**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

# FORM 8-K

## CURRENT REPORT

**Pursuant to Section 13 or 15(d) of The Securities and Exchange Act of 1934**

**Date of Report (Date of earliest event reported): November 30, 2018**

# HC2 HOLDINGS, INC.

| **Delaware** | **001-35210** | **54-1708481** |
|---|---|---|
| (State or other jurisdiction of incorporation) | (Commission File Number) | (IRS Employer Identification No.) |

**450 Park Avenue, 30th Floor**
**New York, NY 10022**
(Address of principal executive offices)

**(212) 235-2690**
(Registrant's telephone number, including area code)

**Not Applicable**
**(Former name or former address, if changed since last report.)**

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

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Emerging growth company ☐

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

**Item 1.01 Entry Into a Material Definitive Agreement.**

On November 30, 2018, DBM Global Inc. (the "Borrower" or the "Buyer"), a subsidiary of HC2 Holdings, Inc. ("HC2"), consummated several financing transactions in connection with its consummation of its previously disclosed acquisition of Gray Wolf Industrial, a premier specialty maintenance, repair and installation services provider, pursuant to that certain Agreement and Plan of Merger, dated October 10, 2018 (the "Original Merger Agreement"), as amended by Amendment No. 1 to the Agreement and Plan of Merger, dated November 29, 2018 ("Amendment No. 1" and, together with the Original Merger Agreement, the "Merger Agreement"), by and among Borrower, CB-Horn Holdings, Inc. (the "Company"), DBM Merger Sub, Inc. ("Merger Sub"), a wholly owned subsidiary of Borrower, and CharlesBank Equity Fund VI, Limited Partnership, solely in its capacity as representative for the Company's securityholders (the "Acquisition").

The Borrower issued $40,000,000 in aggregate liquidation preference of Series A Fixed-to-Floating Rate Perpetual Preferred Shares (the "DBMG Preferred Stock") to DBM Global Intermediate Holdco Inc., a wholly-owned subsidiary of HC2 ("DBM Intermediate"), pursuant to a securities purchase agreement by and between the Borrower and DBM Intermediate, dated November 30, 2018 (the "DBMG Securities Purchase Agreement"), and a certificate of designation relating to the DBMG Preferred Stock, dated November 30, 2018 (the "Certificate of Designation"). The DBMG Preferred Stock will accrue a cumulative quarterly cash or payment in kind dividend at a rate of (a) for the first five years following the date of issuance, (i) 9.00% per annum if dividends are paid in kind or (ii) 8.25% per annum if dividends are paid in cash and (b) starting on the fifth anniversary of the date of issuance, (i) a rate per annum equal to LIBOR (as defined in the Certificate of Designation) plus a spread of 5.85% (together, the "LIBOR Rate") per annum, plus 0.75% if dividends are paid in kind or (ii) the LIBOR Rate per annum in the case of dividends paid in cash. At any time and from time to time, the Borrower may redeem the then outstanding DBMG Preferred Stock, in whole or in part, at an amount per share equal to the sum of (i) $1,000 plus (ii) all accrued, accumulated and unpaid dividends thereon. The net proceeds from the issuance of the DBMG Preferred Stock were used to finance a portion of the Acquisition consideration and fees and expenses related to the Acquisition and the financing transactions.

The Borrower also entered into a financing agreement with TCW Asset Management Company LLC ("TCW"), the Borrower, certain subsidiaries of Borrower, as borrowers, certain subsidiaries of Borrower party thereto, as guarantors, and the lenders from time to time party thereto, as lenders (the "Financing Agreement), pursuant to which financing was obtained consisting of term loans in the aggregate principal amount of $80,000,000 (the "Term Loans"). The net proceeds from the Term Loans were used to refinance existing indebtedness of the Company's subsidiaries.

The Term Loans will mature on the earliest of (a) November 30, 2023, (b) the maturity date of the Working Capital Loan and (c) 60 days prior to the earliest maturity date of any of the Parent Notes (as defined in the Financing Agreement). The Term Loans will bear interest at a rate of 4.85% above the Reference Rate or 5.85% above the LIBOR Rate, at the option of the Administrative Borrower (each as defined in the Financing Agreement).

