent, for the benefit of itself and the Prepetition Term Loan Secured Parties, are each entitled to receive adequate protection in the Prepetition Collateral. Pursuant to sections 361, 363 and 507(b) of the Bankruptcy Code, as adequate protection (but only to the extent of any Diminution in Value): (i) the Prepetition ABL Secured Parties and Prepetition ABL Obligations will receive adequate protection liens and superpriority claims, as more fully set forth in paragraphs 11-14 herein and the Prepetition ABL Secured Parties (other than on account of the Last Out Loans and Last Out Obligations) shall receive current payment of interest at the default rate (provided the Last Out Loans and Last Out Obligations shall accrue payment of interest at the default rate as part of the Last Out Loans and Last Out Obligations), ; and (ii) the Prepetition Term Loan Secured Parties will receive adequate protection liens and superpriority claims, as more fully set forth in paragraphs 11-14 herein.

I. **[Reserved].**

J. Good Faith of the DIP Agents and DIP Lenders.

(i) *Willingness to Provide Financing.* The DIP Lenders have indicated a willingness to provide financing to the Debtors subject to: (a) entry of this Interim Order and the Final Order; (b) approval of the terms and conditions of the DIP Facilities and the DIP Documents; (c) satisfaction of the closing conditions set forth in the DIP Documents; (d) entry of the Canadian Recognition Orders (as defined by the DIP ABL Credit Agreement) and (e) findings by this Court that the DIP Financing is essential to the Debtors' estates, that the DIP Agents and DIP Lenders are extending credit to the Debtors pursuant to the DIP Documents in good faith, and that the DIP Agents' and DIP Lenders' claims, superpriority claims, security interests and liens and other protections granted pursuant to this Interim Order and the DIP Documents will have the protections provided by section 364(e) of the Bankruptcy Code.

(ii) *Business Judgment.* Based on the Motion, the declarations filed in support of the Motion, and the record presented to the Court at the Interim Hearing, (i) the terms of the financing provided by the DIP Facilities, (ii) the adequate protection provided by the Interim Order and DIP Documents and (iii) the terms on which the DIP Parties may continue to use the Prepetition Collateral (including Cash Collateral), in each case pursuant to this Interim Order and the DIP Documents, are in each case fair and reasonable, reflect the DIP Parties' exercise of prudent business judgment consistent with their fiduciary duties, constitute reasonably equivalent value and fair consideration, and represents the best financing (and terms) presently available.

(iii) *Good Faith Pursuant to Section 364(e).* The terms and conditions of the DIP Facilities and the use of Cash Collateral were negotiated in good faith and at arms' length among the Debtors, DIP Agents, DIP Lenders, Prepetition ABL Secured Parties and Prepetition Term Loan Secured Parties, with the assistance and counsel of their respective advisors. Use of

Cash Collateral and credit to be extended under the DIP Facilities shall be deemed to have been allowed, advanced, made, or extended in good faith by the DIP Agents, DIP Lenders, Prepetition ABL Secured Parties, and Prepetition Term Loan Secured Parties within the meaning of section 364(e) of the Bankruptcy Code.

K. **Immediate Entry.** Sufficient cause exists for immediate entry of this Order pursuant to Bankruptcy Rule 4001(c)(2).

L. **Interim Hearing.** Notice of the Interim Hearing and the relief requested in the DIP Motion has been provided by the Debtors, whether by facsimile, electronic mail, overnight courier or hand delivery, to certain parties-in-interest, including, among others: (i) the U.S. Trustee, (ii) those entities or individuals included on the Debtors' list of 50 largest unsecured creditors on a consolidated basis, (iii) counsel to the Prepetition ABL Agent, (iv) counsel to the Prepetition Term Loan Agent; (v) counsel to the Put Purchasers; and (vi) all other parties entitled to notice under the Local Rules. The Debtors have made reasonable efforts to afford the best notice possible under the circumstances and no other notice is required in connection with the relief set forth in this Interim Order.

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

IT IS HEREBY ORDERED THAT:

1. **Interim Financing Approved.** The DIP Motion is granted, the Interim Financing (as defined below) is authorized and approved, and the use of Cash Collateral on an interim basis is authorized, in each case, subject to the terms and conditions set forth in this Interim Order. All objections to this Interim Order to the extent not withdrawn, waived, settled or resolved,

and all reservations of rights included therein, are hereby denied and overruled on the merits. This Interim Order shall become effective immediately upon its entry.

DIP Facilities Authorization

2. Authorization of the DIP Financing. The Interim Financing is hereby approved. The Debtors are expressly and immediately authorized and empowered to execute and deliver the DIP Documents, and to incur and to perform the DIP Obligations in accordance with, and subject to, the terms of this Interim Order and the DIP Documents, and to deliver all instruments, certificates, agreements, and documents which may be required or necessary for the performance by the Debtors under the DIP Facilities and the creation and perfection of the DIP Liens (as defined below) described in and provided for by this Interim Order and the DIP Documents. The Debtors are hereby authorized and directed to pay, in accordance with this Interim Order, the principal, interest, fees, expenses and other amounts described in the DIP Documents and all other documents comprising the DIP Facilities as such become due and without need to obtain further Court approval, including, without limitation, closing fees, letter of credit fees (including issuance, fronting, and other related charges), unused facility fees, continuing commitment fees, backstop fees, exit fees, servicing fees, audit fees, appraisal fees, liquidator fees, structuring fees, administrative agent's fees, the reasonable fees and disbursements of the DIP Agents' attorneys, advisors, accountants, and other consultants, whether or not such fees arose before or after the Petition Date, and whether or not the transactions contemplated hereby are consummated, to implement all applicable reserves and to take any other actions that may be necessary or appropriate, all to the extent provided in this Interim Order or the DIP Documents. All collections and proceeds, whether from ordinary course collections, asset sales, debt or equity issuances, insurance recoveries, condemnations or otherwise, will be deposited and applied as

required by this Interim Order and the DIP Documents. Upon execution and delivery, the DIP Documents shall represent valid and binding obligations of the Debtors, enforceable against each of the Debtors and their estates in accordance with their terms. The Last Out DIP Obligations and Last Out Obligations (as applicable) shall include interest at the default rate and reasonable and documented fees and expenses of the Put Purchasers (such amounts not to be paid currently but to accrue as part of the Last Out DIP Obligations and Last Out Obligations (as applicable)).

3. Authorization to Borrow. In order to prevent immediate and irreparable harm to the Debtors' estates, from the entry of this Interim Order through and including the earliest to occur of (i) entry of the Final Order or (ii) the Termination Declaration (as defined below), and subject to the terms, conditions, limitations on availability and reserves set forth in the DIP Documents and this Interim Order, the Debtors are hereby authorized to (a) forthwith borrow money pursuant to the DIP ABL Credit Agreement and the DIP ABL Guarantors are hereby authorized to guaranty the DIP ABL Obligations, in each case up to an aggregate principal or face amount equal to, on an interim basis, the amount of incremental funding under the DIP ABL Credit Facility as set forth in the Approved Budget and in accordance with the terms of this Interim Order pending entry of the Final Order, together with applicable interest, expenses, fees and other charges payable in connection with the DIP ABL Credit Facility, subject in each case to any limitations on borrowing under the DIP ABL Documents and used for all purposes permitted under the DIP Documents, and (ii) forthwith borrow money pursuant to the DIP Term Loan Credit Agreement and the DIP Term Loan Guarantors are hereby authorized to guaranty the DIP Term Loan Parties' DIP Term Loan Obligations with respect to such borrowings, in each case up to an aggregate principal amount equal to \$15,000,000 on an interim basis (together with the interim financing under the DIP ABL Credit Agreement, the "Interim Financing") together with applicable interest,

expenses, fees and other charges payable in connection with the DIP Term Loan Credit Facility, , together with applicable interest, expenses, fees and other charges payable in connection with the DIP Term Loan Credit Facility, subject to any limitations on borrowing under the DIP Term Loan Documents, which shall be used for all purposes permitted under the DIP Documents, including, without limitation, to satisfy certain outstanding amounts of the Prepetition ABL Credit Facility and Prepetition ABL Obligations as provided herein, to provide working capital for the DIP Parties and to pay interest, fees, costs, charges and expenses in accordance with this Interim Order, the DIP Documents and the Approved Budget (subject to the variances permitted by the DIP Agreements). In connection with obtaining and using funds to enable the Debtors to pay the expenses set forth in the Approved Budget (subject to the variances permitted by the DIP Agreements), the Debtors shall borrow and use (or in the case of amounts already then borrowed under the DIP Term Loan Credit Facility, use), on a weekly and cumulative basis, an approximately equal amount from the DIP ABL Credit Facility (subject to Availability) and the amounts borrowed under the DIP Term Loan Credit Facility; *provided, however*, until the entry of the Canadian Initial Recognition Order (as defined in the DIP ABL Credit Agreement), the Canadian Borrowing Base is deemed to be \$0.

4. DIP Obligations. Subject to the qualifications and modifications set forth in this Interim Order, the DIP Documents and this Interim Order shall constitute and evidence the validity and binding effect of the Debtors' DIP Obligations, which DIP Obligations shall be enforceable against the Debtors, their estates and any successors thereto, including without limitation, any trustee appointed in the Cases, or in any case under Chapter 7 of the Bankruptcy Code upon the conversion of any of the Cases, or in any other proceedings superseding or related to any of the foregoing (collectively, the "Successor Cases"). Upon entry of this Interim Order,

the DIP Obligations will include all loans, letter of credit reimbursement obligations, and any other indebtedness or obligations, contingent or absolute, which may now or from time to time be owing by any of the Debtors to the DIP Agents or any of the DIP Lenders, under the DIP Documents or this Interim Order, including, without limitation, all principal, accrued interest, costs, charges, fees, expenses and other amounts under the DIP Documents. Upon entry of this Interim Order, all (i) Bank Products, (ii) Cash Management Services, and (iii) Letters of Credit (each as defined in the Prepetition ABL Credit Agreement) shall continue in place and all obligations under or in connection therewith shall be subject to the DIP ABL Credit Agreement and shall constitute DIP ABL Obligations. The DIP ABL Loan Parties shall be jointly and severally liable for the DIP ABL Obligations. The DIP Term Loan Parties shall be jointly and severally liable for the DIP Term Obligations. The DIP Obligations, as applicable, shall be due and payable, without notice or demand, and the use of Cash Collateral shall automatically cease on each applicable Termination Date, as applicable, except as provided in paragraph 30 herein. No obligation, payment, transfer, or grant of collateral security hereunder or under the DIP Documents (including any DIP Obligation or DIP Liens, and including in connection with any adequate protection provided to the Prepetition Secured Parties and Prepetition Secured Obligations hereunder) shall be stayed, restrained, voidable, avoidable, or recoverable, under the Bankruptcy Code or under any applicable law (including, without limitation, under sections 502(d), 544, and 547 to 550 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act, or similar statute or common law), or subject to any avoidance, reduction, setoff, recoupment, offset, recharacterization, subordination (whether equitable, contractual, or otherwise), counterclaim, cross-claim, defense, or any other challenge under the Bankruptcy Code or any applicable law or regulation by any person or entity.

5. DIP Liens. In order to secure the DIP Obligations, effective immediately upon entry of this Interim Order, pursuant to sections 361, 362, 364(c)(2), 364(c)(3), and 364(d) of the Bankruptcy Code, the applicable DIP Agents, for the benefit of themselves and the DIP Lenders and/or DIP Obligations, are hereby granted, continuing, valid, binding, enforceable, non-avoidable, and automatically and properly perfected postpetition security interests in and liens on (collectively, the “DIP Liens”) all real and personal property, whether now existing or hereafter arising and wherever located, tangible and intangible, of, with respect to the DIP ABL Obligations, each of the DIP ABL Loan Parties (the “DIP ABL Collateral”) or, with respect to the DIP Term Loan Obligations, each of the DIP Term Loan Parties (the “DIP Term Collateral,” together with the DIP ABL Collateral, the “DIP Collateral”),⁷ including without limitation: (a) all cash, cash equivalents, deposit accounts, securities accounts, accounts, other receivables (including credit card receivables), chattel paper, contract rights, inventory (wherever located), instruments, documents, securities (whether or not marketable) and investment property (including, without limitation, all of the issued and outstanding capital stock of each of its subsidiaries), furniture, fixtures, equipment, goods, franchise rights, trade names, trademarks, servicemarks, copyrights, patents, intellectual property, general intangibles, rights to the payment of money (including, without limitation, tax refunds and any other extraordinary payments), supporting obligations, guarantees, letter of credit rights, commercial tort claims, causes of action and all substitutions, books and records related to the foregoing, accessions and proceeds of the foregoing, wherever located, including insurance or other proceeds and (b) all owned real property interests and all proceeds of leased real property. DIP Collateral that is of a type that would be ABL Priority Collateral (as defined the DIP Intercreditor Agreement) and the proceeds and products thereof shall

⁷ For the avoidance of doubt, the DIP Term Collateral does not include ABL Canadian Collateral (as defined by the DIP Intercreditor Agreement).

in each case, constitute “DIP ABL Priority Collateral,” DIP Collateral that is of a type that would be Term Loan Priority Collateral (as defined in the DIP Intercreditor Agreement) and the proceeds and products thereof and shall, in each case, constitute “DIP Term Loan Priority Collateral”.

6. DIP Lien Priority. The DIP Liens securing the DIP ABL Obligations (the “DIP ABL Liens”) are valid, automatically perfected, non-avoidable, senior in priority and superior to any security, mortgage, collateral interest, lien or claim to any of the DIP Collateral, except that the DIP ABL Liens shall be subject to the Carve Out, and shall otherwise be junior only to: (i) as to the DIP ABL Priority Collateral, Permitted Prior Liens; and (ii) as to the DIP Term Loan Priority Collateral, (A) Permitted Prior Liens; (B) the DIP Term Loan Liens (as defined below); (C) the Prepetition Term Loan Liens; and (D) the Prepetition Term Loan Adequate Protection Liens. The DIP Liens securing the DIP Term Loan Obligations (the “DIP Term Loan Liens”) are valid, automatically perfected, non-avoidable, senior in priority and superior to any security, mortgage, collateral interest, lien or claim to any of the DIP Term Loan Collateral, except that the DIP Term Loan Liens shall be (1) subject to the Carve Out and (2) shall otherwise be junior only to: (i) as to the DIP Term Loan Priority Collateral, Permitted Prior Liens; and (ii) as to the DIP ABL Priority Collateral, (A) Permitted Prior Liens; (B) the DIP ABL Liens; (C) the Prepetition ABL Liens; (D) the Prepetition ABL Adequate Protection Liens; and (E) the Canadian Intercompany Superpriority Administrative Claims. Other than as set forth herein or in the DIP Documents, the DIP Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter granted in the Cases or any Successor Cases, and shall be valid and enforceable against any trustee appointed in the Cases or any Successor Cases, upon the conversion of any of the Cases to a case under Chapter 7 of the Bankruptcy Code (or in any other Successor Case), and/or upon the dismissal of any of the Cases or Successor Cases. The DIP Liens shall not be

subject to section 510, 549 or 550 of the Bankruptcy Code. No lien or interest avoided and preserved for the benefit of the estate pursuant to section 551 of the Bankruptcy Code shall be *pari passu* with or senior to the DIP Liens. Notwithstanding anything herein to the contrary, none of the Prepetition Term Loan Adequate Protection Liens or DIP Term Loan Liens shall exist with respect to any ABL Canadian Collateral (as defined by the DIP Intercreditor Agreement).

7. Superpriority Claims. Upon entry of this Interim Order, the DIP Agents and DIP Lenders are hereby granted, pursuant to Section 364(c)(1) of the Bankruptcy Code, allowed superpriority administrative expense claims in each of the Cases and any Successor Cases (collectively, the “DIP Superpriority Claims”) for all DIP Obligations (including Last Out DIP Obligations): (a) except as set forth herein, with priority over any and all administrative expense claims and unsecured claims against the Debtors or their estates in any of the Cases and any Successor Cases, at any time existing or arising, of any kind or nature whatsoever, including, without limitation, administrative expenses of the kinds specified in or ordered pursuant to Bankruptcy Code Sections 105, 326, 328, 330, 331, 364, 503(a), 503(b), 507(a), 507(b), 546(c), 546(d), 726, 1113 and 1114, and any other provision of the Bankruptcy Code, as provided under Section 364(c)(1) of the Bankruptcy Code; and (b) which shall at all times be senior to the rights of the Debtors and their estates, and any successor trustee or other estate representative to the extent permitted by law. Notwithstanding the foregoing, the DIP Superpriority Claims shall be *pari passu* with each other, without otherwise impairing the lien priorities as set forth herein, and subject to the terms of the DIP Intercreditor Agreement and Carve Out (including the caps and limitations therein).

8. No Obligation to Extend Credit. Except as required to fund the Carve Out in accordance with the terms of this Order, the DIP Agents and DIP Lenders shall have no

obligation to make any loan or advance under the DIP Documents unless all of the conditions precedent to the making of such extension of credit or the issuance, amendment, renewal or extension of such letter of credit or bankers' acceptance under the DIP Documents and this Interim Order have been satisfied in full or waived by the DIP ABL Agent (in its sole discretion), DIP Term Loan Agent (acting at the direction of the Required DIP Term Loan Lenders), as applicable, and in accordance with the terms of the DIP ABL Credit Agreement and the DIP Term Loan Credit Agreement, as applicable.

9. Use of Proceeds of DIP Facilities. From and after the Petition Date, the Debtors shall use advances of credit under the DIP Facilities, in accordance with the Approved Budget (subject to such variances as permitted in the DIP Agreements), only for the purposes specifically set forth in this Interim Order and the DIP Documents, and in compliance with the terms and conditions in this Interim Order and the DIP Documents.

10. No Monitoring Obligation. No DIP Lender or DIP Agent shall have any obligation nor responsibility to monitor any DIP Party's use of DIP Facilities, and each DIP Lender or DIP Agent may rely upon each DIP Party's representation that the use of the DIP Facilities at any time is in accordance with the requirements of this Interim Order, the DIP Documents and Bankruptcy Rule 4001(c)(2).