The Borrower also entered into that certain fourth amended and restated credit and security agreement (the "ABL Agreement") with Wells Fargo Bank, National Association (the "ABL Lender") and the other borrowers party thereto, providing for up to $80,000,000 in revolving loan borrowings (the "Working Capital Loan").

The Working Capital Loan will mature on the earlier of (a) March 31, 2023 and (b) the maturity date of the Term Loans. The ABL Loans will bear interest at a rate of 1.50% above the LIBOR Rate, at the option of the Borrower.

The Term Loans and the ABL Loans are required to be repaid with the net proceeds of certain asset sales, extraordinary receipts, casualty events, debt incurrence and, in the case of the Term Loans, certain equity offerings, in each case, as set forth in therein.

The Financing Agreement and the ABL Agreement include certain financial covenants, as well as certain representations, affirmative covenants and other negative covenants that are customary for credit facilities of this type.

The Financing Agreement and the ABL Agreement also include customary events of default, including payment defaults to the lenders party thereto, material inaccuracies of representations and warranties, covenant defaults, voluntary and involuntary bankruptcy proceedings, material money judgments, material ERISA events, certain change of control events and other customary events of default. The events of default are subject to certain exceptions and cure rights.

The representations and warranties contained in the Merger Agreement, the DBMG Securities Purchase Agreement, the Financing Agreement and the ABL Agreement have been negotiated with the principal purpose of establishing the circumstances in which a party may have the right not to consummate the transactions contemplated therein if the representations and warranties of the other party prove to be untrue due to a change in circumstance or otherwise, as well as to allocate risk among the parties, rather than establishing matters as facts. These representations and warranties should not be relied upon as statements of fact, and information concerning the subject matter of the representations and warranties may change after the date of the Merger Agreement, the DBMG Securities Purchase Agreement, the Financing Agreement or the ABL Agreement, which subsequent information may or may not be fully reflected in HC2's public disclosures.

This summary does not purport to be complete and is qualified in its entirety by reference to the DBMG Securities Purchase Agreement, the Certificate of Designation, the Financing Agreement and the ABL Agreement, each of which has been filed as an Exhibit hereto. The text of the DBMG Securities Purchase Agreement, Certificate of Designation, Financing Agreement and ABL Agreement are incorporated herein by reference. Interested parties should read these documents in their entirety.

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

The information set forth above in "Item 1.01 - Entry into a Material Definitive Agreement" of this Current Report is incorporated herein by reference.

**Item 7.01 Regulation FD Disclosure.**

On November 30, 2018, HC2 issued a press release announcing the closing of the Acquisition. A copy of the press release is attached hereto as Exhibit 99.1 and is incorporated herein solely for purposes of this Item 7.01 disclosure.

The information contained in Item 7.01 of this Current Report, including Exhibit 99.1, is being furnished and shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.

**Item 8.01 Other Events.**

On November 30, 2018, Buyer, a subsidiary of HC2, completed its previously announced acquisition of the Company, pursuant to the Merger Agreement. As a result of the merger of Merger Sub, with, and into, the Company (the "Merger"), with the Company surviving the Merger as contemplated by the Merger Agreement, the Company is now a wholly-owned subsidiary of the Buyer and an indirect subsidiary of HC2.

The foregoing description of the Merger Agreement does not purport to be complete and is qualified in its entirety by reference to the Merger Agreement, which has been filed as an Exhibit hereto. The text of the Merger Agreement is incorporated herein by reference. Interested parties should read these documents in their entirety.

**Item 9.01. Financial Statements and Exhibits**

(d) Exhibits.

| Exhibit Number | Description |
|---|---|
| 2.1 | Agreement and Plan of Merger, by and among DBM Global Inc., DBM Merger Sub, Inc., CB-Horn Holdings, Inc. and Charlesbank Equity Fund VI, Limited Partnership, as Stockholders' Representative, dated as of October 10, 2018* |
| 2.2 | Amendment No. 1 to Agreement and Plan of Merger, by and among DBM Global Inc., DBM Merger Sub, Inc., CB-Horn Holdings, Inc., and Charlesbank Equity Fund VI, Limited Partnership, as Stockholders' Representative, dated as of November 29, 2018* |
| 2.3 | Securities Purchase Agreement, by and between DBM Global Inc. and DBM Global Intermediate Holdco Inc., dated as of November 30, 2018* |
| 2.4 | Certificate of Designation for Series A Fixed-to-Floating Rate Perpetual Preferred Shares of DBM Global Inc., dated as of November 30, 2018 |
| 2.5 | Financing Agreement, dated as of November 30, 2018, by and among DBM Global Inc. ("DBM"), as borrower, certain direct and indirect subsidiaries of DBM as borrowers or guarantors, the lenders from time to time party thereto and TCW Asset Management Company LLC, as administrative agent for the lenders and collateral agent for the secured parties |
| 2.6 | Fourth Amended and Restated Credit and Security Agreement, dated as of November 30, 2018, by and among DBM Global Inc. and certain of its subsidiaries, collectively as borrower, and Wells Fargo Bank, National Association as lender |
| 99.1 | Press Release dated November 30, 2018, titled "HC2 Portfolio Company DBM Global Inc. Completes Acquisition of GrayWolf Industrial." |

* Certain schedules to this exhibit have been omitted pursuant to Item 601(b)(2) of Regulation S-K. HC2 agrees to furnish supplementary copies of any of the omitted schedules to the Securities and Exchange Commission upon request.

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Current Report contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 and other securities laws. The forward-looking statements involve risks and uncertainties. Actual results may differ materially from expectations discussed in such forward-looking statements. Although HC2 believes that its forward-looking statements are based on reasonable assumptions, expected results may not be achieved, and actual results may differ materially from its expectations. HC2's

forward-looking statements should not be relied upon except as statements of HC2's present intentions and of HC2's present expectations, which may or may not occur. Cautionary statements should be read as being applicable to all forward-looking statements wherever they appear. Readers are also urged to carefully review and consider the various disclosures HC2 has made in this Current Report, as well as HC2's other filings with the Securities and Exchange Commission (the "SEC"). In particular, see HC2's Annual Report on Form 10-K, filed with the SEC on March 14, 2018 (and amendment thereto filed with the SEC on April 2, 2018), and Quarterly Report on Form 10-Q, filed with the SEC on November 6, 2018, copies of which are available upon request from HC2. HC2 does not assume any obligation to update the forward-looking information contained in this Current Report, except as required by law.

**SIGNATURES**

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

Date: December 4, 2018

**HC2 Holdings, Inc.**
(Registrant)

By: /s/ Michael J. Sena
Name: Michael J. Sena
Title: Chief Financial Officer

Exhibit 2.1

*Execution Copy*

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AGREEMENT AND PLAN OF MERGER

BY AND AMONG

DBM GLOBAL INC.,

DBM MERGER SUB, INC.,

CB-HORN HOLDINGS, INC.,

AND

CHARLESBANK EQUITY FUND VI, LIMITED PARTNERSHIP,
AS STOCKHOLDERS' REPRESENTATIVE

Dated as of October 10, 2018

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ANNEXES

AGREEMENT AND PLAN OF MERGER (this "*Agreement*"), dated as of October 10, 2018, by and among DBM Global Inc., a Delaware corporation ("*Buyer*"), DBM Merger Sub, Inc., a Delaware corporation, and a wholly owned subsidiary of Buyer ("*Merger Sub*"), CB-Horn Holdings, Inc., a Delaware corporation (the "*Company*"), and Charlesbank Equity Fund VI, Limited Partnership, a Massachusetts limited partnership, solely in its capacity as representative for the Company's securityholders (the "*Stockholders' Representative*").

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## INTRODUCTION

The respective Boards of Directors of each of Buyer, Merger Sub and the Company have (i) approved, and declared advisable and in the best interests of Buyer, Merger Sub and the Company and their respective stockholders the merger of Merger Sub with and into the Company, with the Company continuing as the surviving entity (the "*Merger*") in accordance with the provisions of the Delaware General Corporation Law, as amended (the "*DGCL*"), upon the terms and subject to the conditions of this Agreement, and (ii) approved this Agreement.

In order to induce Buyer and Merger Sub to enter into this Agreement, simultaneously with the execution of this Agreement the Significant Stockholders (as defined below) have each executed and delivered to Buyer a Support Agreement (as defined below).