Authorization to Use Cash Collateral

11. Authorization to Use Cash Collateral. Subject to the terms and conditions of this Interim Order, the DIP Facilities and the DIP Documents and in accordance with the Approved Budget (subject to variances as permitted in the DIP Agreements), the Debtors are authorized to use Cash Collateral until each applicable Termination Date. Nothing in this Interim Order shall authorize the disposition of any assets of the Debtors outside the ordinary course of

business, or any Debtor's use of any Cash Collateral or other proceeds resulting therefrom, except as permitted in this Interim Order (including with respect to the Carve Out), the DIP Facilities, the DIP Documents, and in accordance with the Approved Budget (subject to such variances as permitted in the DIP Agreements). All Cash Collateral consisting of ABL Priority Collateral shall be applied to reduce the Prepetition ABL Obligations as set forth in the DIP ABL Credit Agreement.

12. Adequate Protection Liens. Subject to the terms of the DIP Intercreditor Agreement and the Carve Out and solely to extent of any Diminution in Value:

(i) *Prepetition ABL Adequate Protection Liens*. Pursuant to Sections 361, 363(e) and 364(d) of the Bankruptcy Code, as adequate protection of the interests of the Prepetition ABL Secured Parties and the Prepetition ABL Obligations in the Prepetition Collateral against any Diminution in Value of such interests in the Prepetition Collateral, the DIP ABL Loan Parties hereby grant to the Prepetition ABL Agent, for the benefit of itself and the Prepetition ABL Secured Parties and the Prepetition ABL Obligations, continuing valid, binding, enforceable and perfected postpetition security interests in and liens on the DIP ABL Collateral (the "Prepetition ABL Adequate Protection Liens").

(ii) *Prepetition Term Loan Adequate Protection Liens*. Pursuant to Sections 361, 363(e) and 364(d) of the Bankruptcy Code, as adequate protection of the interests of the Prepetition Term Loan Secured Parties in the Prepetition Collateral against any Diminution in Value of such interests in the Prepetition Collateral, the Prepetition Term Loan Parties hereby grant to the Prepetition Term Loan Agent, on behalf of itself and the Prepetition Term Loan Secured Parties continuing valid, binding, enforceable and perfected postpetition security interests in and

liens on the DIP Term Collateral (the “Prepetition Term Loan Adequate Protection Liens,” and together with the Prepetition ABL Adequate Protection Liens, the “Adequate Protection Liens”).

13. Priority of Adequate Protection Liens. Subject to the terms of the DIP Intercreditor Agreement:

(i) The Prepetition ABL Adequate Protection Liens shall be subject to the Carve Out (and the caps and limitations set forth therein). The Prepetition ABL Adequate Protection Liens shall otherwise be junior only to: (a) with respect to the DIP ABL Priority Collateral (other than to the extent securing the Last Out Loan Obligations) (1) Permitted Prior Liens; (2) the DIP ABL Liens; and (3) the Prepetition ABL Liens; and (b) with respect to the DIP Term Loan Priority Collateral (1) Permitted Prior Liens; (2) the DIP Term Loan Liens; (3) the Prepetition Term Loan Liens; (4) the Prepetition Term Loan Adequate Protection Liens; (5) the DIP ABL Liens; and (6) the Prepetition ABL Liens. The Prepetition ABL Adequate Protection Liens shall be senior to all other security interests in, liens on, or claims against any of the DIP ABL Loan Parties’ assets.

(ii) The Prepetition Term Loan Adequate Protection Liens shall be subject to the Carve Out and shall otherwise be junior only to: (a) with respect to the DIP ABL Priority Collateral (1) Permitted Prior Liens; (2) the DIP ABL Liens; (3) the Canadian Intercompany Superpriority Administrative Claims (4) the Prepetition ABL Liens; (5) the Prepetition ABL Adequate Protection Liens; (6) the DIP Term Loan Liens; and (7) the Prepetition Term Loan Liens; and (b) with respect to the DIP Term Loan Priority Collateral (1) Permitted Prior Liens; (2) the DIP Term Loan Liens; and (3) the Prepetition Term Loan Liens. The Prepetition Term Loan Adequate Protection Liens shall be senior to all other security interests in, liens on, or claims against any of the DIP Term Loan Parties’ assets. Except as provided herein, the Adequate

Protection Liens shall not be made subject to or *pari passu* with any lien or security interest heretofore or hereinafter in the Cases or any Successor Cases, and shall be valid and enforceable against any trustee appointed in any of the Cases or any Successor Cases, or upon the dismissal of any of the Cases or Successor Cases. The Adequate Protection Liens shall not be subject to sections 510, 549, or 550 of the Bankruptcy Code. No lien or interest avoided and preserved for the benefit of the estate pursuant to section 551 of the Bankruptcy Code shall be *pari passu* with or senior to the Prepetition Liens or the Adequate Protection Liens.

14. Adequate Protection Superpriority Claims. Subject to the terms of the DIP Intercreditor Agreement and the Carve Out and solely to the extent of any Diminution in Value:

(i) *Prepetition ABL Superpriority Claim.* As further adequate protection of the interests of the Prepetition ABL Secured Parties and Prepetition ABL Obligations in the Prepetition Collateral against any Diminution in Value of such interests in the Prepetition Collateral, the Prepetition ABL Agent, on behalf of itself and the Prepetition ABL Parties and Prepetition ABL Obligations, is hereby granted as and to the extent provided by section 507(b) of the Bankruptcy Code an allowed superpriority administrative expense claim in each of the Cases and any Successor Cases (the “Prepetition ABL Superpriority Claim”).

(ii) *Prepetition Term Loan Superpriority Claim.* As further adequate protection of the interests of the Prepetition Term Loan Secured Parties in the Prepetition Collateral (other than the ABL Canadian Collateral) against any Diminution in Value of such interests in the Prepetition Collateral (other than the ABL Canadian Collateral), (x) the Prepetition Term Loan Agent, on behalf of itself and the Prepetition Term Loan Secured Parties, is hereby granted as and to the extent provided by section 507(b) of the Bankruptcy Code allowed superpriority administrative expense claims in each of the Cases and any Successor Cases (other than in the

Case of the Canadian Borrower) (the “Prepetition Term Loan Superpriority Claim,” and together with the Prepetition ABL Superpriority Claim, the “Adequate Protection Superpriority Claims”).

15. Priority of the Adequate Protection Superpriority Claims. Except as set forth herein, the Adequate Protection Superpriority Claims shall have priority over all administrative expense claims and unsecured claims against the Debtors or their estates, now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, administrative expenses of the kinds specified in or ordered pursuant to Sections 105, 326, 328, 330, 331, 503(a), 503(b), 507(a), , 507(b), 546(c), 546(d), 726, 1113 and 1114 of the Bankruptcy Code; *provided, however*, that the Adequate Protection Superpriority Claims shall be *pari passu* with each other (in each of the Cases other than the Case of the Canadian Borrower, which shall be limited to Adequate Protection Superpriority Claims in favor of the ABL Secured Parties), without otherwise impairing the lien priorities as set forth herein, and subject to the Carve Out and junior to the DIP Superpriority Claims.

16. Adequate Protection Payments and Protections for Prepetition ABL Parties. As further adequate protection and solely to the extent of any Diminution in Value (the “Prepetition ABL Adequate Protection Payments”), the Debtors are authorized and directed to provide adequate protection to the (A) Prepetition ABL Secured Parties and Prepetition ABL Obligations in the form of payment in cash (and as to fees and expenses, without the need for the filing of a formal fee application) of (i) interest payable monthly, at the default rate (other than on account of Last Out Loans and Last Out Obligations, provided that the Last Out Loans and Last Out Obligations shall accrue interest at the default rate as part of the Last Out Loans and Last Out Obligations), and (ii) principal due under the Prepetition ABL Documents (other than on account of Last Out Loans and Last Out Obligations), subject to the rights preserved in paragraph 42 below.

17. [RESERVED]

18. Adequate Protection Reservation. Nothing herein shall impair or modify the application of section 507(b) of the Bankruptcy Code in the event that the adequate protection provided to the Prepetition Secured Parties and Prepetition Secured Obligations hereunder is insufficient to compensate for any Diminution in Value of their respective interests in the Prepetition Collateral during the Cases or any Successor Cases. The receipt by the Prepetition Secured Parties and Prepetition Secured Obligations of the adequate protection provided herein shall not be deemed an admission that the respective interests of the Prepetition Secured Parties and Prepetition Secured Obligations are adequately protected. Further, this Interim Order shall not prejudice or limit the rights of the Prepetition Secured Parties and Prepetition Secured Obligations to seek additional relief with respect to the use of Cash Collateral or for additional adequate protection.

Provisions Common to DIP Financing and Use of Cash Collateral

19. Amendment of the DIP Documents. The DIP Documents may from time to time be amended, modified or supplemented by the parties thereto without further order of the Court if: (a) the amendment, modification, or supplement is in accordance with the DIP Documents, and (b) a copy (which may be provided through electronic mail or facsimile) of the amendment, modification or supplement is provided to counsel to each of the other DIP Agents, a Creditors' Committee (if appointed) or any other committee appointed under section 1102 or 1104 of the Bankruptcy Code, and the U.S. Trustee (collectively, the "Notice Parties"); and (c) the amendment, modification or supplement is filed with the Court; *provided, however*, that neither consent of the Notice Parties nor approval of the Court will be necessary to effectuate any such amendment, modification or supplement and provided further that such amendment, modification

or supplement shall be without prejudice to the right of any party in interest to be heard; provided, further, that no such amendment, modification, or supplement shall modify the DIP Documents in a manner that is materially different from that approved by the Court.

20. Budget Maintenance. The use of borrowings and letters of credit under the DIP Facilities shall be in accordance with the Approved Budget (subject to such variances as permitted in the DIP Agreements) and the terms and conditions set forth in the DIP Documents. The Approved Budget and any modification to, or amendment or update of, the Approved Budget shall be subject to the reasonable approval of, and in form and substance reasonably acceptable to the applicable DIP Agents and the Required DIP Term Loan Lenders in accordance with the applicable DIP Documents.

21. Budget Compliance. The use of borrowings and letters of credit under the DIP Facilities shall be in accordance with the Approved Budget (subject to such variances as permitted in the DIP Agreements) and the DIP Documents; *provided, however*, that, in the case of the fees, costs and expenses of the DIP Agents, the Debtors shall pay such fees, costs and expenses in accordance with the DIP Documents and this Interim Order without being limited by the Approved Budget.

22. Modification of Automatic Stay. The automatic stay imposed under section 362(a)(2) of the Bankruptcy Code is hereby modified as necessary to effectuate all of the terms and provisions of this Interim Order, including, without limitation, to: (a) permit the Debtors to grant the DIP Liens, Adequate Protection Liens, DIP Superpriority Claims, and Adequate Protection Superpriority Claims; (b) permit the Debtors to perform such acts as the DIP Agents, DIP Lenders, or the Prepetition Agents each may reasonably request to assure the perfection and priority of the liens granted herein; (c) permit the Debtors to incur all liabilities and obligations to

the DIP Agents, DIP Lenders, and the Prepetition Secured Parties under the DIP Documents, the DIP Facilities and this Interim Order; and (d) authorize the Debtors to pay, and the DIP Agents, the DIP Lenders and the Prepetition Secured Parties to retain and apply, payments made in accordance with the terms of this Interim Order and the DIP Documents.

23. Perfection of DIP Liens and Adequate Protection Liens. This Interim Order shall be sufficient and conclusive evidence of the creation, validity, perfection, and priority of all liens granted herein, including the DIP Liens and the Adequate Protection Liens, without the necessity of filing or recording any financing statement, mortgage, notice, or other instrument or document which may otherwise be required under the law or regulation of any jurisdiction or the taking of any other action (including, for the avoidance of doubt, entering into any deposit account control agreement) to validate or perfect (in accordance with applicable non-bankruptcy law) the DIP Liens, the Adequate Protection Liens, or to entitle the DIP Agents, the DIP Lenders, the DIP Obligations, the Prepetition Secured Parties and the Prepetition Secured Obligations to the priorities granted herein (subject to the DIP Intercreditor Agreement and Existing Participation Agreement, as applicable). Notwithstanding the foregoing, the DIP Agents and the Prepetition Agents each are authorized to file, as in its reasonable discretion it deems necessary or advisable, such financing statements, security agreements, mortgages, notices of liens and other similar documents to perfect in accordance with applicable non-bankruptcy law or to otherwise evidence the DIP Liens and the Adequate Protection Liens, and all such financing statements, mortgages, notices and other documents shall be deemed to have been filed or recorded as of the Petition Date; *provided, however*, that no such filing or recordation shall be necessary or required in order to create or perfect the DIP Liens, or the Adequate Protection Liens. The Debtors are authorized and directed to execute and deliver reasonably promptly to the DIP Agents and Prepetition Agents all

such financing statements, mortgages, notices and other documents as the DIP Agents and Prepetition Agents may reasonably request; provided that nothing herein shall require the Debtors to obtain any required consent of third parties to any such financing statements, mortgages, notices, and other documents. The DIP Agents and the Prepetition Agents, each in its discretion, may file a photocopy of this Interim Order as a financing statement with any filing or recording office or with any registry of deeds or similar office, in addition to or in lieu of such financing statements, notices of lien or similar instrument. To the extent that any Prepetition Agent is the secured party under any security agreement, mortgage, leasehold mortgage, landlord waiver, credit card processor notices or agreements, bailee letters, custom broker agreements, financing statement, account control agreements, or any other Prepetition Documents or is listed as loss payee, lenders' loss payee or additional insured under any of the Debtors' insurance policies, each DIP Agent (as applicable) shall also be deemed to be the secured party or mortgagee, as applicable, under such documents or to be the loss payee or additional insured, as applicable. The Prepetition Agents shall serve as agents for the DIP Agents for purposes of perfecting the DIP Agents' liens on all DIP Collateral that, without giving effect to the Bankruptcy Code and this Interim Order, is of a type such that perfection of a lien therein may be accomplished only by possession or control by a secured party.

24. Application of Proceeds of Collateral. Subject to the Carve Out, as a condition to the entry of the DIP Documents, the extension of credit under the DIP Facilities and the authorization to use Cash Collateral, the Debtors have agreed that as of and commencing on the date of the Interim Hearing, the Debtors shall apply all net proceeds of DIP Collateral that is sold in the ordinary course or liquidated as follows: (a) with respect to DIP ABL Priority Collateral (i) *first*, to costs and expenses of the DIP ABL Agent; (ii) *second*, to permanently reduce the

Prepetition ABL Obligations (other than the Last Out Obligations); (iii) *third*, to reduce the DIP ABL Obligations (including the Last Out DIP Obligations or Last Out Obligations, as applicable), (iv) *fourth*, to the repayment of the Canadian Intercompany Superpriority Administrative Claims, and (v) after indefeasible repayment in full in cash of the Prepetition ABL Obligations and the DIP ABL Obligations (including, in each case, provision for contingent obligations), the termination of the DIP ABL Credit Facility and all commitments thereunder, and “payment in full” of all other DIP ABL Obligations as provided under the DIP ABL Credit Agreement and repayment in full of the Canadian Intercompany Superpriority Administrative Claims, (x) to costs and expenses of the DIP Term Loan Agent, (y) to reduce the DIP Term Loan Obligations, and (z) then (if and to the extent authorized by the Court) to reduce the Prepetition Term Loan Obligations; and (b) with respect to DIP Term Loan Priority Collateral, (i) *first*, to costs and expenses of the DIP Term Loan Agent; (ii) *second*, to reduce the DIP Term Loan Obligations; (iii) *third*, to reduce the Prepetition Term Loan Obligations (but only if and when authorized by the Court), and (iv) after indefeasible repayment in full in cash of the Prepetition Term Loan Obligations and the DIP Term Loan Obligations (including, in each case, provision for contingent obligations), (w) to costs and expenses of the DIP ABL Agent, (x) to permanently reduce the Prepetition ABL Obligations, (y) to reduce the DIP ABL Obligations (including the Last Out DIP Obligations or Last Out Obligations, as applicable), and (z) to the repayment of the Canadian Intercompany Superpriority Administrative Claims. The reduction of the Prepetition Secured Obligations is subject to the preservation of rights provided in paragraph 42 herein and to the deemed modifications to the DIP Agreements and the DIP Documents that are set forth in this Interim Order. Notwithstanding anything herein, or in the Prepetition ABL Documents or DIP ABL Documents, (i) all ABL Priority Collateral (other than ABL Canadian Collateral) of the Debtors (other than the Canadian Borrower)

to be applied to the Prepetition ABL Obligations and DIP ABL Obligations as provided in this Paragraph 24 shall be applied first to reduce the Prepetition ABL Obligations and DIP ABL Obligations of the Debtors other than the Canadian Borrower; and thereafter to the remaining DIP ABL Obligations of the Canadian Borrower, if any; and (ii) all ABL Canadian Collateral to be applied to the Prepetition ABL Obligations and DIP ABL Obligations as provided in this Paragraph 24 shall be applied first to reduce the Prepetition ABL Obligations of the Canadian Borrower, then to the direct DIP ABL Obligations of the Canadian Borrower, and then to remaining Prepetition ABL Obligations and DIP ABL Obligations of the Debtors, if any, but only to the extent not paid under clause (i) above and after all ABL Priority Collateral (other than ABL Canadian Collateral) of the Debtors (other than the Canadian Borrower) has been applied.

25. Protections of Rights of DIP Agents, DIP Lenders and Prepetition Secured Parties. The Debtors (and/or their legal and financial advisors in the case of clauses (ii) through (iv) below) will, whether or not the DIP Obligations have been indefeasibly paid in full in cash, (i) maintain books, records, and accounts to the extent and as required by the DIP Documents, (ii) reasonably cooperate with, consult with, and provide to the DIP Agents and the DIP Lenders all such information and documents that any or all of the Debtors are obligated (including upon reasonable request by any of the DIP Agents or the DIP Lenders) to provide under the DIP Documents or the provisions of this Interim Order or as reasonably requested by the DIP Agents or DIP Lenders, in each case as and to the extent required by the DIP Documents, (iii) upon reasonable advance notice, permit consultants, advisors and other representatives (including third party representatives) of each of the DIP Agents, the DIP Lenders and the Prepetition Agents to visit and inspect any of the Debtors' respective properties, to examine and make abstracts or copies from any of their respective books and records, to tour the Debtors' business premises and other

properties, and to discuss, and provide advice with respect to, their respective affairs, finances, properties, business operations, and accounts with their respective officers, employees, independent public accountants and other professional advisors as and to the extent required by the DIP Documents and/or the Prepetition Documents, (iv) permit the DIP Agents, the DIP Lenders, and the Prepetition Agents, and their respective consultants, advisors and other representatives to consult with the Debtors' management and advisors on matters concerning the Debtors' businesses, financial condition, operations and assets, in each case as and to the extent required by the DIP Documents, and (v) upon reasonable advance notice, permit the DIP Agents, the DIP Lenders and the Prepetition Agents to conduct, at their discretion and at the Debtors' cost and expense, field audits, collateral examinations, liquidation valuations and inventory appraisals at reasonable times in respect of any or all of the DIP Collateral and Prepetition Collateral in each case as and to the extent required by the DIP Documents.

26. Proceeds of Subsequent Financing. If the Debtors, any trustee, any examiner with expanded powers, or any responsible officer subsequently appointed in these Cases or any Successor Cases, shall obtain credit or incur debt pursuant to Bankruptcy Code sections 364(b), 364(c) or 364(d) or in violation of the DIP Documents at any time prior to the indefeasible repayment in full of all DIP Obligations and Prepetition Secured Obligations, and the termination of the DIP Agents' and DIP Lenders' obligation to extend credit under the DIP Facilities, including subsequent to the confirmation of any plan with respect to any or all of the Debtors and the Debtors' estates, and such facilities are secured by any DIP Collateral, then all the cash proceeds derived from such credit or debt shall immediately be turned over to the DIP Agents to be applied in accordance with this Interim Order, the DIP Documents and the DIP Intercreditor Agreement.

27. Cash Collection. From and after the date of the entry of this Interim Order, the Debtors shall maintain cash management in accordance with the DIP Documents. Unless otherwise agreed to in writing by the DIP Agents and Prepetition Agents, the Debtors shall maintain no accounts except those identified in any interim and/or final order granting the *Debtors' Motions for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Continue to Operate their Cash Management System, (B) Honor Certain Prepetition Obligations Related Thereto, (C) Maintain Existing Business Forms, and (D) Continue to Perform Intercompany Transactions, and (II) Granting Related Relief* (the "Cash Management Order"). The Debtors and the financial institutions where the Debtors' maintain deposit accounts (as identified in any Cash Management Order), are authorized and directed to remit, without offset or deduction, funds in such deposit accounts upon receipt of any direction to that effect from the applicable DIP Agent in accordance with the DIP Documents. Until such time as Debtors are able to establish a deposit account at a bank other than Wells Fargo Bank, National Association to serve as the TL Deposit Account (as defined in the DIP Term Loan Credit Agreement), the account established for such purpose at Wells Fargo Bank, National Association shall constitute such TL Deposit Account and shall be subject to a fully perfected first priority lien and security interest in favor of the DIP Term Loan Agent as fully as if it were subject to a control agreement in favor of the DIP Term Loan Agent. For the avoidance of doubt, any TL Deposit Account shall not be subject to any liens or security interests other than liens and security interests in favor of the DIP Term Loan Agent.

28. Maintenance of DIP Collateral. Until the indefeasible payment in full of all DIP Obligations (including "payment in full" of the DIP ABL Obligations as provided under the DIP ABL Credit Agreement), all Prepetition Secured Obligations, and the termination of the DIP Agents and the DIP Lenders' obligation to extend credit under the DIP Facilities, the Debtors shall:

(a) insure the DIP Collateral as required under the DIP Documents or the Prepetition Documents, as applicable; and (b) maintain the cash management system in effect as of the Petition Date, as modified by any Cash Management Order which has first been agreed to by the DIP Agents or as otherwise required by the DIP Documents.

29. Disposition of DIP Collateral. The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP ABL Priority Collateral or Prepetition ABL Priority Collateral other than in the ordinary course of business without the prior written consent of the DIP ABL Agent and Prepetition ABL Agent, except as otherwise provided for in the DIP ABL Documents, and subject to the DIP Intercreditor Agreement. The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP Term Loan Priority Collateral or Prepetition Term Loan Priority Collateral other than in the ordinary course of business without the prior written consent of the DIP Term Loan Agent (acting at the direction of the Required Term DIP Lenders) and the Prepetition Term Loan Agent (acting at the direction of the “Required Lenders” (as defined in the Prepetition Term Loan Credit Agreement) (and no such consent shall be implied, from any other action, inaction or acquiescence by the DIP Term Loan Agent, DIP Term Loan Lenders, or Prepetition Term Loan Secured Parties), except as otherwise provided for in the DIP Term Loan Documents, and subject to the DIP Intercreditor Agreement.

30. Termination Date. On the applicable termination date, (a) all applicable DIP Obligations shall be immediately due and payable, all commitments to extend credit under the applicable DIP Facilities will terminate, other than as required in paragraph 39 with respect to the Carve Out, and (b) all authority to use Cash Collateral shall cease. For the purposes of this Interim Order, the “DIP Term Loan Termination Date” shall mean the date the commitments are terminated pursuant to the terms of the DIP Term Loan Credit Agreement; and the “DIP ABL Termination

Date” shall mean the date the commitments are terminated pursuant to the terms of the DIP ABL Credit Agreement.

31. Events of Default. The occurrence of any of the following events, unless waived by the DIP Agents in writing and in accordance with the terms of the applicable DIP Documents, shall constitute an event of default (collectively, the “Events of Default”): (a)(i) the failure of the Debtors to perform, in any respect, any of the terms, provisions, conditions, covenants, or obligations under this Interim Order or any Canadian Recognition Order, including, without limitation, failure to make any payment under this Interim Order when due, (ii) the failure of the Debtors to obtain on or before the date that is 3 Business Days following the entry of this Interim Order, the Canadian Initial Recognition Order, the Canadian Recognition Order, and the Canadian Supplemental Order, in form and substance satisfactory to the DIP Agents, and (iii) the failure of the Debtors to obtain, on or before the date that is 40 days following the entry of this Interim Order, the entry the Final Order, on the terms and conditions contemplated by the DIP ABL Loan Documents and DIP Term Loan Documents and otherwise in form and substance satisfactory to the DIP Agents; (b) subject to the qualifications and modifications set forth in this Interim Order, the occurrence of an “Event of Default” under, and as defined in, the DIP ABL Credit Agreement or the DIP Term Loan Credit Agreement, (c) entry of an order in these Cases that authorizes any of the following: (i) the obtaining of credit or the incurring of indebtedness that is secured by a security, mortgage, or collateral interest or other Lien on all or any portion of the DIP Collateral or Prepetition Collateral and/or that is entitled to administrative priority status, in each case that is superior to or *pari passu* with the DIP Liens, the DIP Superpriority Claims, the Prepetition Liens, the Prepetition Adequate Protection Liens, and/or the Adequate Protection Superpriority Claims; (ii) the use of Cash Collateral for any purpose other than as permitted in the DIP Documents and

this Interim Order and the Approved Budget, (iii) the sale or other disposition of DIP Collateral without the reasonable consent of the applicable DIP Agents and the applicable Required DIP Lenders, (iv) the use of any insurance proceeds constituting DIP Collateral without the consent of the applicable DIP Agents and the applicable Required DIP Lenders, (v) any Debtor's incurrence of Indebtedness (as defined in the DIP ABL Credit Agreement or the DIP Term Loan Credit Agreement, as applicable) without the prior consent of the applicable DIP Agents and the applicable Required DIP Lenders, except to the extent permitted under the applicable DIP Agreements; or (vi) any modification of any of the DIP Agents', DIP Lenders', or the Prepetition Secured Parties' rights under this Interim Order, the DIP Documents or the Prepetition Documents with respect any DIP Obligations or Prepetition Secured Obligations, (d) an order converting or dismissing any of the Cases, (e) an order appoint a chapter 11 trustee in the Cases, (f) an order appointing an examiner with enlarged powers in the Cases (beyond those set forth in sections 1106(a)(3 and (4) of the Bankruptcy Code, and (g) a plan proposed by the Debtors or confirmation thereof that does not propose to indefeasibly repay the DIP Obligations (other than the Last Out DIP Obligations) in full in cash, unless otherwise consented to by the DIP Agents.

32. [RESERVED]

33. Rights and Remedies Upon Event of Default. Immediately upon the occurrence and during the continuation of an Event of Default under either the DIP ABL Documents or the DIP Term Loan Documents, notwithstanding the provisions of section 362 of the Bankruptcy Code, without any application, motion or notice to, hearing before, or order from the Court, but subject to the terms of this Interim Order and the Canadian Recognition Orders (a) each DIP Agent may declare (any such declaration shall be referred to herein as a "Termination Declaration") (1) all DIP Obligations owing under the respective DIP Documents to be

immediately due and payable, (2) the termination, reduction or restriction of any further commitment to extend credit to the Debtors to the extent any such commitment remains under the respective DIP Facilities, (3) termination of the respective DIP Credit Facilities and the respective DIP Documents as to any future liability or obligation of the applicable DIP Agents and the DIP Lenders, but without affecting any of the DIP Liens or the DIP Obligations, and (4) that the application of the Carve Out has occurred through the delivery of the Carve Out Trigger Notice to the Borrower; (b) interest, including, where applicable, default interest, shall accrue and be paid as set forth in the DIP Documents, and (c) either the DIP ABL Agent (in the case of Cash Collateral of proceeds of the DIP ABL Priority Collateral) or the DIP Term Loan Agent (in the case of Cash Collateral of proceeds of the DIP Term Loan Priority Collateral), or both, may declare a termination, reduction or restriction on the ability of the Debtors to use Cash Collateral (the date which is the earliest to occur of (i) any such date a Termination Declaration is delivered by either DIP ABL Agent or DIP Term Loan Agent and (ii) the DIP ABL Termination Date or DIP Term Loan Termination Date (as applicable), shall be referred to herein as the “Termination Date”). The Termination Declaration shall be given by electronic mail (or other electronic means) to counsel to the Debtors, counsel to the DIP Agents, counsel to a Creditors’ Committee (if appointed) or any other committee appointed under section 1102 or 1104 of the Bankruptcy Code, and the U.S. Trustee. The automatic stay in the Cases otherwise applicable to the DIP Agents, the DIP Lenders and the Prepetition Secured Parties is hereby modified so that seven (7) business days after the date a Termination Declaration is delivered (the “Remedies Notice Period”), and except as otherwise ordered by the Court: (A) the applicable DIP Agent and the DIP Lenders shall be entitled to exercise their rights and remedies in accordance with the respective DIP Documents and this Interim Order and shall be permitted to satisfy the relevant DIP Obligations, DIP Superpriority

Claim and DIP Liens, subject to the Carve Out, (B) the applicable Prepetition Secured Parties shall be entitled to exercise their rights and remedies to satisfy the relevant Prepetition Secured Obligations, Adequate Prepetition Superpriority Claims and Prepetition Adequate Protection Liens, subject to and consistent with (i) the Carve Out, (ii) this Interim Order, and (iii) the DIP Intercreditor Agreement. During the Remedies Notice Period, none of the DIP Agents or DIP Lenders shall be required to consent to the use of any Cash Collateral or provide any loans or other financial accommodations under the DIP Facilities. Unless the Court orders otherwise, the automatic stay, as to all of the DIP Agents, DIP Lenders, and Prepetition Secured Parties, shall automatically be terminated at the end of the Remedies Notice Period without further notice or order, in which event the DIP Agents, DIP Lenders, and the Prepetition Secured Parties shall be permitted to exercise all remedies set forth herein, in the DIP Documents, the Prepetition Documents, and as otherwise available at law without further order of or application or motion to the Court consistent with the DIP Intercreditor Agreement and Existing Participation Agreement, as applicable.

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

Bankruptcy Code. Any such modification, amendment or vacatur shall not affect the validity and enforceability of any advances previously made or made hereunder, or lien, claim or priority authorized or created hereby.

35. DIP and Other Expenses. The Debtors are authorized and directed to pay all reasonable and documented fees and expenses of (x) the DIP Agents and DIP Lenders in connection with the DIP Facilities, as provided in the DIP Documents (subject to applicable limitations on the DIP Parties' obligations to pay such amounts in the DIP Documents), whether or not the transactions contemplated hereby are consummated, and (y) the Prepetition Agents (including the fees and expenses of counsel), as provided in the applicable Prepetition Document. Payment of all such fees and expenses shall not be subject to allowance by the Court. Professionals for the DIP Agents, the DIP Lenders and the Prepetition Agents shall not be required to comply with the U.S. Trustee fee guidelines. No attorney or advisor to the DIP Agents, DIP Lenders, or Prepetition Agents shall be required to file an application seeking compensation for services or reimbursement of expenses with the Court. Any and all fees, costs, and expenses paid prior to the Petition Date by any of the Debtors to (x) the DIP Agents or DIP Lenders in connection with or with respect to the DIP Facilities, or (y) the Prepetition Secured Parties in connection with or with respect to the Prepetition Secured Facilities, are, in each case, hereby approved in full.

36. Budget. The Approved Budget is approved on an interim basis and the proceeds of the DIP Facilities and Cash Collateral under this Interim Order shall be used by the Debtors in accordance with the Approved Budget (subject to such variances as permitted in the DIP Agreements), this Interim Order and the DIP Documents. None of the DIP Lenders' or DIP Agents' consent (if any) to, or acknowledgement of, the Approved Budget shall be construed as consent to use the proceeds of the DIP Facilities or Cash Collateral beyond the respective maturity

dates set forth in the DIP Documents, regardless of whether the aggregate funds shown on the Approved Budget have been expended.

37. Indemnification. The Debtors shall indemnify and hold harmless the DIP Agents and the DIP Lenders in accordance with the terms and conditions of the DIP Agreements.

38. Master Proofs of Claim. The DIP Agents, the DIP Lenders, the Prepetition ABL Secured Parties and the Prepetition Term Loan Secured Parties will not be required to file proofs of claim in any of the Cases or Successor Cases for any claim allowed herein. Notwithstanding any order entered by the Court in relation to the establishment of a bar date in any of the Cases or Successor Cases to the contrary, and in order to facilitate the processing of claims, to ease the burden upon the Court and to reduce an unnecessary expense to the Debtors' estates, each Prepetition Agent and/or other Prepetition Secured Party is authorized to file in the Debtors' lead chapter 11 Case, Case No. 19-11607, a single, master proof of claim on behalf of the relevant Prepetition Secured Parties on account of any and all of their respective claims arising under the applicable Prepetition Documents and hereunder (each a "Master Proof of Claim") against each of the Debtors. Upon the filing of a Master Proof of Claim against each of the Debtors, the Prepetition Secured Parties, and each of their respective successors and assigns, shall be deemed to have filed a proof of claim in the amount set forth opposite its name therein in respect of its claims against each of the Debtors of any type or nature whatsoever with respect to the applicable Prepetition Documents, and the claim of each Prepetition Secured Party (and each of its respective successors and assigns), named in a Master Proof of Claim shall be treated as if such entity had filed a separate proof of claim in each of these Cases. The Master Proofs of Claim shall not be required to identify whether any Prepetition Secured Party acquired its claim from another party and the identity of any such party or to be amended to reflect a change in the holders of the

claims set forth therein or a reallocation among such holders of the claims asserted therein resulting from the transfer of all or any portion of such claims. The provisions of this paragraph and each Master Proof of Claim are intended solely for the purpose of administrative convenience and shall not affect the right of each Prepetition Secured Party (or its successors in interest) to vote separately on any plan proposed in these Cases. The Master Proofs of Claim shall not be required to attach any instruments, agreements or other documents evidencing the obligations owing by each of the Debtors to the applicable Prepetition Secured Parties, which instruments, agreements or other documents will be provided upon reasonable request to counsel to the applicable Prepetition Agent.

39. Carve Out.

(a) Carve Out. As used in this Interim Order, the “Carve Out” means the sum of (i) all fees required to be paid to the Clerk of the Court and to the Office of the United States Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate; (ii) all reasonable fees and expenses up to \$50,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (the “Chapter 7 Trustee Carve-Out”); (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise, all unpaid fees and expenses (the “Allowed Professional Fees”) incurred by persons or firms retained by the Debtors pursuant to section 327, 328, or 363 of the Bankruptcy Code (the “Debtor Professionals”) and the Creditors’ Committee pursuant to section 328 or 1103 of the Bankruptcy Code (the “Committee Professionals” and, together with the Debtor Professionals, the “Professional Persons”) at any time before or on the first business day following delivery by the DIP ABL Agent or DIP Term Loan Agent of a Carve Out Trigger Notice (as defined below), whether allowed by the Court prior to or after delivery of a Carve Out Trigger Notice; and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed \$1,250,000 incurred after the first business day

following delivery by the DIP ABL Agent or the DIP Term Loan Agent of the Carve Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, or otherwise (the amounts set forth in this clause (iv) being the “Post-Carve Out Trigger Notice Cap”).⁸ For purposes of the foregoing, “Carve Out Trigger Notice” shall mean a written notice delivered by email (or other electronic means) by the DIP ABL Agent or DIP Term Loan Agent to the Debtors, their lead restructuring counsel, the U.S. Trustee, and counsel to the Creditors’ Committee, which notice may be delivered following the occurrence and during the continuation of an Event of Default and acceleration of the Post-Petition Obligations under the DIP ABL Agreement or the DIP Term Loan Agreement, respectively, stating that the Post Carve Out Trigger Notice Cap has been invoked.