In order to induce the Company and the Stockholders' Representative to enter into this Agreement, simultaneously with the execution of this Agreement, HC2 Holdings, Inc. (the "*Guarantor*") is entering into a limited guaranty in favor of the Company, pursuant to which the Guarantor is guaranteeing certain obligations of Buyer and Merger Sub in connection with this Agreement.

It is the intent of the parties hereto that the Repaid Closing Indebtedness (as defined below) will be paid on the Closing Date (as defined below) immediately following, and not before, the consummation of the Merger.

Certain capitalized terms have the meanings set forth in Section 1.1.

In consideration of the mutual representations, warranties, covenants and other agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

DEFINED TERMS; INTERPRETATION

SECTION 1.1 Defined Terms. As used in this Agreement, the terms set forth below shall have the following meanings:

"*280G Approval*" has the meaning specified in Section 6.7.

"*Acquisition Transaction*" has the meaning specified in Section 6.13.

"*Adjusted Closing Indebtedness*" has the meaning specified in Section 3.3(a).

"*Adjustment Amount*" has the meaning specified in Section 3.3(d).

"*Adjustment Fund*" has the meaning specified in Section 3.8(b).

"*Adjustment Release Amount*" has the meaning specified in Section 3.8(b).

"*Affiliate*" of a Person means any other Person who directly or indirectly through one or more intermediaries Controls, is Controlled by or is under common Control with such Person.

"*Agents' Fees*" has the meaning specified in Section 6.10.

"*Aggregate Change of Control Bonus Distribution*" means the aggregate payments to which the Change of Control Bonus Recipients are entitled pursuant to the Change of Control Bonus Agreements.

"*Aggregate Merger Consideration*" means the Enterprise Value, *plus* (i) the sum of (A) if the Estimated Net Working Capital is greater than the Target Net Working Capital, the amount of the difference thereof, (B) the Estimated Cash and (C) the Estimated Severance Amount; *minus* (ii) the sum of (T) the NewCo LLC Amount (U) the Closing Aggregate Change of Control Bonus Distribution, (V) if the Estimated Net Working Capital is less than the Target Net Working Capital, the absolute amount of the difference thereof, (W) the Estimated Closing Indebtedness, (X) the Estimated Transaction Expenses, (Y) the Escrow Amount, and (Z) the Stockholders' Expense Amount. Following the (x) determination of the Adjustment Amount pursuant to Section 3.3, (y) payment in respect of any Tax refunds pursuant to Section 7.3 or (z) release of any portion of the Escrow Amount pursuant to Section 3.8, Article IX or the Escrow Agreement, or other payment in respect of indemnification pursuant to Article IX, or release of any portion of the Stockholders' Expense Amount pursuant to Section 3.9, the Aggregate Merger Consideration shall reflect such finally determined amounts, payments or releases.

"*Agreement*" has the meaning specified in the Preamble.

"*Assessment*" has meaning specific in Section 9.10(a).

"*Business Day*" means a day other than Saturday or Sunday or a day on which banks are required or authorized to close in the State of New York.

"*Buyer*" has the meaning specified in the Preamble.

"*Buyer Indemnified Party*" has the meaning specified in Section 9.1.

"*Buyer Material Adverse Effect*" means a material adverse effect on the ability of Buyer or Merger Sub to consummate the transactions contemplated hereby in accordance with the terms hereof.

"*Buyer Parties*" has the meaning specified in Section 11.5(b).

"*Capital Structure Certificate*" means a certificate executed by an officer of the Company setting forth (i) the amount of Aggregate Merger Consideration to be paid at Closing determined on the basis of the estimated amounts provided pursuant to Section 3.2; (ii) the ownership by class of Common Shares, Preferred Shares and Company Options that are outstanding immediately prior to the Effective Time; and (iii) with respect each Preferred Stockholder, (A) the name and address of such holder, (B) the number of shares of Preferred Stock held by such Preferred Stockholder and the respective certificate numbers, (C) the portion of the Aggregate Merger Consideration such Preferred Stockholder is entitled to receive pursuant Section 3.1(c)(i) without taking into account any adjustments made pursuant to Section 3.3 or releases made pursuant to Section 3.8 or Section 3.9 (on a certificate-by-certificate basis and in the aggregate), and (D) if applicable, the Pro Rata Portion of such Preferred Stockholder.

"*Cash*" shall mean the consolidated cash and cash equivalents of the Company and its Subsidiaries computed as of the applicable date and in accordance with the Company Accounting Policies, other than (a) cash or cash equivalents held outside the United States that would be subject to taxation or limitation in the event such cash or cash equivalents are transferred into the United States and (b) cash or cash equivalents restricted from use except for a contractually specified purpose or used as collateral for, or otherwise to provide credit support for, any liabilities of any Person under any letter of credit or other similar agreement or instrument.

"*Certificate of Merger*" has the meaning specified in Section 2.2.

"*Certificates*" has the meaning specified in Section 3.5(a).

"*Change of Control Bonus Agreement*" means a change of control bonus agreement under the Change of Control Bonus Plan listed on Section 1.1(a) of the Disclosure Schedule.

"*Change of Control Bonus Plan*" means the CB-Horn Holdings, Inc. Change of Control Bonus Plan, effective as of May 21, 2015, as amended.

"*Change of Control Bonus Recipient*" means each individual who is party to a Change of Control Bonus Agreement, all of whom are listed on Section 1.1(a) of the Disclosure Schedule.

"*Charlesbank*" means Charlesbank Capital Partners, LLC and its affiliated funds and investment vehicles.

"*Closing*" has the meaning specified in Section 2.2.

"*Closing Aggregate Change of Control Bonus Distribution*" means an amount equal to the Aggregate Change of Control Bonus Distribution reduced by those portions of the Adjustment Fund, Indemnification Fund and Stockholders' Expense Amount attributable to Change of Control Bonus Recipients, as set forth on the Change of Control Bonus Annex.

"*Closing Cash*" has the meaning specified in Section 3.3(a).

"*Closing Date*" has the meaning specified in Section 2.2.

"*Closing Indebtedness*" means the sum of all outstanding Indebtedness, in each case as such amounts are outstanding as of the Closing Date, *plus* (i) any premium, fee or penalty paid or payable in connection with the repayment of the Indebtedness incurred and unpaid at or before the Closing and relate to that portion, if any, of the Indebtedness that is repaid at the Closing (the amounts described in this clause (i), collectively, the "*Defeasance Costs*"), and (ii) all fees, costs and expenses incurred by the Company or any of its Subsidiaries in connection with the repayment of the Indebtedness incurred and unpaid at or before the Closing and relate to that portion, if any, of the Indebtedness that is repaid at the Closing, including any fees and expenses of Persons providing services to the Company or any of its Subsidiaries in respect of such repayment, including the Company's legal counsel, and fees, costs and expenses of the administrative agent and lenders and their legal counsel that the Company or any of its Subsidiaries is obligated to pay or reimburse pursuant to the terms of the agreements providing for such repayment (the amounts described in this clause (ii), collectively, the "*Debt Repayment Expenses*"). Notwithstanding the foregoing, "Closing Indebtedness" excludes (X) any Transaction Expenses, (Y) any intercompany obligations between or among the Company or any of its Subsidiaries and (Z) any Current Liabilities included in Net Working Capital.

"*Closing Indebtedness Annex*" has the meaning specified in Section 3.7(a).

"*Closing Net Working Capital*" has the meaning specified in Section 3.3(a).

"*Closing Statement*" has the meaning specified in Section 3.3(a).

"*Closing Transaction Expenses*" has the meaning specified in Section 3.3(a).

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

"*Commitment Letter*" has the meaning specified in Section 5.6.

"*Commitment Parties*" has the meaning specified in Section 5.6.

"*Common Share*" means shares of Common Stock.

"*Common Stock*" means that class of shares designated as "Common Stock", par value $0.01 per share, of the Company and having the rights, obligations, and restrictions associated therewith provided in the Company Charter, including shares of Restricted Stock.

"*Common Stockholder*" means any holder of record of Common Shares immediately prior to the Effective Time.

"*Company*" has the meaning specified in the Preamble.

"*Company Accounting Policies*" means the accounting principles, practices, policies, procedures, classifications, estimation techniques, judgments and methodologies set forth on Annex 1 hereto.

"*Company Charter*" means the Certificate of Incorporation of the Company, effective as of April 26, 2007, as amended and restated and further amended.

"*Company Equity Plan*" means the Amended and Restated CB-Horn Holdings, Inc. Management Incentive Plan, as adopted and approved by the Board of Directors of the Company on September 10, 2013.