(b) Fee Estimates. Not later than 7:00 p.m. New York time on the third business day of each week starting with the first full calendar week following the Closing Date, each Professional Person shall deliver to the Debtors a statement setting forth a good-faith estimate of the amount of fees and expenses (collectively, “Estimated Fees and Expenses”) incurred during the preceding week by such Professional Person (through Saturday of such week, the “Calculation Date”), along with a good-faith estimate of the cumulative total amount of unreimbursed fees and expenses incurred through the applicable Calculation Date and a statement of the amount of such fees and expenses that have been paid to date by the Debtors (each such statement, a “Weekly Statement”); *provided, that* within one business day of the occurrence of the Termination Declaration Date (as defined below), each Professional Person shall deliver one additional statement (the “Final Statement”) setting forth a good-faith estimate of the amount of fees and

⁸ Notwithstanding the foregoing, up to \$250,000 of the Post-Carve Out Trigger Notice Cap may be used to pay Allowed Professional Fees of Professional Persons incurred prior to the delivery of a Carve Out Trigger Notice to the extent such Allowed Professional Fees exceed the Professional Fee Carve Out Cap (as defined below).

expenses incurred during the period commencing on the calendar day after the most recent Calculation Date for which a Weekly Statement has been delivered and concluding on the Termination Declaration Date. If any Professional Person fails to deliver a Weekly Statement within three calendar days after such Weekly Statement is due, such Professional Person's entitlement (if any) to any funds in the Carve Out Reserves (as defined below) with respect to the aggregate unpaid amount of Allowed Professional Fees for the applicable period(s) for which such Professional Person failed to deliver a Weekly Statement covering such period shall be limited to the aggregate unpaid amount of Allowed Professional Fees included in the Approved Budget for such period for such Professional Person; *provided, that* such Professional Person shall be entitled to be paid any unpaid amount of Allowed Professional Fees in excess of Allowed Professional Fees included in the Approved Budget for such period for such Professional Person from a reserve to be funded by the Debtors from all cash on hand as of such date and any available cash thereafter held by any Debtor pursuant to paragraph 39(c) below. Solely as it relates to the DIP ABL Agent and DIP ABL Lenders, any deemed draw and borrowing pursuant to paragraph 39(c)(i)(x) for amounts under paragraph 39(a)(iii) above shall be limited to the greater of (x) the sum of (I) the aggregate unpaid amount of Estimated Fees and Expenses included in such Weekly Statements timely received by the Debtors prior to the Termination Declaration Date *plus*, without duplication, (II) the aggregate unpaid amount of Estimated Fees and Expenses included in the Final Statements timely received by the Debtors pertaining to the period through and including the Termination Declaration Date, and (y) the aggregate unpaid amount of Allowed Professional Fees included in the Approved Budget for the period prior to the Termination Declaration Date (such amount, the "Professional Fee Carve Out Cap"). For the avoidance of doubt, the DIP ABL Agent and DIP ABL Lenders shall be entitled to maintain at all times a reserve (the "Carve-Out Reserve") in an amount

(the “Carve-Out Reserve Amount”) equal to the sum of (i) the greater of (x) the aggregate unpaid amount of Estimated Fees and Expenses included in all Weekly Statements timely received by the Debtors, and (y) the aggregate amount of Allowed Professional Fees contemplated to be unpaid in the Approved Budget at the applicable time, *plus* (ii) the Post-Carve Out Trigger Notice Cap, *plus* (iii) an amount equal to the amount of Allowed Professional Fees set forth in the Approved Budget for the following week occurring after the most recent Calculation Date, *plus* (iv) the amounts contemplated under paragraph 39(a)(i) and 39(a)(ii) above. Not later than 7:00 p.m. New York time on the fourth business day of each week starting with the first full calendar week following the Closing Date, the Debtors shall deliver to the DIP ABL Agent or the DIP Term Loan Agent a report setting forth the Carve-Out Reserve Amount as of such time (the “Fee Report”), and, in setting the Carve-Out Reserve, the DIP ABL Agent and DIP ABL Lenders shall be entitled to rely upon such reports in accordance with the DIP ABL Agreement or the DIP Term Loan Agreement. Prior to the delivery of the first report setting forth the Carve-Out Reserve Amount, the DIP ABL Agent or the DIP Term Loan Agent may calculate the Carve-Out Reserve Amount by reference to the Approved Budget for subsection (i) of the Carve-Out Reserve Amount. Notwithstanding anything herein to the contrary, DIP ABL Agent may increase the Carve-Out Reserve Amount to include additional amounts with respect to any monitoring charge or other charge arising from the Canadian insolvency proceeding of the Canadian Borrower and for the projected amount of any success, completion, commission-based, or other non-hourly fees billed by or due to any financial advisor, investment banker, monitor, or other Professional engaged by any Debtor or any Committee in the Cases.

(c) Carve Out Reserves. On the day on which a Carve Out Trigger Notice is given by either the DIP ABL Agent or the DIP Term Loan Agent to the Debtors with a copy to

counsel to the Creditors' Committee (the "Termination Declaration Date"), the Carve Out Trigger Notice shall be deemed (i) a draw request and notice of borrowing by the Debtors for DIP ABL Loans under the DIP ABL Agreement in an amount equal to the sum of (x) the amounts set forth in paragraphs (a)(i) and (a)(ii), above, and (y) the then unpaid amounts of the Allowed Professional Fees up to the ABL Professional Fee Carve Out Cap (any such amounts actually advanced shall constitute DIP ABL Loans) and (ii) a draw request and notice of borrowing by the Debtors for DIP Term Loans under the DIP Term Loan Facility in an amount equal to the unpaid amounts of the Allowed Professional Fees in excess of the Professional Fee Carve Out Cap (any such amounts actually advanced shall constitute DIP Term Loans), and shall also constitute a demand to the Debtors to utilize all cash on hand as of such date and any available cash thereafter held by any Debtor to fund a reserve in an amount equal to the then unpaid amounts of the Allowed Professional Fees (which cash amounts shall reduce, on a dollar for dollar basis, the draw requests and applicable DIP ABL Loans and DIP Term Loans pursuant to the foregoing clauses (i) and (ii) of this sentence of this paragraph (c)). The Debtors shall deposit and hold such amounts in a segregated account at the DIP ABL Agent in trust exclusively to pay such unpaid Allowed Professional Fees (the "Pre-Carve Out Trigger Notice Reserve"). On the Termination Declaration Date, the Carve Out Trigger Notice shall also be deemed a request by the Debtors for (x) DIP ABL Loans under the DIP ABL Agreement in an amount equal to the Post Carve Out Trigger Notice Cap (any such amounts actually advanced shall constitute DIP ABL Loans) and, (y) to the extent not funded by the DIP ABL Lenders, for DIP Term Loans in an amount equal to any unfunded portion of the Post-Carve Out Trigger Notice Cap (any such amounts actually advanced shall constitute DIP Term Loans), and shall also constitute a demand to the Debtors to utilize all cash on hand as of such date and any available cash thereafter held by any Debtor to fund a reserve in

an amount equal to the Post-Carve Out Trigger Notice Cap (which cash amounts shall reduce, on a dollar for dollar basis, the draw requests and applicable DIP ABL Loans and DIP Term Loans pursuant to the foregoing clauses (x) and (y) of this sentence of this paragraph (c)). The Debtors shall deposit and hold such amounts in a segregated account at the DIP ABL Agent in trust exclusively to pay such Allowed Professional Fees benefiting from the Post-Carve Out Trigger Notice Cap (the “Post Carve Out Trigger Notice Reserve” and, together with the Pre-Carve Out Trigger Notice Reserve, the “Carve Out Reserves”). On the third business day following the Termination Declaration Date and the deemed requests for the making of DIP ABL Loans and DIP Term Loans as provided in this paragraph (c), notwithstanding anything in the DIP ABL Agreement or the DIP Term Loan Agreement to the contrary, including with respect to (1) the existence of a Default (as defined in the DIP ABL Agreement or the DIP Term Loan Agreement) or Event of Default, (2) the failure of the Debtors to satisfy any or all of the conditions precedent for the making of any DIP ABL Loan under the DIP ABL Agreement or DIP Term Loans under the DIP Term Loan Agreement, respectively, (3) any termination of the DIP ABL Loan Commitments or DIP Term Loan Commitments following an Event of Default, or (4) the occurrence of the Maturity Date, each DIP ABL Lender and DIP Term Loan Lender with an outstanding Commitment shall make available to the DIP ABL Agent or DIP Term Loan Agent, as applicable, such DIP ABL Lender’s or such DIP Term Loan Lender’s pro rata share of such DIP ABL Loans or DIP Term Loans, as applicable. For the avoidance of doubt, the Carve Out Reserves shall constitute the primary source for payment of Allowed Professional Fees entitled to benefit from the Carve Out, and any lien priorities or superpriority claims granted pursuant to this Interim Order to secure payment of the Carve Out shall be limited to any shortfall in funding as provided below.

(d) Application of Carve Out Reserves. (i) All funds in the Pre-Carve Out Trigger Notice Reserve shall be used first to pay the obligations set forth in subparagraphs (a)(i) through (a)(iii) of the definition of Carve Out set forth above (the “Pre-Carve Out Amounts”), but not, for the avoidance of doubt, the Post-Carve Out Trigger Notice Cap (other than amounts up to \$250,000 to the extent the Pre-Carve Out Amounts exceed the Professional Fee Carve Out Cap), until paid in full. If the Pre-Carve Out Trigger Notice Reserve has not been reduced to zero, subject to clause (iii), below, all remaining funds shall be distributed *first* to the DIP ABL Agent on account of the applicable DIP ABL Obligations until indefeasibly paid in full, in cash, all Commitments have been terminated, and all Letters of Credit have been cancelled (or all such Letters of Credit have been fully cash collateralized or otherwise back-stopped, in each case to the satisfaction of the applicable Issuing Bank), and *thereafter* to the Prepetition ABL Lenders in accordance with their rights and priorities as of the Petition Date.

(i) All funds in the Post-Carve Out Trigger Notice Reserve (other than up to \$250,000, which may be used to pay Pre-Carve Out Amounts to the extent they exceed the Professional Fee Carve Out Cap) shall be used first to pay the obligations set forth in clause (iv) of the definition of Carve Out set forth above (the “Post-Carve Out Amounts”). If the Post-Carve Out Trigger Notice Reserve has not been reduced to zero, subject to clause (iii), below, all remaining funds shall be distributed *first* to the DIP ABL Agent on account of the applicable DIP ABL Obligations until indefeasibly paid in full, in cash, all Commitments have been terminated, and all Letters of Credit have been cancelled (or all such Letters of Credit have been fully cash collateralized or otherwise back-stopped, in each case to the satisfaction of the applicable Issuing Bank), and *thereafter* to the Prepetition ABL Lenders in accordance with their rights and priorities as of the Petition Date.

(ii) Notwithstanding anything to the contrary in the Financing Agreements or this Interim Order, if either of the Carve Out Reserves is not funded in full in the amounts set forth in this paragraph (c), then, any excess funds in one of the Carve Out Reserves following the payment of the Pre-Carve Out Amounts and Post-Carve Out Amounts, respectively, shall be used to fund the other Carve Out Reserve to the extent of any shortfall in funding prior to making any payments to the DIP ABL Agent or the Prepetition ABL Lenders, as applicable.

(iii) Notwithstanding anything to the contrary in the Financing Agreements or the Interim Order, following the third business day after delivery of a Carve Out Trigger Notice, the DIP ABL Agent, the Prepetition ABL Agent, the DIP Term Loan Agent, and the Prepetition Term Loan Agent shall not sweep or foreclose on cash (including cash received as a result of the sale or other disposition of any assets) of the Debtors until the Carve Out Reserves have been fully funded, but shall have a security interest in any residual interest in the Carve Out Reserves, with any excess paid as provided in paragraphs (ii) and (iii) above.

(iv) Notwithstanding anything to the contrary in this Interim Order, (i) the failure of the Carve Out Reserves to satisfy in full the Allowed Professional Fees shall not affect the priority of the Carve Out with respect to any shortfall (as described below), and (ii) subject to the limitations with respect to the DIP ABL Agent, DIP ABL Lenders, Prepetition ABL Agent and Prepetition ABL Lenders set forth in paragraph (b), above, in no way shall the Initial Budget, any Approved Budget, Annual Operating Forecast, Carve Out, Post-Carve Out Trigger Notice Cap or Carve Out Reserves be construed as a cap or limitation on the amount of the Allowed Professional Fees due and payable by the Debtors. For the avoidance of doubt and notwithstanding anything to the contrary herein or in the DIP ABL Agreement or the DIP Term Loan Agreement, the Carve Out subject to the Professional Fee Carve Out Cap shall be senior to all liens and claims securing

the DIP ABL Agreement or the DIP Term Loan Agreement, the Adequate Protection Liens, and the Diminution in Value claims, and any and all other forms of adequate protection, liens, or claims securing the Post-Petition Obligations or the Pre-Petition Obligations.

(v) Notwithstanding anything herein to the contrary, the Carve Out in respect of any “Transaction Fees” for Houlihan Lokey will be junior to the Prepetition ABL Obligations and DIP ABL Obligations to the extent secured by the DIP ABL Priority Collateral, unless and to the extent otherwise agreed in writing by the DIP ABL Agent in its sole discretion.

(e) No Direct Obligation To Pay Allowed Professional Fees. The DIP Agents and the DIP Lenders shall not be responsible for the payment or reimbursement of any fees or disbursements of any Professional Person incurred in connection with the Cases or any Successor Cases under any chapter of the Bankruptcy Code. Nothing in this Interim Order or otherwise shall be construed to obligate the DIP Agents or the DIP Lenders, or any Issuing Bank, in any way, to pay compensation to, or to reimburse expenses of, any Professional Person or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement.

(f) Payment of Allowed Professional Fees Prior to the Termination Declaration Date. Any payment or reimbursement made prior to the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall not reduce the Carve Out.

(g) Payment of Carve Out On or After the Termination Declaration Date. Any payment or reimbursement made on or after the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall permanently reduce the Carve Out on a dollar-for-dollar basis. Any funding of the Carve Out shall be added to, and made a part of, the Obligations secured by the Post-Petition Collateral and shall be otherwise entitled to the

protections granted under this Interim Order, the Financing Agreements, the Bankruptcy Code, and applicable law.

(h) Reservation of Rights. Nothing herein shall be construed to impair the right or ability of any party to object to the fees, expenses, reimbursement or other compensation described with respect to these Carve-Out provisions.

40. [Reserved]

41. Payment of Compensation. Nothing herein shall be construed as a consent to the allowance of any professional fees or expenses of any Professional Person or shall affect the right of the DIP Agents, the DIP Lenders, the Prepetition ABL Secured Parties, or the Prepetition Term Loan Secured Parties to object to the allowance and payment of such fees and expenses. So long as an unwaived Event of Default has not occurred, the Debtors shall be permitted to pay fees and expenses allowed and payable by final order of the Court (that has not been vacated or stayed, unless the stay has been vacated) under sections 328, 330, 331, and 363 of the Bankruptcy Code, as the same may be due and payable, as reflected in the most recent Approved Budget provided by the Debtors to the DIP Agents.

42. Effect of Stipulations on Third Parties.

(i) *Generally*. Except as set forth in this Interim Order, the admissions, stipulations, agreements, releases, and waivers set forth in this Interim Order (collectively, the “Prepetition Lien and Claim Matters”) are and shall be binding in all circumstances and for all purposes on the Debtors, any subsequent trustee, responsible person, examiner with expanded powers, any other estate representative, and all creditors and parties in interest, their successors in interest and assigns, any chapter 7 or chapter 11 trustee or examiner appoint or elected for any of the Debtors, and any official committee that may be appointed in these cases (each, a “Challenge

Party”), unless, and solely to the extent that (a) the Debtors received from a Challenge Party notice of a potential Challenge (defined below) during the Challenge Period (defined below) and (b) the Court rules in favor of the plaintiff in any such timely and properly filed Challenge (as defined herein); *provided, however*, that any releases by the DIP Term Loan Secured Parties and Prepetition Term Loan Secured Parties of the Put Purchasers shall be governed by the Restructuring Support Agreement (as defined in the Plan). For purposes of this paragraph 42: (a) “Challenge” means any claim against any of the Prepetition Secured Parties or the Put Purchasers on behalf of the Debtors or the Debtors’ creditors and interest holders, or to object to or to challenge the stipulations, findings or Debtors’ Stipulations set forth herein, including, but not limited to those in relation to: (i) the validity, extent, priority, or perfection of the mortgage, security interests, and liens of any Prepetition Secured Party; (ii) the validity, allowability, priority, or amount of the Prepetition Secured Obligations (including any fees included therein); (iii) the secured status of the Prepetition Secured Obligations; or (iv) any liability of any of the Prepetition Secured Parties or the Put Purchasers with respect to anything arising from any of the respective Prepetition Documents and the entry into the Put Agreement and Existing Participation Agreement; and (b) “Challenge Period” means (i) if the Creditors’ Committee is not formed, seventy-five (75) calendar days (or such longer period as the Court orders for cause shown before the expiration of such period) from the entry of the Final Order and (ii) if the Creditors’ Committee is formed, sixty (60) days after the entry of the Final Order (or such longer period as the Court orders for cause shown before the expiration of such period). During the Challenge Period, a Challenge Party shall be entitled to determine whether a basis to assert a Challenge exists. If a Challenge Party identifies a basis to assert a Challenge, it must notify the Debtors during the Challenge Period of its demand that the Debtors initiate an action or adversary proceeding relating

thereto and from the date that the Debtors are so notified, the Debtors shall have five (5) days to notify the Challenge Party of whether the Debtors intend to initiate such action (or a settlement in lieu of an adversary) and ten (10) days to initiate such action. If the Debtors notify such Challenge Party that the Debtors do not intend to initiate an action, settlement, or adversary proceeding, the Challenge Party shall have ten (10) days from the receipt of such notice to seek standing to initiate an action or adversary proceeding. Nothing herein shall be deemed to grant standing in favor of any Challenge Party absent further order of this Court. The Debtors, if timely notified of a potential Challenge, shall retain authority to prosecute, settle or compromise such Challenge in the exercise of their business judgment and subject to any applicable further order of court.