"*Company Financial Statements*" has the meaning specified in Section 4.5(a).

"*Company Indemnified Parties*" has the meaning specified in Section 6.6(a).

"*Company Material Adverse Effect*" means any event, circumstance, development, change or effect that has, or would reasonably be expected to have, individually or in the aggregate with all other events, circumstances, developments, changes and effects, (a) a material adverse effect on the business, condition (financial or otherwise), assets, liabilities or results of operations of the Company and its Subsidiaries, taken as a whole, other than (i) any change, circumstance, event or effect resulting from any of the following: (A) the negotiation, execution, announcement or performance of this Agreement or any Transaction Agreement, including the impact thereof on relationships, contractual or otherwise, with customers, suppliers, licensors, distributors, partners, providers or employees, (B) changes in general economic, business or political conditions or the securities, credit or financial markets in general, (C) general changes or developments in the industries in which the Company and its Subsidiaries operate, including general changes in Laws, policies, mandates, guidelines or other requirements of any Governmental Entity across such industries, (D) any acts of terrorism or war, armed hostilities, natural disasters or other similar events, (E) changes in GAAP or the interpretation thereof, or (F) any violation or breach by Buyer of any representation, warranty, covenant or agreement contained in this Agreement that delays the consummation of the Closing, except, in the case of the foregoing clauses (B), (C), or (D), to the extent such changes or developments referred to therein would reasonably be expected to have a disproportionate impact on the Company and its Subsidiaries, taken as a whole, relative to other Persons operating in the industry sector or sectors in which the Company or its Subsidiaries operate, or (ii) any failure to meet internal or published projections, forecasts or revenue or earning predictions for any period (*provided* that the underlying causes of such failure may be considered in determining whether there is a Company Material Adverse Effect); or (b) prevents or delays, or would be reasonably expected to prevent or delay, consummation of the transactions contemplated

by this Agreement or the performance by the Company of any of its material obligations under this Agreement.

"*Company Option*" means the issued and outstanding options to purchase capital stock of the Company pursuant to the terms of the Company Equity Plan.

"*Confidentiality Agreement*" means the Confidentiality Agreement, dated as of January 10, 2018, between the Stockholders' Representative and HC2 Holdings, Inc.

"*Control*" means the direct or indirect possession of the power to (i) direct or cause the direction of the management and policies of such Person and/or (ii) elect at least a majority of the Board of Directors or other governing body of a Person through the ownership of voting securities, ownership or partnership interests, by contract or otherwise or, if no such governing body exists, the direct or indirect ownership of 50% or more of the equity interests of a Person.

"*Credit Agreements*" mean, collectively, (a) the $90,000,000 term loan Credit Agreement, dated as of October 2, 2013, among GrayWolf Industrial, Inc. (f/k/a Horn Intermediate Holdings, Inc.), as borrower, the financial institutions from time to time party thereto as lenders, and Wilmington Trust, National Association, as administrative and collateral agent for the lenders, as amended; and (b) the $25,000,000 Revolving Credit Agreement, dated as of October 2, 2013, among GrayWolf Industrial, Inc. (f/k/a Horn Intermediate Holdings, Inc.), as borrower, the financial institutions from time to time party thereto as lenders, and PNC Bank, National Association, as administrative and collateral agent for the lenders, as amended.

"*Current Assets*" shall mean the total consolidated current assets of the Company and its Subsidiaries, as should be reflected as current assets on a consolidated balance sheet of the Company determined in accordance with the Company Accounting Policies.

"*Current Liabilities*" shall mean the total consolidated current liabilities of the Company and its Subsidiaries, as should be reflected as current liabilities on a consolidated balance sheet of the Company determined in accordance with the Company Accounting Policies.

"*Debt Repayment Expenses*" has the meaning specified in the definition of Closing Indebtedness in Section 1.1.

"*Deductible*" has the meaning specified in Section 9.4(a)(i).

"*Defeasance Costs*" has the meaning specified in the definition of Closing Indebtedness in Section 1.1.

"*Determination Date*" has the meaning specified in Section 3.3(c)(iii).

"*DGCL*" has the meaning specified in the Recitals.

"*Disclosure Schedule*" has the meaning specified in the first paragraph of Article IV.