(ii) *Binding Effect.* Upon the expiration of the Challenge Period (subject to such ten (10) day periods described above) (the “Challenge Period Termination Date”), without the filing of a Challenge: (A) any and all such Challenges and objections by any party (including, without limitation, the Creditors’ Committee, any Chapter 11 trustee, and/or any examiner or other estate representative appointed in these Cases, and any Chapter 7 trustee and/or examiner or other estate representative appointed in any Successor Case), shall be deemed to be forever waived, released and barred, (B) all matters not subject to the Challenge, findings, Debtors’ Stipulations, waivers, releases, affirmations and other stipulations as to the priority, extent, and validity as to each Prepetition Secured Parties’ claims, liens, interests, and validity of the Prepetition Secured Obligations shall be of full force and effect and forever binding upon the Debtors, the Debtors’ bankruptcy estates and all creditors, interest holders, and other parties in interest in these Cases and any Successor Cases; and (C) any and all claims or causes of action against any of the Prepetition Secured Parties or the Put Purchasers relating in any way to the Debtors or the Prepetition Documents and entry into the Put Agreement and Existing Participation Agreement

shall be forever waived and released by the Debtors' estates, all creditors, interest holders and other parties in interest in these Cases and any Successor Cases, provided that the binding effect of the findings, Debtors' Stipulations and release of the Put Purchasers is only effective as to third parties upon the later of the occurrence of the Disinterested Director's Determination and the Challenge Period Termination Date.

43. No Third Party Rights/No Superior Rights of Reclamation. Except as explicitly provided for herein, this Interim Order does not create any rights for the benefit of any third party, creditor, equity holder or any direct, indirect, or incidental beneficiary. Based on the findings and rulings herein concerning the integrated nature of the DIP Agreements and the Prepetition Secured Facilities and the relation back of the DIP Liens, in no event shall any alleged right of reclamation or return (whether asserted under Section 546(c) of the Bankruptcy Code or otherwise) be deemed to have priority over the DIP Liens.

44. [RESERVED]

45. [RESERVED]

46. [RESERVED]

47. Access to DIP Collateral. Notwithstanding anything contained herein to the contrary and without limiting any other rights or remedies of the DIP Agents, exercisable on behalf of the DIP ABL Lenders and DIP Term Loan Lenders, respectively, contained in this Interim Order, the DIP ABL Documents, the DIP Term Loan Documents, or otherwise available at law or in equity, and subject to the terms of the DIP ABL Documents and DIP Term Loan Documents, upon written notice to the landlord of any leased premises that an Event of Default or a Termination Date has occurred and is continuing, the DIP ABL Agent or DIP Term Loan Agent, as applicable, may, subject to the applicable notice provisions, if any, in this Interim Order and any separate

applicable agreement by and between such landlord and the DIP ABL Agent or DIP Term Loan Agent, shall be entitled to all of the Debtors' rights and privileges as lessee under such lease without interference from the landlords thereunder, *provided* that the DIP ABL Agent and/or DIP Term Loan Agent, as applicable, shall be obligated only to pay rent of the Debtors that first accrues after the written notice referenced above and that is payable during the period of such occupancy by the DIP ABL Agent and/or DIP Term Loan Agent, as applicable, calculated on a daily per diem basis. Nothing herein shall require the DIP ABL Agent or DIP Term Loan Agent to assume any lease as a condition to the rights afforded in this paragraph.

48. Exculpation. Nothing in this Interim Order, the DIP Documents, the existing agreements or any other documents related to the transactions contemplated hereby shall in any way be construed or interpreted to impose or allow the imposition upon any DIP Lender, DIP Agent, or Prepetition Secured Party any liability for any claims arising from the prepetition or postpetition activities of the DIP Parties, including in the operation of their businesses, or in connection with their restructuring efforts and administration of these Cases. In addition, (a) the DIP Lenders and DIP Agents shall not, in any way or manner, be liable or responsible for: (i) the safekeeping of the DIP Collateral, (ii) any loss or damage thereto occurring or arising in any manner or fashion from any cause, (iii) any Diminution in Value thereof, or (iv) any act or default of any carrier, servicer, bailee, custodian, forwarding agency, or other person, and (b) all risk of loss, damage, or destruction of the DIP Collateral shall be borne by the DIP Parties.

49. Limits on Lender Liability. The DIP Agents, the DIP Lenders and the Prepetition Secured Parties, each in their capacity as such, by reason of entering into the DIP Facilities and taking the actions permitted under the DIP Documents and this Interim Order, shall not be deemed in control of the operations of the Debtors or to be acting as a "responsible person"

or “owner or operator” with respect to the operation or management of the Debtors, so long as the DIP Lenders’ other actions do not otherwise constitute, within the meaning of 42 U.S.C. § 9601(20)(F), actual participation in the management or operational affairs of a vessel or facility owned or operated by a Debtor, or otherwise cause liability to arise to the federal or state government or the status of responsible person or managing agent to exist under applicable law (as such terms, or any similar terms, are used in the Internal Revenue Code, WARN Act, the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq., as amended, or any similar federal or state statute).

50. [RESERVED]

51. Joint and Several Liability. Nothing in this Interim Order shall be construed to constitute a substantive consolidation of any of the Debtors’ estates, it being understood, however, that the Borrowers and the DIP Guarantors shall be jointly and severally liable for the obligations hereunder and all DIP Obligations in accordance with the terms hereof and of the DIP Facilities and the DIP Documents.

52. Rights Preserved. Notwithstanding anything herein to the contrary, the entry of this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly: (a) the DIP Agents’, DIP Lenders’ and Prepetition Secured Parties’ right to seek any other or supplemental relief in respect of the Debtors; (b) any of the rights of any of the DIP Agents, DIP Lenders and Prepetition Secured Parties under the Bankruptcy Code or under non-bankruptcy law, including, without limitation, the right to (i) request modification of the automatic stay of section 362 of the Bankruptcy Code, (ii) request dismissal of any of the Cases or Successor Cases, conversion of any of the Cases to cases under Chapter 7, or appointment of a Chapter 11 trustee or examiner with expanded powers, or (iii) propose, subject to the provisions of section 1121 of the

Bankruptcy Code, a Chapter 11 plan or plans; or (c) subject to the DIP Intercreditor Agreement, any other rights, claims or privileges (whether legal, equitable or otherwise) of any of the DIP Agents, DIP Lenders, or Prepetition Secured Parties. Notwithstanding anything herein to the contrary, the entry of this Interim Order is without prejudice to, and does not constitute a waiver of, expressly or implicitly, the Debtors', a Creditors' Committee's (if appointed) or any party in interest's right to oppose any of the relief requested in accordance with the immediately preceding sentence except as expressly set forth in this Interim Order. Entry of this Order is without prejudice to any and all rights of any party in interest with respect to the terms and approval of the Final Order and any other position which any party in interest deems appropriate to raise in the Debtors' Cases.

53. No Waiver by Failure to Seek Relief. The failure of the DIP Agents, DIP Lenders, or Prepetition Secured Parties to seek relief or otherwise exercise their rights and remedies under this Interim Order, the DIP Documents, the Prepetition Documents, or applicable law, as the case may be, shall not constitute a waiver of any of the rights hereunder, thereunder, or otherwise of the DIP Agent, DIP Lenders, Prepetition ABL Secured Parties, Prepetition Term Loan Secured Parties, Creditors' Committee (if appointed) or any party in interest.

54. Binding Effect of Interim Order. Immediately upon execution by this Court, the terms and provisions of this Interim Order shall become valid and binding upon and inure to the benefit of the Debtors, DIP Agents, DIP Lenders, the DIP Obligations, the Prepetition ABL Secured Parties, the Prepetition ABL Obligations, Prepetition Term Loan Secured Parties, all other creditors of any of the Debtors, any Creditors' Committee (or any other court appointed committee) appointed in the Cases, and all other parties-in-interest and their respective successors and assigns,

including any trustee or other fiduciary hereafter appointed in any of the Cases, any Successor Cases, or upon dismissal of any Case or Successor Case.

55. [Reserved].

56. Continuing Effect of DIP Intercreditor Agreement; Existing Participation Agreement. The Debtors, DIP Agents, DIP Lenders, Prepetition ABL Secured Parties and Prepetition Term Loan Secured Parties each shall be bound by, and in all respects of the DIP Facilities shall be governed by, and be subject to all the terms, provisions and restrictions of the DIP Intercreditor Agreement, except as may be expressly modified by this Interim Order. The parties to the Existing Participation Agreement shall continue to be bound by, and governed by, and be subject to all the terms, provisions and restriction of the Existing Participation Agreement.

57. Interim Order Controls. In the event of any inconsistency between the terms and conditions of the DIP Documents and of this Interim Order, the provisions of this Interim Order shall govern and control.

58. [RESERVED]

59. Survival. The provisions of this Interim Order and any actions taken pursuant hereto shall survive entry of any order which may be entered: (a) confirming any plan of reorganization in any of the Cases; (b) converting any of the Cases to a case under Chapter 7 of the Bankruptcy Code; (c) dismissing any of the Cases or any Successor Cases; or (d) pursuant to which this Court abstains from hearing any of the Cases or Successor Cases. The terms and provisions of this Interim Order, including the claims, liens, security interests and other protections granted to the DIP Agents, DIP Lenders, DIP Obligations, the Prepetition Secured Parties and the Prepetition Secured Obligations granted pursuant to this Interim Order and/or the DIP Documents, shall continue in the Cases, in any Successor Cases, or following dismissal of the Cases or any

Successor Cases, and shall maintain their priority as provided by this Interim Order until: (i) in respect of the DIP ABL Credit Facility, all the DIP ABL Obligations, pursuant to the DIP ABL Documents and this Interim Order, have been indefeasibly paid in full in cash and all letters of credit under the DIP ABL Credit Facility shall have been cancelled or cash collateralized in accordance with the terms thereof (such payment being without prejudice to any terms or provisions contained in the DIP ABL Credit Facility which survive such discharge by their terms), and all commitments to extend credit under the DIP ABL Credit Facility are terminated; (ii) in respect of the Prepetition ABL Facility, all of the Prepetition ABL Obligations pursuant to the Prepetition ABL Documents and this Interim Order, have been indefeasibly paid in full in cash; (iii) in respect of the DIP Term Loan Credit Facility, all the DIP Term Loan Obligations, pursuant to the DIP Term Loan Documents and this Interim Order, have been indefeasibly paid in full in cash or otherwise satisfied to the satisfaction of the DIP Term Loan Agent and DIP Term Loan Lenders; and (iv) in respect of the Prepetition Term Loan Credit Agreement, all of the Prepetition Term Loan Obligations pursuant to the Prepetition Term Loan Documents and this Interim Order have been indefeasibly paid in full in cash or otherwise satisfied to the satisfaction of the Prepetition Secured Parties. The terms and provisions concerning the indemnification of the DIP Agents and DIP Lenders shall continue in the Cases, in any Successor Cases, following dismissal of the Cases or any Successor Cases, following termination of the DIP Documents and/or the indefeasible repayment of the DIP Obligations.

In addition, the terms and provisions of this Interim Order shall continue in full force and effect for the benefit of the Prepetition Term Loan Secured Parties notwithstanding the repayment in full or termination of the DIP ABL Obligations or the Prepetition ABL Obligations.

60. Final Hearing. The Final Hearing to consider entry of the Final Order and final, approval of the DIP Facilities is scheduled for June 13, 2019, at 11:00 a.m., prevailing Eastern Time., 2019, before the Honorable United States Bankruptcy Judge Michael E. Wiles, in Courtroom 617, at the United States Bankruptcy Court for the Southern District of New York. On or before May 27, 2019, the Debtors shall serve, by United States mail, first-class postage prepaid, notice of the entry of this Interim Order and of the Final Hearing (the “Final Hearing Notice”), together with copies of this Interim Order, the proposed Final Order and the DIP Motion, on: (a) the parties having been given notice of the Interim Hearing; (b) any party which has filed prior to such date a request for notices with this Court; (c) counsel for a Creditors’ Committee (if appointed); (d) the Securities and Exchange Commission; and (e) the Internal Revenue Service. The Final Hearing Notice shall state that any party in interest objecting to the entry of the proposed Final Order shall file written objections with the Clerk of the Court no later than at 4:00 p.m., on June 6, 2019, which objections shall be served so as to be received on or before such date by: (i) counsel to the Debtors, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022, Attn: Joshua A. Sussberg, P.C. and Christopher T. Greco, P.C., and Kirkland & Ellis LLP, 300 North LaSalle, Chicago, IL 60654, Attn: Joe Graham and Laura Krucks; (ii) counsel to the DIP ABL Agent and Prepetition ABL Agent, Goldberg Kohn Ltd. 55 East Monroe, Suite 3300, Chicago, Illinois 60603, Attn: Randall Klein and Prisca Kim, and Orrick, 51 W. 52nd Street, New York, New York, 10019, Attn: Laura Metzger and Peter Amend; and (iii) counsel to the DIP Term Loan Agent and Prepetition Term Loan Agent, King & Spalding LLP, 1185 Avenue of the Americas, New York, NY 10036, Attn: W. Austin Jowers, Christopher Boies, and Stephen M. Blank.

61. Necessary Action. The Debtors are authorized to take any and all such actions as are necessary or appropriate to implement the terms of this Interim Order.

62. Bankruptcy Rules. The requirements of Bankruptcy Rules 4001, 6003 and 6004, in each case to the extent applicable, are satisfied by the contents of the Motion.

63. Nunc Pro Tunc Effect of this Interim Order. This Interim Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect and be enforceable *nunc pro tunc* to the Petition Date immediately upon execution thereof.

64. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062 or 9014 of the Bankruptcy Rules, or any local bankruptcy rules, or Rule 62(a) of the Federal Rules of Civil Procedure, this Interim order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Interim Order.

65. The Debtors shall within two (2) business days of its entry serve copies of this Interim Order (which shall constitute adequate notice of the Final Hearing, including, without limitation, notice that the Debtors will seek approval at the Final Hearing of a waiver of right under sections 506(c) and 552(b) of the Bankruptcy Code) to the parties having been given notice of the interim Hearing, and to any party that has filed a request for notices with this Court.

Dated: New York, New York
May 23, 2019

/s/ Michael E. Wiles
THE HONORABLE MICHAEL E. WILES
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Budget