"*Disputed Amounts*" has the meaning specified in Section 3.3(c).

"*Dissenting Shares*" has the meaning specified in Section 3.4.

"*Divested Assets*" has the meaning specified in Section 6.18.

"*Divestiture*" has the meaning specified in Section 6.18.

"*Effective Time*" has the meaning specified in Section 2.2.

"*Enterprise Value*" means an amount equal to $135,000,000.

"*Environment*" means soil, surface waters, groundwater, land, stream sediments, surface or subsurface strata, ambient air, natural resources and as otherwise defined under Environmental Laws.

"*Environmental Claim*" means any written third-party claim against the Company or its Subsidiaries alleging liability of whatever kind or nature (including liability or responsibility for the costs of enforcement proceedings, investigations, corrective action, cleanup, governmental response, removal or remediation, natural resources damages, property damages, personal injuries, medical monitoring, penalties, contribution, indemnification and injunctive relief but not the costs of suit or attorney's fees) arising out of, based on or resulting from: (a) a Release at, on, under or migrating to or from any Real Property or arising from the operation of the business of the Company and its Subsidiaries; or (b) any actual or alleged non-compliance with any Environmental Laws with respect to the operation of the Company or its Subsidiaries or use of their respective assets or Real Property.

"*Environmental Laws*" means all applicable Laws relating to (a) pollution or protection of the Environment, or human health and safety solely as it relates to exposure to Hazardous Substances or (b) the generation, use, storage, handling, treatment, disposal, transportation, Release or threatened Release, including removal and remediation, of Hazardous Substances.

"*ERISA*" means the Employee Retirement Income Security Act of 1974, as amended, and all Laws promulgated pursuant thereto or in connection therewith.

"*ERISA Affiliate*" means, with respect to any Person, (i) a member of any "controlled group" (as defined in Section 414(b) of the Code) of which that Person is also a member, (ii) a trade or business, whether or not incorporated, under common control (within the meaning of Section 414(c) of the Code) with that Person or (iii) a member of any affiliated service group (within the meaning of Section 414(m) of the Code) of which that Person is also a member.

"*Escrow Agent*" has the meaning specified in Section 3.8(a).

"*Escrow Agreement*" has the meaning specified in Section 3.8(a).

"*Escrow Amount*" means an amount equal to $6,175,000.

"*Escrow Fund*" has the meaning specified in Section 3.8.

"*Estimated Cash*" has the meaning specified in Section 3.2.

"*Estimated Closing Indebtedness*" has the meaning specified in Section 3.2.

"*Estimated Net Working Capital*" has the meaning specified in Section 3.2.

"*Estimated Transaction Expenses*" has the meaning specified in Section 3.2.

"*Estimated Severance Amount*" has the meaning specified in Section 3.2

"*Financing*" has the meaning specified in Section 5.6.

"*Financing Sources*" means the collective reference to each lender, agent, underwriter, commitment party (including the Commitment Party) and arranger of any Financing (including, without limitation, any commitment letters, engagement letters, credit agreements, loan agreements or indentures relating thereto (and any joinders or amendments thereof)), together with their respective former, current and future Affiliates, officers, directors, employees, members, managers, partners, controlling persons, advisors, attorneys, agents and representatives and their heirs, executors, successors and assigns.

"*Fundamental Representations*" means those representations and warranties contained in Section 4.1 (Organization, Standing and Power), Section 4.2 (Authority; Approvals), Section 4.3 (Capitalization; Equity Interests), Section 4.13 (Tax Matters), and Section 4.16 (Brokers).

"*GAAP*" means United States generally accepted accounting principles, consistently applied.

"*Governmental Entity*" means any United States or other national, state, municipal or local government, domestic or foreign, any subdivision, agency, entity, commission or authority thereof, or any quasi-governmental or private body exercising any regulatory, taxing, importing or other governmental or quasi-governmental authority.

"*Hazardous Substance*" means any substance, material or waste, whether solid, gaseous or liquid, that (a) is listed, regulated, defined, classified, or otherwise characterized under or pursuant to any Environmental Law as a "pollutant," "toxic substance," "hazardous waste," "hazardous material," "hazardous substance," "contaminant", or words of similar meaning or effect or (b) may pose a present or potential hazard to human health or the Environment when improperly handled, released, disposed of, treated, stored, transported, or otherwise managed; and shall include petroleum or petroleum-containing product or by-products, friable asbestos, and polychlorinated biphenyls.