DREAM II HOLDINGS
CASH FORECAST - WEEKLY
CONSOLIDATED - USD

Week #	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Week Start Date	5/13/19	5/20/19	5/27/19	6/3/19	6/10/19	6/17/19	6/24/19	7/1/19	7/8/19	7/15/19	7/22/19	7/29/19	8/5/19	8/12/19	8/19/19	8/26/19	9/2/19	9/9/19	9/16/19
Week End Date	5/17/19	5/24/19	5/31/19	6/7/19	6/14/19	6/21/19	6/28/19	7/5/19	7/12/19	7/19/19	7/26/19	8/2/19	8/9/19	8/16/19	8/23/19	8/30/19	9/6/19	9/13/19	9/20/19
RECEIPTS:																			
Customer Accounts Receivable Collection																			
TOTAL CASH RECEIPTS	A	\$ -	\$ 6,252	\$ 6,185	\$ 7,897	\$ 9,705	\$ 11,260	\$ 11,453	\$ 11,965	\$ 11,644	\$ 12,354	\$ 10,471	\$ 10,675	\$ 9,954	\$ 9,321	\$ 9,707	\$ 9,675	\$ 9,776	\$ 167,614
		\$ -	\$ 6,252	\$ 6,185	\$ 7,897	\$ 9,705	\$ 11,260	\$ 11,453	\$ 11,965	\$ 11,644	\$ 12,354	\$ 10,471	\$ 10,675	\$ 9,954	\$ 9,321	\$ 9,707	\$ 9,675	\$ 9,776	\$ 167,614
DISBURSEMENTS:																			
Material Purchases																			
Future A/P Estimate - Current Open POs Post-Petition																			
Future A/P Estimate - Future POs		\$ 2,512	\$ 2,593	\$ 1,563	\$ 811	\$ 524	\$ 359	\$ 577	\$ 158	\$ 61	\$ 102	\$ 52	\$ 52	\$ 1	\$ -	\$ 99	\$ -	\$ -	\$ 9,412
Critical/Hostage Payments		3,025	3,767	3,754	3,234	3,400	4,038	4,087	4,185	4,199	4,243	4,231	4,612	4,606	4,455	5,339	5,372	6,244	72,790
Inventory Reduction Safety Factor		2,650	883	883	883	-	-	-	-	-	-	-	-	-	-	-	-	-	5,500
503(b)(9) Payments		154	154	154	154	154	154	154	154	154	154	154	154	154	-	-	-	-	2,000
Material Purchases Subtotal		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	6,179	6,179
		\$ -	\$ 8,341	\$ 7,397	\$ 6,354	\$ 5,082	\$ 4,078	\$ 4,552	\$ 4,817	\$ 4,497	\$ 4,414	\$ 4,397	\$ 4,487	\$ 4,818	\$ 4,761	\$ 5,439	\$ 5,372	\$ 12,423	\$ 95,682
Other A/P																			
Future A/P Estimate																			
Pre-Closing Plant Consolidation Initiatives		\$ 2,212	\$ 2,212	\$ 2,212	\$ 2,212	\$ 2,212	\$ 2,212	\$ 2,212	\$ 2,212	\$ 2,212	\$ 2,212	\$ 2,212	\$ 2,262	\$ 2,262	\$ 2,262	\$ 2,262	\$ 2,262	\$ 2,262	\$ 37,953
Margin Decrease From Lost Business		-	-	-	-	-	125	125	125	125	125	125	-	-	-	-	-	-	750
Utility Deposits		-	-	115	115	115	115	115	115	115	115	115	115	115	115	115	115	115	1,731
Contingency/Cure Payments		-	250	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	250
Other A/P Subtotal		\$ -	\$ 2,212	\$ 2,462	\$ 2,327	\$ 2,411	\$ 2,327	\$ 2,452	\$ 2,536	\$ 2,452	\$ 2,452	\$ 2,452	\$ 2,502	\$ 2,461	\$ 2,377	\$ 2,377	\$ 2,461	\$ 2,377	333
		\$ -	\$ 2,212	\$ 2,462	\$ 2,327	\$ 2,411	\$ 2,327	\$ 2,452	\$ 2,536	\$ 2,452	\$ 2,452	\$ 2,452	\$ 2,502	\$ 2,461	\$ 2,377	\$ 2,377	\$ 2,461	\$ 2,377	\$ 41,017
Rent																			
Current Rent		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,438
Stub & Cure Rent		-	-	-	-	-	614	-	-	-	-	-	-	-	-	-	1,359	-	614
Rent Sub-Total		\$ -	\$ -	\$ -	\$ -	\$ -	\$ 614	\$ -	\$ 1,359	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,359	\$ -	\$ 6,052
Royalty																			
Royalty Payments		\$ 1,536	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,391	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 707	\$ 5,469
Royalty Sub-Total		\$ -	\$ 1,536	\$ -	\$ -	\$ -	\$ -	\$ 2,391	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 707	\$ 5,469
Payroll																			
Ordinary Course Payroll		\$ 1,287	\$ 2,140	\$ 1,296	\$ 2,159	\$ 1,314	\$ 2,167	\$ 1,320	\$ 2,174	\$ 1,324	\$ 2,174	\$ 1,324	\$ 2,174	\$ 1,324	\$ 2,174	\$ 1,324	\$ 2,174	\$ 1,324	\$ 29,167
Severance Payments		37	34	27	15	10	7	4	0	-	-	-	-	-	-	-	-	-	134
Board Fees		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	33
KEIP / KERP		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	500
Payroll Sub-Total		\$ -	\$ 1,324	\$ 2,174	\$ 1,332	\$ 2,174	\$ 1,324	\$ 1,332	\$ 2,174	\$ 1,324	\$ 2,174	\$ 1,324	\$ 2,299	\$ 1,324	\$ 2,299	\$ 1,449	\$ 2,307	\$ 1,449	\$ 29,834
Restructuring Costs																			
Restructuring Costs		\$ -	\$ -	\$ 250	\$ -	\$ 404	\$ 250	\$ 1,249	\$ 250	\$ 1,376	\$ 400	\$ 1,564	\$ 250	\$ -	\$ 1,466	\$ 1,275	\$ 250	\$ 5,619	\$ 14,850
D&O Tail		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	150
Restructuring Costs Sub-Total		\$ -	\$ -	\$ 250	\$ -	\$ 404	\$ 250	\$ 1,249	\$ 250	\$ 1,376	\$ 400	\$ 1,564	\$ 250	\$ -	\$ 1,466	\$ 1,275	\$ 250	\$ 5,769	\$ 15,000
Interest & Financing Payments																			
Pre-Petition ABL Interest		\$ 155	\$ -	\$ 102	\$ -	\$ 159	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 417
ABL DIP Interest & Fees		1,350	-	56	-	-	-	301	-	-	-	281	-	-	-	278	-	118	2,384
Term DIP Interest & Fees		-	-	-	-	-	1,500	174	-	-	-	174	-	-	-	174	-	75	2,153
Interest Payments Sub-Total		\$ -	\$ 1,505	\$ -	\$ 214	\$ -	\$ 1,659	\$ -	\$ 475	\$ -	\$ -	\$ 455	\$ -	\$ -	\$ -	\$ 453	\$ -	\$ 193	\$ 4,955
TOTAL DISBURSEMENTS	B	\$ -	\$ 14,918	\$ 12,282	\$ 11,586	\$ 9,916	\$ 10,407	\$ 9,427	\$ 14,077	\$ 9,456	\$ 9,565	\$ 9,422	\$ 12,534	\$ 9,702	\$ 8,461	\$ 10,596	\$ 10,992	\$ 22,918	\$ 198,009
TOTAL NET OPERATING CASH FLOW	A-B	\$ -	\$ (8,666)	\$ (6,097)	\$ (3,689)	\$ (212)	\$ 853	\$ 2,026	\$ (2,112)	\$ 2,188	\$ 2,789	\$ 1,049	\$ (1,859)	\$ 253	\$ 859	\$ (1,276)	\$ (2,073)	\$ (13,143)	\$ (30,394)

DREAM II HOLDINGS
CASH FORECAST - WEEKLY
CONSOLIDATED - USD

Week #	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Week Start Date	5/13/19	5/20/19	5/27/19	6/3/19	6/10/19	6/17/19	6/24/19	7/1/19	7/8/19	7/15/19	7/22/19	7/29/19	8/5/19	8/12/19	8/19/19	8/26/19	9/2/19	9/9/19	9/16/19
Week End Date	5/17/19	5/24/19	5/31/19	6/7/19	6/14/19	6/21/19	6/28/19	7/5/19	7/12/19	7/19/19	7/26/19	8/2/19	8/9/19	8/16/19	8/23/19	8/30/19	9/6/19	9/13/19	9/20/19
CASH BALANCE & AVAILABILITY																			
Operating Cash Balance																			
Beginning Cash Balance	507	507	500	500	500	500	500	500	500	500	500	500	500	500	500	500	500	500	507
Net Operating Cash Flow	A-B	(8,666)	(6,097)	(3,689)	(2,12)	500	2,026	(2,112)	2,188	2,789	1,049	(1,859)	263	859	(1,276)	(1,285)	(2,073)	(13,143)	(30,394)
Restructuring Cost Add-Back	C	-	250	-	250	404	250	1,249	250	1,376	400	1,564	250	-	1,466	1,275	250	5,619	14,850
Professional Fee Carve Out Funding	D	(3,232)	(1,643)	(801)	(801)	(801)	(801)	(1,106)	(795)	(795)	(795)	(841)	(841)	(841)	(841)	(841)	(187)	1,113	(14,850)
Term DIP Cash Disbursement	E	8,449	1,246	2,245	382	1,500	-	-	-	-	-	1,467	341	54	724	1,277	2,793	6,634	27,110
ABL Draw/(Repayment)		3,442	6,245	2,245	382	(1,956)	(1,474)	1,969	(1,643)	(3,370)	(654)	(330)	(2)	(73)	(73)	(426)	(782)	(223)	3,277
Net Operating Cash On Hand	507	500	500	500	500	500	500	500	500	500	500	500	500	500	500	500	500	500	500
Term DIP Cash Balance																			
Beginning Balance	-	14,166	5,717	4,472	2,226	8,845	7,345	7,345	7,345	7,345	7,345	7,345	5,878	5,537	5,483	4,759	3,482	690	-
Term DIP Draws	Term DIP Draws	15,000	-	-	7,000	-	-	-	-	-	-	-	-	-	-	-	-	6,000	28,000
Disbursements	E	(834)	(8,449)	(1,246)	(2,245)	(382)	(1,500)	-	-	-	-	(1,467)	(341)	(54)	(724)	(1,277)	(2,793)	(6,634)	(27,944)
Term DIP Cash Ending Balance	14,166	5,717	4,472	2,226	8,845	7,345	7,345	7,345	7,345	7,345	7,345	7,345	5,878	5,537	5,483	4,759	3,482	690	56
Professional Fees Carve Out Balance																			
Beginning Balance	-	-	3,232	4,626	5,427	5,979	6,376	6,928	6,785	7,330	6,750	7,145	6,422	7,013	7,854	7,229	6,794	6,732	-
Funding	D	-	3,232	1,643	801	801	801	1,106	795	795	795	841	841	841	841	841	187	(1,113)	14,850
Disbursements	C	-	(250)	-	(250)	(404)	(250)	(1,249)	(250)	(1,376)	(400)	(1,564)	(250)	-	(1,466)	(1,275)	(250)	(5,619)	(14,850)
Professional Fees Carve Out Ending Balance	-	3,232	4,626	5,427	5,979	6,376	6,928	6,785	7,330	6,750	7,145	6,422	7,013	7,854	7,229	6,794	6,732	-	-
Total Cash Balance	14,673	6,217	4,972	2,726	9,345	7,845	7,845	7,845	7,845	7,845	7,845	11,378	6,037	5,983	5,259	3,982	1,190	556	556
ABL Availability																			
ABL Total Borrowing Base After Reserves	64,782	60,284	72,479	74,231	74,982	73,661	72,163	69,444	67,667	64,592	63,237	61,697	61,695	61,622	61,549	61,123	60,341	60,118	60,118
Cash Secured L/C Balance	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
ABL Balance	(46,698)	(50,148)	(56,392)	(58,637)	(59,019)	(57,063)	(55,588)	(57,557)	(55,915)	(52,545)	(51,891)	(51,561)	(51,559)	(51,486)	(51,413)	(50,987)	(50,205)	(49,982)	(49,982)
L/C Balance	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)	(5,136)
Total Availability	12,948	5,000	10,951	10,458	10,827	11,462	11,439	6,750	6,616	6,911	6,210	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
Net Cash on Hand + Availability	27,622	11,217	15,922	13,184	20,171	19,307	19,283	14,595	14,461	14,755	14,055	11,378	11,037	10,983	10,259	8,982	6,190	5,556	5,556
Pre-Petition ABL Balance																			
Pre-Petition ABL Beginning Balance	61,698	46,698	40,446	34,260	26,363	16,659	-	-	-	-	-	-	-	-	-	-	-	-	\$ 61,698
Draws	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Repayments	-	(6,252)	(6,185)	(7,897)	(9,705)	(11,260)	-	-	-	-	-	-	-	-	-	-	-	-	(41,299)
Balance Transfer	(15,000)	-	-	-	-	(5,399)	-	-	-	-	-	-	-	-	-	-	-	-	(20,399)
Pre-Petition ABL Ending Balance	46,698	40,446	34,260	26,363	16,659	-	-	-	-	-	-	-	-	-	-	-	-	-	-
ABL DIP Balance																			
ABL DIP Beginning Balance	-	-	9,702	22,132	32,274	42,360	57,063	55,588	57,557	55,915	52,545	51,891	51,561	51,486	51,413	50,987	50,205	50,205	\$ -
Draws	-	13,152	13,676	12,387	10,468	10,803	9,979	13,934	10,002	8,984	9,817	10,345	9,952	9,248	9,248	9,281	8,894	9,552	179,721
Repayments	-	-	-	-	-	-	(11,453)	(11,965)	(11,644)	(12,354)	(10,471)	(10,675)	(9,954)	(9,321)	(9,321)	(9,707)	(9,675)	(9,776)	(126,316)
Balance Transfer	-	-	-	-	-	5,399	-	-	-	-	-	-	-	-	-	-	-	-	5,399
Term Loan Draw Share	-	(3,450)	(1,246)	(2,245)	(382)	(1,500)	-	-	-	-	-	-	-	-	-	-	-	-	(8,823)
ABL DIP Ending Balance	-	9,702	22,132	32,274	42,360	57,063	55,588	57,557	55,915	52,545	51,891	51,561	51,559	51,486	51,413	50,987	50,205	49,982	49,982
Total Wells ABL/ABL DIP Balance	46,698	50,148	56,392	58,637	59,019	57,063	55,588	57,557	55,915	52,545	51,891	51,561	51,559	51,486	51,413	50,987	50,205	49,982	49,982
Term DIP Balance																			
DIP Beginning Balance	-	15,000	15,000	15,000	15,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	\$ -
Draws	15,000	-	-	-	7,000	-	-	-	-	-	-	-	-	-	-	-	-	6,000	28,000
Repayments	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
DIP Ending Balance	15,000	15,000	15,000	15,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	22,000	28,000	28,000
Sentinel ABL																			
Sentinel ABL Beginning Balance	-	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	\$ -
Balance Transfer	15,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	15,000
Sentinel ABL Ending Balance	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

HOLLANDER SLEEP PRODUCTS, LLC, *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 19-11608 (MEW)
)
) (Jointly Administered)
)
) **Re: Docket No. 6**

**INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO PAY
PREPETITION CLAIMS OF (A) LIEN CLAIMANTS, (B) IMPORT CLAIMANT,
(C) 503(B)(9) CLAIMANTS, (D) FOREIGN VENDORS, AND (E) CRITICAL VENDORS,
(II) CONFIRMING ADMINISTRATIVE EXPENSE PRIORITY OF OUTSTANDING
ORDERS, AND (III) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an interim order (this “Interim Order”), (a) authorizing the Debtors to pay in the ordinary course of business prepetition claims held by certain (i) Lien Claimants, (ii) Import Claimant, (iii) 503(b)(9) Claimants, (iv) Foreign Vendors, and (v) Critical Vendors, collectively, in an amount not to exceed \$4.0 million on an interim basis, (b) confirming the administrative expense priority of outstanding orders, (c) setting a final hearing on the relief requested in the Motion on a final basis, and (d) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012;

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors’ service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefore, it is HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis as set forth herein.
2. The final hearing (the "Final Hearing") on the Motion shall be held on June 13, 2019, at 11:00 a.m., prevailing Eastern Time. Any objections or responses to entry of a final order on the Motion must be filed with the Court on or before 4:00 p.m., prevailing Eastern Time, on June 6, 2019.
3. The Debtors are authorized, but not directed, in their sole discretion, pursuant to sections 105(a), 363(b), and 503(b)(9) of the Bankruptcy Code, to pay Vendor Obligations in an aggregate amount not to exceed \$4.0 million on an interim basis; *provided, however*, that the Debtors are authorized, but not directed, in the reasonable exercise of their business judgment, to pay Critical Vendor Claims and Foreign Vendor Claims upon such terms and in the manner provided in this Interim Order and the Motion if (i) such claims are afforded priority under section 503(b)(9) of the Bankruptcy Code, (ii) the Debtors determine that the failure to make such payment creates an immediate risk of (a) causing an environmental hazard or posing significant risk to the environment or (b) posing a threat to health and public safety, or (iii) the Debtors

determine that in the absence of making such payment, the Debtors would suffer a loss of value in excess of such payment amount and the Debtors determine that there is a risk of immediate loss of value if they do not make such payment.

4. Nothing in this Interim Order authorizes the Debtors to accelerate any payments not otherwise due prior to the date of the Final Hearing.

5. The Debtors are authorized, but not directed, in their sole discretion, to require that, as a condition to receiving any payment under this Interim Order, a payee maintain or apply, as applicable, Customary Terms. The Debtors' reserve the right to require more favorable trade terms with any holder of a Vendor Obligation as a condition to payment of any prepetition claim. If a payee, after receiving a payment under this Interim Order, ceases to provide Customary Terms, then the Debtors may, in their reasonable business judgment, deem such payment to apply instead to any postpetition amount that may be owing to such payee or treat such payment as an avoidable postpetition transfer of property. Any party that accepts payment from the Debtors on account of a Vendor Obligation shall be deemed to have agreed to the terms and provisions of this Interim Order.

6. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors' or any other party in interest's right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Interim Order or the Motion or a finding that any particular claim is an administrative expense or other priority claim; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code;

(f) a waiver or limitation of the rights of any party in interest under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

7. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized and directed to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, whether such checks or other requests were submitted prior to, or after, the Petition Date, provided that sufficient funds are on deposit and standing in the Debtors' credit in the applicable bank accounts to cover such payments, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order without any duty of further inquiry and without liability for following the Debtors' instructions.

8. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with the relief granted herein.

9. Notwithstanding the relief granted in this Interim Order, any payment made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with any orders entered by the Court approving the Debtors' entry into any postpetition debtor-in-possession financing facility and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and any budget in connection therewith.

10. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

11. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

12. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

13. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

14. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

New York, New York
Dated: May 22, 2019

s/Michael E. Wiles

THE HONORABLE MICHAEL E. WILES
UNITED STATES BANKRUPTCY JUDGE

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

HOLLANDER SLEEP PRODUCTS, LLC., *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 19-11608 (MEW)
)
) (Jointly Administered)
)
) **Re: Docket No. 7**

**INTERIM ORDER (A) AUTHORIZING THE
DEBTORS TO MAINTAIN AND ADMINISTER THEIR EXISTING
CUSTOMER PROGRAMS AND HONOR CERTAIN PREPETITION
OBLIGATIONS RELATED THERETO AND (B) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an interim order (this “Interim Order”), (a) authorizing the Debtors to maintain and administer the Customer Programs and honor certain prepetition obligations related thereto, (b) scheduling a final hearing to consider approval of the Motion on a final basis, and (c) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors’ notice of the Motion and opportunity for a hearing on the Motion were appropriate under the

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Dream II Holdings, LLC (7915); Hollander Home Fashions Holdings, LLC (2063); Hollander Sleep Products, LLC (2143); Pacific Coast Feather, LLC (1445); Hollander Sleep Products Kentucky, LLC (4119); Pacific Coast Feather Cushion, LLC (3119); and Hollander Sleep Products Canada Limited (3477). The location of the Debtors’ service address is: 901 Yamato Road, Suite 250, Boca Raton, Florida 33431.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the “Hearing”); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis as set forth herein.
2. The final hearing (the “Final Hearing”) on the Motion shall be held on June 13, 2019, at 11:00 a.m., prevailing Eastern Time. Any objections or responses to entry of a final order on the Motion must be filed with the Court on or before 4:00 p.m., prevailing Eastern Time, on June 6, 2019.
3. The Debtors are authorized, but not directed, to continue to administer the Customer Programs in the ordinary course and to honor any prepetition obligations related to the Customer Programs.
4. Nothing in this Interim Order authorizes the Debtors to accelerate any payments not otherwise due prior to the date of the Final Hearing.
5. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the validity of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors’ or any other party in interest’s right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Interim Order or the Motion or a finding that any particular claim is an administrative expense or other priority claim; (e) a request or

authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the rights of any party in interest under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens.

6. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, whether such checks or other requests were submitted prior to, or after, the Petition Date, provided that sufficient funds are on deposit and standing in the Debtors' credit in the applicable bank accounts to cover such payments, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order without any duty of further inquiry and without liability for following the Debtors' instructions.

7. Notwithstanding the relief granted in this Interim Order, any payment made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with any orders entered by the Court approving the Debtors' entry into any postpetition debtor in possession financing facility and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and any budget in connection therewith.

8. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored

as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with any Customer Programs.

9. Nothing contained in the Motion or this Interim Order is intended or should be construed to create an administrative priority claim on account of any of the Customer Programs.

10. The contents of this Motion satisfy the requirements of Bankruptcy Rule 6003(b).

11. Notice of the Motion as provided therein shall be deemed good and sufficient notice of the Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

12. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

13. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

14. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

New York, New York
Dated: May 22, 2019

s/Michael E. Wiles

THE HONORABLE MICHAEL E. WILES
UNITED STATES BANKRUPTCY JUDGE

AND IN THE MATTER OF HOLLANDER SLEEP PRODUCTS LLC, HOLLANDER SLEEP PRODUCTS CANADA LIMITED, DREAM II HOLDINGS, LLC, HOLLANDER HOME FASHIONS HOLDINGS, LLC, PACIFIC COAST FEATHER, LLC, HOLLANDER SLEEP PRODUCTS KENTUCKY, LLC, AND PACIFIC COAST FEATHER CUSHION, LLC

APPLICATION OF HOLLANDER SLEEP PRODUCTS LLC UNDER SECTION 46 OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED

Ontario
**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

AFFIDAVIT OF EVAN BARZ

OSLER, HOSKIN & HARCOURT, LLP
P.O. Box 50, 1 First Canadian Place
Toronto, ON M5X 1B8

Marc Wasserman (LSO# 44066M)
Tel: 416.862.4908
mwasserman@osler.com

Shawn T. Irving (LSO# 50035U)
Tel: 416.862.4733
sirving@osler.com

Martino Calvaruso (LSO# 57359Q)
Tel: 416.862.6665
mcalvaruso@osler.com
Fax: 416.862.6666

Lawyers for the Applicant

Matter No: 1200852

TAB 4

Court File No. CV-19-620484-00CL

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

THE HONOURABLE MR.

)

THURSDAY, THE 23RD

JUSTICE HAINEY

)

DAY OF MAY, 2019

)

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF HOLLANDER SLEEP PRODUCTS, LLC, HOLLANDER
SLEEP PRODUCTS CANADA LIMITED, DREAM II HOLDINGS, LLC, HOLLANDER
HOME FASHIONS HOLDINGS, LLC, PACIFIC COAST FEATHER, LLC,
HOLLANDER SLEEP PRODUCTS KENTUCKY, LLC AND PACIFIC COAST
FEATHER CUSHION, LLC**

**APPLICATION OF HOLLANDER SLEEP PRODUCTS, LLC UNDER SECTION 46 OF
THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS
AMENDED**

**INITIAL RECOGNITION ORDER
(FOREIGN MAIN PROCEEDING)**

THIS APPLICATION, made by Hollander Sleep Products, LLC (“**HSP**”) in its capacity as the foreign representative (the “**Foreign Representative**”) of HSP, Hollander Sleep Products Canada Limited, Dream II Holdings, LLC, Hollander Home Fashions Holdings, LLC, Pacific Coast Feather, LLC, Hollander Sleep Products Kentucky, LLC and Pacific Coast Feather Cushion, LLC (collectively, the “**Chapter 11 Debtors**”), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) for an Order substantially in the form enclosed in the Application Record, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Application, the affidavit of Marc Pfefferle sworn May 23, 2019 (the “**Pfefferle Affidavit**”), filed, the pre-filing report of KSV Kofman Inc., in its capacity

as proposed information officer (the “**Information Officer**”) dated May 23, 2019, and upon being provided with copies of the documents required by section 46 of the CCAA,

AND UPON BEING ADVISED by counsel for the Foreign Representative that in addition to this Initial Recognition Order, a Supplemental Order (Foreign Main Proceeding) (the “**Supplemental Order**”) is being sought,

AND UPON HEARING the submissions of counsel for the Foreign Representative, counsel for the proposed Information Officer, counsel for the ABL Agent and the DIP ABL Agent (each as defined in the Pfefferle Affidavit) and counsel for the Term Loan Agent and the DIP Term Loan Agent (each as defined in the Pfefferle Affidavit), and those other parties present, no one else appearing although duly served as appears from the affidavit of service of Evan Barz sworn May 23, 2019:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

FOREIGN REPRESENTATIVE

2. **THIS COURT ORDERS AND DECLARES** that the Foreign Representative is the “foreign representative” as defined in section 45 of the CCAA of the Chapter 11 Debtors in respect of the cases commenced in the United States Bankruptcy Court for the Southern District of New York by the Chapter 11 Debtors pursuant to Chapter 11 of the United States Bankruptcy Code (collectively, the “**Foreign Proceeding**”).

CENTRE OF MAIN INTEREST AND RECOGNITION OF FOREIGN PROCEEDING

3. **THIS COURT DECLARES** that the centre of its main interests for each of the Chapter 11 Debtors is the United States of America and that the Foreign Proceeding is hereby recognized as a “foreign main proceeding” as defined in section 45 of the CCAA.

STAY OF PROCEEDINGS

4. **THIS COURT ORDERS** that until otherwise ordered by this Court:

- (a) all proceedings taken or that might be taken against the Chapter 11 Debtors under the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act* are stayed;
- (b) further proceedings in any action, suit or proceeding against the Chapter 11 Debtors are restrained; and
- (c) the commencement of any action, suit or proceeding against the Chapter 11 Debtors is prohibited.

NO SALE OF PROPERTY

5. **THIS COURT ORDERS** that, except with leave of this Court, each of the Chapter 11 Debtors is prohibited from selling or otherwise disposing of:

- (a) outside the ordinary course of its business, any of its property in Canada that relates to the business; and
- (b) any of its other property in Canada.

GENERAL

6. **THIS COURT ORDERS** that within five (5) business days from the date of this Order, or as soon as practicable thereafter, the Information Officer shall cause to be published a notice once a week for two consecutive weeks, in the *Globe and Mail* (National Edition) regarding the issuance of this Order and the Supplemental Order.

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada and the United States of America, to give effect to this Order and to assist the Chapter 11 Debtors and the Foreign Representative and their respective counsel and agents in carrying out the terms of this Order.

8. **THIS COURT ORDERS AND DECLARES** that this Order shall be effective as of 12:01 a.m. Eastern Standard Time on the date of this Order.

9. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days notice to the Chapter 11 Debtors and the Foreign Representative and their respective counsel, and to any other party or parties likely to be affected by the order sought, or upon such other notice, if any, as this Court may order.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. C-36, AS AMENDED Court File No: CV-19-620484-00CL

AND IN THE MATTER OF HOLLANDER SLEEP PRODUCTS, LLC, HOLLANDER SLEEP PRODUCTS CANADA LIMITED, DREAM II HOLDINGS, LLC,
HOLLANDER HOME FASHIONS HOLDINGS, LLC, PACIFIC COAST FEATHER, LLC, HOLLANDER SLEEP PRODUCTS KENTUCKY, LLC AND PACIFIC
COAST FEATHER CUSHION, LLC

APPLICATION OF HOLLANDER SLEEP PRODUCTS, LLC UNDER SECTION 46 OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-
36, AS AMENDED

Applicant	
	<p><i>Ontario</i></p> <p>SUPERIOR COURT OF JUSTICE COMMERCIAL LIST</p> <p>Proceeding commenced at Toronto</p>
	<p>INITIAL RECOGNITION ORDER (FOREIGN MAIN PROCEEDING)</p>
	<p>OSLER, HOSKIN & HARCOURT, LLP P.O. Box 50, 1 First Canadian Place Toronto, ON M5X 1B8</p> <p>Marc Wasserman LSO# 44066M Tel: 416.862.4908 mwasserman@osler.com</p> <p>Shawn T. Irving LSO# 50035U Tel: 416.862.4733 sirving@osler.com</p> <p>Martino Calvaruso LSO# 57359Q Tel: 416.862.6665 mcalvaruso@osler.com Fax: 416.862.6666</p> <p>Lawyers for the Applicant</p>

TAB 5

Court File No. CV-19-620484-00CL

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

THE HONOURABLE MR.

)

THURSDAY, THE 23RD

JUSTICE HAINEY

)

DAY OF MAY, 2019

)

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF HOLLANDER SLEEP PRODUCTS, LLC, HOLLANDER
SLEEP PRODUCTS CANADA LIMITED, DREAM II HOLDINGS, LLC, HOLLANDER
HOME FASHIONS HOLDINGS, LLC, PACIFIC COAST FEATHER, LLC,
HOLLANDER SLEEP PRODUCTS KENTUCKY, LLC AND PACIFIC COAST
FEATHER CUSHION, LLC**

**APPLICATION OF HOLLANDER SLEEP PRODUCTS, LLC UNDER SECTION 46 OF
THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS
AMENDED**

**SUPPLEMENTAL ORDER
(FOREIGN MAIN PROCEEDING)**

THIS APPLICATION, made by Hollander Sleep Products, LLC (“**HSP**”) in its capacity as the foreign representative (the “**Foreign Representative**”) of HSP, Hollander Sleep Products Canada Limited (“**Hollander Canada**”), Dream II Holdings, LLC, Hollander Home Fashions Holdings, LLC, Pacific Coast Feather, LLC, Hollander Sleep Products Kentucky, LLC and Pacific Coast Feather Cushion, LLC (collectively, the “**Chapter 11 Debtors**” and each, a “**Chapter 11 Debtor**”), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) for an Order substantially in the form enclosed in the Application Record, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Application, the affidavit of Marc Pfefferle sworn May 23, 2019 (the “**Pfefferle Affidavit**”), filed, the pre-filing report of KSV Kofman Inc., in its capacity as proposed Information Officer (as defined herein) dated May 23, 2019 (the “**Pre-Filing**

Report”), and upon being provided with copies of the documents required by section 46 of the CCAA,

AND UPON HEARING the submissions of counsel for the Foreign Representative, counsel for the proposed Information Officer, counsel for the ABL Agent and the DIP ABL Agent (each as defined in the Pfefferle Affidavit) and counsel for the Term Loan Agent and the DIP Term Loan Agent (each as defined in the Pfefferle Affidavit), and those other parties present, no one else appearing although duly served as appears from the affidavit of service of Evan Barz sworn May 23, 2019:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used herein and not otherwise defined have the meaning given to them in the Pfefferle Affidavit.

INITIAL RECOGNITION ORDER

3. **THIS COURT ORDERS** that the provisions of this Order shall be interpreted in a manner complementary and supplementary to the provisions of the Initial Recognition Order (Foreign Main Proceeding) dated as of May 23, 2019 (the “**Recognition Order**”), provided that in the event of a conflict between the provisions of this Order and the provisions of the Recognition Order, the provisions of the Recognition Order shall govern.

RECOGNITION OF FOREIGN ORDERS

4. **THIS COURT ORDERS** that the following orders (collectively, the “**Foreign Orders**”) of the United States Bankruptcy Court for the Southern District of New York (the “**U.S. Bankruptcy Court**”) made in the Foreign Proceeding (as defined in the Recognition Order) are hereby recognized and given full force and effect in all provinces and territories of Canada pursuant to section 49 of the CCAA:

- (a) *Order (A) Authorizing Hollander Sleep Products, LLC to Act as Foreign Representative and (B) Granting Related Relief* (the “**Foreign Representative Order**”);
- (b) *Order (A) Directing Joint Administration of Chapter 11 Cases and (B) Granting Related Relief* (the “**Joint Administration Order**”);
- (c) *Interim Order (I) Authorizing the Debtors to (A) Pay Prepetition Employee Wages, Salaries, Other Compensation, and Reimbursable Employee Expenses and (B) Continue Employee Benefits Programs and (II) Granting Related Relief* (the “**Interim Employee Wages Order**”);
- (d) *Interim Order (I) Authorizing the Debtors to (A) Continue to Operate Their Cash Management System, (B) Honor Certain Prepetition Obligations Related Thereto, (C) Maintain Existing Business Forms, and (D) Continue to Perform Intercompany Transactions, and (II) Granting Related Relief* (the “**Interim Cash Management Order**”);
- (e) *Interim Order (A) Authorizing the Debtors to Obtain Postpetition Financing, (B) Authorizing the Debtors to Use Cash Collateral, (C) Granting Liens and Providing Superpriority Administrative Expense Status, (D) Granting Adequate Protection to the Prepetition Lenders, (E) Modifying the Automatic Stay, (F) Scheduling a Final Hearing, and (G) Granting Related Relief* (the “**Interim DIP Order**”);
- (f) *Interim Order (I) Authorizing the Debtors to Pay Prepetition Claims of (A) Lien Claimants, (B) Import Claimant, (C) 503(B)(9) Claimants, (D) Foreign Vendors, and (E) Critical Vendors, (II) Confirming Administrative Expense Priority of Outstanding Orders, and (III) Granting Related Relief* (the “**Interim Critical Vendors and Shippers Order**”); and

- (g) *Interim Order (A) Authorizing the Debtors to Maintain and Administer Their Existing Customer Programs and Honor Certain Prepetition Obligations Related Thereto and (B) Granting Related Relief* (the “**Interim Customer Programs Order**”)

(copies of each such Foreign Orders are attached as Schedules “A” to “G” hereto);

provided, however, that in the event of any conflict between the terms of the Foreign Orders and the Orders of this Court made in the within proceedings, the Orders of this Court shall govern with respect to Property (as defined below) in Canada.

APPOINTMENT OF INFORMATION OFFICER

5. **THIS COURT ORDERS** that KSV Kofman Inc. (the “**Information Officer**”) is hereby appointed as an officer of this Court, with the powers and duties set out herein.

NO PROCEEDINGS AGAINST THE CHAPTER 11 DEBTORS OR THE PROPERTY

6. **THIS COURT ORDERS** that from the date of the Recognition Order until such date as this Court may order (the “**Stay Period**”) no proceeding or enforcement process in any court or tribunal in Canada (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Chapter 11 Debtors or affecting their business (the “**Business**”) or their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”), except with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the Chapter 11 Debtors or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

7. **THIS COURT ORDERS** that, without limiting the stay of proceedings provided for in the Recognition Order, during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the Chapter 11 Debtors, or

affecting the Business or the Property, are hereby stayed and suspended except with leave of this Court, provided that nothing in this Order shall (a) prevent the assertion of or the exercise of rights and remedies outside of Canada, (b) empower any of the Chapter 11 Debtors to carry on any business in Canada which that Chapter 11 Debtor is not lawfully entitled to carry on, (c) affect such investigations or Proceedings by a regulatory body as are permitted by section 11.1 of the CCAA, (d) prevent the filing of any registration to preserve or perfect a security interest, or (e) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

8. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any of the Chapter 11 Debtors and affecting the Business in Canada, except with leave of this Court.

ADDITIONAL PROTECTIONS

9. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Chapter 11 Debtors or statutory or regulatory mandates for the supply of goods and/or services in Canada, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services provided in respect of the Property or Business of the Chapter 11 Debtors, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Chapter 11 Debtors, and that the Chapter 11 Debtors shall be entitled to the continued use in Canada of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names.

10. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Chapter 11 Debtors with respect to any claim against the directors or officers that arose before the date of the Recognition Order and that relates to any obligations of the Chapter 11 Debtors whereby the directors or officers are alleged

under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations.

11. **THIS COURT ORDERS** that no Proceeding shall be commenced or continued against or in respect of the Information Officer, except with leave of this Court. In addition to the rights and protections afforded the Information Officer herein, or as an officer of this Court, the Information Officer shall have the benefit of all of the rights and protections afforded to a Monitor under the CCAA, and shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part.

OTHER PROVISIONS RELATING TO INFORMATION OFFICER

12. **THIS COURT ORDERS** that the Information Officer:

- (a) is hereby authorized to provide such assistance to the Foreign Representative in the performance of its duties as the Foreign Representative may reasonably request;
- (b) shall report to this Court periodically with respect to the status of these proceedings and the status of the Foreign Proceeding, which reports may include information relating to the Property, the Business, or such other matters as may be relevant to the proceedings herein;
- (c) in addition to the periodic reports referred to in paragraph 12(b) above, the Information Officer may report to this Court at such other times and intervals as the Information Officer may deem appropriate with respect to any of the matters referred to in paragraph 12(b) above;
- (d) shall have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Chapter 11 Debtors, to the extent that is necessary to perform its duties arising under this Order; and

- (e) shall be at liberty to engage independent legal counsel or such other persons as the Information Officer deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order.

13. **THIS COURT ORDERS** that the Chapter 11 Debtors and the Foreign Representative shall (a) advise the Information Officer of all material steps taken by the Chapter 11 Debtors or the Foreign Representative in these proceedings or in the Foreign Proceeding, (b) co-operate fully with the Information Officer in the exercise of its powers and discharge of its obligations, and (c) provide the Information Officer with the assistance that is necessary to enable the Information Officer to adequately carry out its functions.

14. **THIS COURT ORDERS** that the Information Officer shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

15. **THIS COURT ORDERS** that the Information Officer (a) shall post on its website all Orders of this Court made in these proceedings, all reports of the Information Officer filed herein, and such other materials as this Court may order from time to time, and (b) may post on its website any other materials that the Information Officer deems appropriate.

16. **THIS COURT ORDERS** that the Information Officer may provide any creditor of a Chapter 11 Debtor with information provided by the Chapter 11 Debtors in response to reasonable requests for information made in writing by such creditor addressed to the Information Officer. The Information Officer shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Information Officer has been advised by the Chapter 11 Debtors is privileged or confidential, the Information Officer shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Information Officer, the Foreign Representative and the relevant Chapter 11 Debtors may agree.

17. **THIS COURT ORDERS** that the Information Officer and counsel to the Information Officer shall be paid by the Chapter 11 Debtors their reasonable fees and disbursements incurred

in respect of these proceedings, both before and after the making of this Order, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts. The Chapter 11 Debtors are hereby authorized and directed to pay the accounts of the Information Officer and counsel for the Information Officer.

18. **THIS COURT ORDERS** that the Information Officer and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Information Officer and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice, and the accounts of the Information Officer and its counsel shall not be subject to approval in the Foreign Proceeding.