"*Indebtedness*" means all principal, accrued and unpaid interest and other amounts owing by the Company or its Subsidiaries with respect to (i) the Credit Agreements, (ii) leases treated as capital leases in accordance with GAAP, (iii) all other indebtedness for borrowed money of the Company and its Subsidiaries, (iv) any indebtedness evidenced by a note, bond, debenture or other similar instrument, (v) any indebtedness created or arising under any conditional sale or

other title retention agreement, (vi) earnouts or other similar deferred purchase price payment obligations and (vii) to the extent not otherwise included, any obligation to be liable for, or to pay, as obligor, guarantor, surety or otherwise, on the obligations of a third Person of the type referred to in clauses (i) through (vi) above. For the avoidance of doubt and notwithstanding the foregoing, undrawn obligations under surety bonds, performance bonds and similar bonds incurred in the business of the Company and its Subsidiaries shall not constitute Indebtedness.

"*Indemnification Fund*" has the meaning specified in Section 3.8(b).

"*Indemnified Party*" has the meaning specified in Section 9.3.

"*Indemnifying Party*" has the meaning specified in Section 9.3.

"*Indemnity Termination Date*" has the meaning specified in Section 9.5.

"*Independent Accountant*" has the meaning specified in Section 3.3(c)(ii).

"*Intellectual Property*" means all of the following in any jurisdiction throughout the world: (i) patents, patent applications and patent disclosures, (ii) trademarks, service marks, trade dress, trade names, corporate names, logos and slogans and Internet domain names, together with all goodwill associated with each of the foregoing, (iii) copyrights and copyrightable works, (iv) registrations and applications for any of the foregoing, (v) trade secrets, confidential information, know-how and inventions, (vi) computer software (including, without limitation, source code, executable code, data, databases and related documentation) and (vii) all other intellectual property.

"*Intentional Fraud*" means a claim for Delaware common law fraud or a federal law fraud claim with a specific intent to deceive based on a representation in this Agreement. For the avoidance of doubt, "Intentional Fraud" does not include any claim for equitable fraud, promissory fraud, unfair dealings fraud, or any torts based on negligence or recklessness.

"*knowledge of the Company*" or "*to the Company's knowledge*" or similar words means, following reasonable inquiry of their direct reports, the actual knowledge of the individuals listed in Section 1.1(b) of the Disclosure Schedule.

"*Laws*" means all foreign, federal, state and local statutes, laws, ordinances, regulations, codes, rules, resolutions, orders, determinations, writs, injunctions, awards (including, without limitation, awards of any arbitrator), judgments, decrees, government restrictions or guidelines having the force of law, or any interpretations thereof by any judicial authority.

"*Lead Arranger*" means the "lead arranger" party under the Commitment Letter (Jefferies Finance LLC), or the "lead arranger" party under any other replacement financing permitted under Section 6.15(c), as applicable.

"*Leased Real Property*" has the meaning specified in Section 4.7(a).

"*Leases*" has the meaning specified in Section 4.7(b).

"*Letter of Transmittal*" means (i) the letter of transmittal (which shall specify that delivery shall be effected, and risk of loss and title to Certificates shall pass, only upon proper delivery by a Stockholder, as the case may be, of his, her or its Certificates in accordance with the instructions thereto), together with (ii) the instructions thereto for use in effecting the surrender of the Certificates in exchange for the consideration contemplated to be paid pursuant to this Agreement, if any, each in form and substance reasonably acceptable to Buyer, the Company and the Stockholders' Representative.

"*Liens*" means, with respect to any property or other assets of any Person, any mortgage, pledge, lien, charge, claims, security interest, preemptive right, deed of trust, lease, right of first refusal, easement, proxy, voting trust or agreement, transfer restriction, assessment, covenant, burden or encumbrance of any kind, including restrictions on voting or use.

"*Loss*" has the meaning specified in Section 9.1.

"*Material Contract*" has the meaning specified in Section 4.8(b).

"*Merger*" has the meaning specified in the Recitals.

"*Merger Sub*" has the meaning specified in the Preamble.

"*