19. **THIS COURT ORDERS** that the Information Officer and counsel to the Information Officer shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property in Canada, which charge shall not exceed an aggregate amount of US\$200,000 as security for their professional fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order. The Administration Charge shall have the priority set out in paragraphs 21 through 26 hereof.

INTERIM FINANCING

20. **THIS COURT ORDERS** that the DIP ABL Agent, for and on behalf of itself and the DIP ABL Lenders, shall be entitled to the benefit of and is hereby granted a charge (the “**DIP ABL Charge**”) on the Property in Canada, which DIP ABL Charge shall be consistent with the liens and charges created by the Interim DIP Order with respect to the Property in Canada, shall have the priority set out in paragraphs 21 through 26 hereof, and further provided that the DIP ABL Charge shall not be enforced except with leave of this Court on notice to the Information Officer and those parties on the service list established for these proceedings.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

21. **THIS COURT ORDERS** that the priorities of the Administration Charge and the DIP ABL Charge, as among them, shall be as follows:

- (a) First – Administration Charge (to the maximum amount of US\$200,000); and
- (b) Second – DIP ABL Charge.

22. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge or the DIP ABL Charge (collectively, the “**Charges**”) shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect the Charges.

23. **THIS COURT ORDERS** that the Charges (as constituted and defined herein) shall constitute a charge on the Property in Canada and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person.

24. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Chapter 11 Debtors shall not grant any Encumbrances over any Property in Canada that rank in priority to, or *pari passu* with, the Charges, unless the Chapter 11 Debtors also obtain the prior written consent of the Information Officer, the DIP ABL Agent and the DIP Term Loan Agent.

25. **THIS COURT ORDERS** that the Administration Charge and the DIP ABL Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the “**BIA**”), or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative

covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds any Chapter 11 Debtor, and notwithstanding any provision to the contrary in any Agreement:

- (i) the creation of the Charges shall not create or be deemed to constitute a breach by a Chapter 11 Debtor of any Agreement to which it is a party;
- (ii) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
- (iii) the payments made by the Chapter 11 Debtors to the Chargees pursuant to this Order, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

26. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the applicable Chapter 11 Debtors’ interest in such real property leases.

ASSET SALES

27. **THIS COURT ORDERS** that, notwithstanding paragraph 5 of the Recognition Order, Hollander Canada shall be permitted, with the prior consent of the Information Officer, to sell or otherwise dispose of its fixed assets located in Toronto, Ontario, solely to the extent permitted by the DIP ABL Credit Agreement in an amount not to exceed US\$250,000 in the aggregate, without seeking leave of this Court.

SERVICE AND NOTICE

28. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute

an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL: <https://www.ksvadvisory.com/insolvency-cases/case/hollander-sleep-products-canada-limited>.

29. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Chapter 11 Debtors, the Foreign Representative and the Information Officer are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Chapter 11 Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the applicable Chapter 11 Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

SEALING

30. **THIS COURT ORDERS** that Confidential Appendix "1" to the Pre-Filing Report shall be and is hereby sealed, kept confidential and shall not form part of the public record pending further Order of this Court.

GENERAL

31. **THIS COURT ORDERS** that the Information Officer may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

32. **THIS COURT ORDERS** that nothing in this Order shall prevent the Information Officer from acting as an interim receiver, a receiver, a receiver and manager, a monitor, a proposal trustee, or a trustee in bankruptcy of any Chapter 11 Debtor, the Business or the Property.

33. **THIS COURT ORDERS** that within five (5) business days from the date of this Order, or as soon as practicable thereafter, the Information Officer shall cause to be published a notice once a week for two consecutive weeks, in the Globe and Mail (National Edition) regarding the issuance of this Order and the Recognition Order.

34. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States of America, to give effect to this Order and to assist the Chapter 11 Debtors, the Foreign Representative, the Information Officer, and their respective counsel and agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Chapter 11 Debtors, the Foreign Representative and the Information Officer, the latter as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Chapter 11 Debtors, the Foreign Representative, the Information Officer, and their respective counsel and agents in carrying out the terms of this Order.

35. **THIS COURT ORDERS** that each of the Chapter 11 Debtors, the Foreign Representative and the Information Officer be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

36. **THIS COURT ORDERS** that the Guidelines for Communication and Cooperation between Courts in Cross-Border Insolvency Matters issued by the Judicial Insolvency Network and adopted by this Court and the U.S. Bankruptcy Court and attached as Schedule “H” hereto (the “**JIN Guidelines**”), are hereby adopted by this Court for the purposes of these recognition proceedings.

37. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days’ notice to the Chapter 11 Debtors, the Foreign Representative, the Information Officer, the DIP ABL Agent, the DIP Term Loan Agent and their respective counsel, and to any other party or parties likely to be affected by the order sought, or upon such other notice, if any, as this Court may order.

38. **THIS COURT ORDERS** that this Order shall be effective as of 12:01 a.m. Eastern Standard Time on the date of this Order.

SCHEDULE A – FOREIGN REPRESENTATIVE ORDER

SCHEDULE B – JOINT ADMINISTRATION ORDER

SCHEDULE C – INTERIM EMPLOYEE WAGES ORDER

SCHEDULE D – INTERIM CASH MANAGEMENT ORDER

SCHEDULE E – INTERIM DIP ORDER

SCHEDULE F - INTERIM CRITICAL VENDORS AND SHIPPERS ORDER

SCHEDULE G – INTERIM CUSTOMER PROGRAMS ORDER

SCHEDULE H – JIN GUIDELINES

GUIDELINES FOR COMMUNICATION AND COOPERATION BETWEEN COURTS IN CROSS-BORDER INSOLVENCY MATTERS

INTRODUCTION

- A. The overarching objective of these Guidelines is to improve in the interests of all stakeholders the efficiency and effectiveness of cross-border proceedings relating to insolvency or adjustment of debt opened in more than one jurisdiction (“Parallel Proceedings”) by enhancing coordination and cooperation amongst courts under whose supervision such proceedings are being conducted. These Guidelines represent best practice for dealing with Parallel Proceedings.
- B. In all Parallel Proceedings, these Guidelines should be considered at the earliest practicable opportunity.
- C. In particular, these Guidelines aim to promote:
 - (i) the efficient and timely coordination and administration of Parallel Proceedings;
 - (ii) the administration of Parallel Proceedings with a view to ensuring relevant stakeholders’ interests are respected;
 - (iii) the identification, preservation, and maximisation of the value of the debtor’s assets, including the debtor’s business;
 - (iv) the management of the debtor’s estate in ways that are proportionate to the amount of money involved, the nature of the case, the complexity of the issues, the number of creditors, and the number of jurisdictions involved in Parallel Proceedings;
 - (v) the sharing of information in order to reduce costs; and
 - (vi) the avoidance or minimisation of litigation, costs, and inconvenience to the parties¹ in Parallel Proceedings.
- D. These Guidelines should be implemented in each jurisdiction in such manner as the jurisdiction deems fit.²
- E. These Guidelines are not intended to be exhaustive and in each case consideration ought to be given to the special requirements in that case.
- F. Courts should consider in all cases involving Parallel Proceedings whether and how to implement these Guidelines. Courts should encourage and where necessary direct, if they have the power to do so, the parties to make the necessary applications to the court to facilitate such implementation by a protocol or order derived from these Guidelines, and encourage them to act so as to promote the objectives and aims of these Guidelines wherever possible.

¹ The term “parties” when used in these Guidelines shall be interpreted broadly.

² Possible modalities for the implementation of these Guidelines include practice directions and commercial guides.

ADOPTION & INTERPRETATION

Guideline 1: In furtherance of paragraph F above, the courts should encourage administrators in Parallel Proceedings to cooperate in all aspects of the case, including the necessity of notifying the courts at the earliest practicable opportunity of issues present and potential that may (a) affect those proceedings; and (b) benefit from communication and coordination between the courts. For the purpose of these Guidelines, “administrator” includes a liquidator, trustee, judicial manager, administrator in administration proceedings, debtor-in-possession in a reorganisation or scheme of arrangement, or any fiduciary of the estate or person appointed by the court.

Guideline 2: Where a court intends to apply these Guidelines (whether in whole or in part and with or without modification) in particular Parallel Proceedings, it will need to do so by a protocol or an order,³ following an application by the parties or pursuant to a direction of the court if the court has the power to do so.

Guideline 3: Such protocol or order should promote the efficient and timely administration of Parallel Proceedings. It should address the coordination of requests for court approvals of related decisions and actions when required and communication with creditors and other parties. To the extent possible, it should also provide for timesaving procedures to avoid unnecessary and costly court hearings and other proceedings.

Guideline 4: These Guidelines when implemented are not intended to:

- (i) interfere with or derogate from the jurisdiction or the exercise of jurisdiction by a court in any proceedings including its authority or supervision over an administrator in those proceedings;
- (ii) interfere with or derogate from the rules or ethical principles by which an administrator is bound according to any applicable law and professional rules;
- (iii) prevent a court from refusing to take an action that would be manifestly contrary to the public policy of the jurisdiction; or
- (iv) confer or change jurisdiction, alter substantive rights, interfere with any function or duty arising out of any applicable law, or encroach upon any applicable law.

Guideline 5: For the avoidance of doubt, a protocol or order under these Guidelines is procedural in nature. It should not constitute a limitation on or waiver by the court of any powers, responsibilities, or authority or a substantive determination of any matter in controversy before the court or before the other court or a waiver by any of the parties of any of their substantive rights and claims.

Guideline 6: In the interpretation of these Guidelines or any protocol or order under these Guidelines, due regard shall be given to their international origin and to the need to promote good faith and uniformity in their application.

³ In the normal case, the parties will agree on a protocol derived from these Guidelines and obtain the approval of each court in which the protocol is to apply.

COMMUNICATION BETWEEN COURTS

Guideline 7: A court may receive communications from a foreign court and may respond directly to them. Such communications may occur for the purpose of the orderly making of submissions and rendering of decisions by the courts, and to coordinate and resolve any procedural, administrative or preliminary matters relating to any joint hearing where Annex A is applicable. Such communications may take place through the following methods or such other method as may be agreed by the two courts in a specific case:

- (i) Sending or transmitting copies of formal orders, judgments, opinions, reasons for decision, endorsements, transcripts of proceedings or other documents directly to the other court and providing advance notice to counsel for affected parties in such manner as the court considers appropriate.
- (ii) Directing counsel or other appropriate person to transmit or deliver copies of documents, pleadings, affidavits, briefs or other documents that are filed or to be filed with the court to the other court in such fashion as may be appropriate and providing advance notice to counsel for affected parties in such manner as the court considers appropriate.
- (iii) Participating in two-way communications with the other court, by telephone or video conference call or other electronic means, in which case Guideline 8 should be considered.

Guideline 8: In the event of communications between courts, other than on administrative matters, unless otherwise directed by any court involved in the communications whether on an *ex parte* basis or otherwise, or permitted by a protocol, the following shall apply:

- (i) In the normal case, parties may be present.
- (ii) If the parties are entitled to be present, advance notice of the communications shall be given to all parties in accordance with the rules of procedure applicable in each of the courts to be involved in the communications.
- (iii) The communications between the courts shall be recorded and may be transcribed. A written transcript may be prepared from a recording of the communications that, with the approval of each court involved in the communications, may be treated as the official transcript of the communications.
- (iv) Copies of any recording of the communications, of any transcript of the communications prepared pursuant to any direction of any court involved in the communications, and of any official transcript prepared from a recording may be filed as part of the record in the proceedings and made available to the parties and subject to such directions as to confidentiality as any court may consider appropriate.
- (v) The time and place for communications between the courts shall be as directed by the courts. Personnel other than judges in each court may communicate with each other to establish appropriate arrangements for the communications without the presence of the parties.

Guideline 9: A court may direct that notice of its proceedings be given to parties in proceedings in another jurisdiction. All notices, applications, motions, and other materials served for purposes of the proceedings before the court may be ordered to be provided to such other parties by making such materials available electronically in a publicly accessible system or by facsimile transmission, certified or registered mail or delivery by courier, or in such other manner as may be directed by the court in accordance with the procedures applicable in the court.

APPEARANCE IN COURT

Guideline 10: A court may authorise a party, or an appropriate person, to appear before and be heard by a foreign court, subject to approval of the foreign court to such appearance.

Guideline 11: If permitted by its law and otherwise appropriate, a court may authorise a party to a foreign proceeding, or an appropriate person, to appear and be heard by it without thereby becoming subject to its jurisdiction.

CONSEQUENTIAL PROVISIONS

Guideline 12: A court shall, except on proper objection on valid grounds and then only to the extent of such objection, recognise and accept as authentic the provisions of statutes, statutory or administrative regulations, and rules of court of general application applicable to the proceedings in other jurisdictions without further proof. For the avoidance of doubt, such recognition and acceptance does not constitute recognition or acceptance of their legal effect or implications.

Guideline 13: A court shall, except upon proper objection on valid grounds and then only to the extent of such objection, accept that orders made in the proceedings in other jurisdictions were duly and properly made or entered on their respective dates and accept that such orders require no further proof for purposes of the proceedings before it, subject to its law and all such proper reservations as in the opinion of the court are appropriate regarding proceedings by way of appeal or review that are actually pending in respect of any such orders. Notice of any amendments, modifications, extensions, or appellate decisions with respect to such orders shall be made to the other court(s) involved in Parallel Proceedings, as soon as it is practicable to do so.

Guideline 14: A protocol, order or directions made by a court under these Guidelines is subject to such amendments, modifications, and extensions as may be considered appropriate by the court, and to reflect the changes and developments from time to time in any Parallel Proceedings. Notice of such amendments, modifications, or extensions shall be made to the other court(s) involved in Parallel Proceedings, as soon as it is practicable to do so.

ANNEX A (JOINT HEARINGS)

Annex A to these Guidelines relates to guidelines on the conduct of joint hearings. Annex A shall be applicable to, and shall form a part of these Guidelines, with respect to courts that may signify their assent to Annex A from time to time. Parties are encouraged to address the matters set out in Annex A in a protocol or order.

ANNEX A: JOINT HEARINGS

A court may conduct a joint hearing with another court. In connection with any such joint hearing, the following shall apply, or where relevant, be considered for inclusion in a protocol or order:

- (i) The implementation of this Annex shall not divest nor diminish any court's respective independent jurisdiction over the subject matter of proceedings. By implementing this Annex, neither a court nor any party shall be deemed to have approved or engaged in any infringement on the sovereignty of the other jurisdiction.
- (ii) Each court shall have sole and exclusive jurisdiction and power over the conduct of its own proceedings and the hearing and determination of matters arising in its proceedings.
- (iii) Each court should be able simultaneously to hear the proceedings in the other court. Consideration should be given as to how to provide the best audio-visual access possible.
- (iv) Consideration should be given to coordination of the process and format for submissions and evidence filed or to be filed in each court.
- (v) A court may make an order permitting foreign counsel or any party in another jurisdiction to appear and be heard by it. If such an order is made, consideration needs to be given as to whether foreign counsel or any party would be submitting to the jurisdiction of the relevant court and/or its professional regulations.
- (vi) A court should be entitled to communicate with the other court in advance of a joint hearing, with or without counsel being present, to establish the procedures for the orderly making of submissions and rendering of decisions by the courts, and to coordinate and resolve any procedural, administrative or preliminary matters relating to the joint hearing.
- (vii) A court, subsequent to the joint hearing, should be entitled to communicate with the other court, with or without counsel present, for the purpose of determining outstanding issues. Consideration should be given as to whether the issues include procedural and/or substantive matters. Consideration should also be given as to whether some or all of such communications should be recorded and preserved.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. C-36, AS AMENDED Court File No: CV-19-620484-00CL

AND IN THE MATTER OF HOLLANDER SLEEP PRODUCTS, LLC, HOLLANDER SLEEP PRODUCTS CANADA LIMITED, DREAM II HOLDINGS, LLC,
HOLLANDER HOME FASHIONS HOLDINGS, LLC, PACIFIC COAST FEATHER, LLC, HOLLANDER SLEEP PRODUCTS KENTUCKY, LLC AND PACIFIC
COAST FEATHER CUSHION, LLC

APPLICATION OF HOLLANDER SLEEP PRODUCTS, LLC UNDER SECTION 46 OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-
36, AS AMENDED

Applicant

Ontario
**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**
Proceeding commenced at Toronto

**SUPPLEMENTAL ORDER
(FOREIGN MAIN PROCEEDING)**

OSLER, HOSKIN & HARCOURT, LLP
P.O. Box 50, 1 First Canadian Place
Toronto, ON M5X 1B8

Marc Wasserman LSO# 44066M
Tel: 416.862.4908
mwasserman@osler.com

Shawn T. Irving LSO# 50035U
Tel: 416.862.4733
sirving@osler.com

Martino Calvaruso LSO# 57359Q
Tel: 416.862.6665
mcalvaruso@osler.com
Fax: 416.862.6666

Lawyers for the Applicant

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C. C-36, AS
AMENDED

Court File No: CV-19-620484-00CL

AND IN THE MATTER OF HOLLANDER SLEEP PRODUCTS LLC, HOLLANDER SLEEP PRODUCTS CANADA LIMITED, DREAM II
HOLDINGS, LLC, HOLLANDER HOME FASHIONS HOLDINGS, LLC, PACIFIC COAST FEATHER, LLC, HOLLANDER SLEEP PRODUCTS
KENTUCKY, LLC, AND PACIFIC COAST FEATHER CUSHION, LLC

APPLICATION OF HOLLANDER SLEEP PRODUCTS LLC UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

Ontario
**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

APPLICATION RECORD

OSLER, HOSKIN & HARCOURT, LLP

P.O. Box 50, 1 First Canadian Place
Toronto, ON M5X 1B8

Marc Wasserman (LSO# 44066M)
Tel: 416.862.4908
mwasserman@osler.com

Shawn T. Irving (LSO# 50035U)
Tel: 416.862.4733
sirving@osler.com

Martino Calvaruso (LSO# 57359Q)
Tel: 416.862.6665
mcalvaruso@osler.com
Fax: 416.862.6666

Lawyers for the Applicant

Matter No: 1200852

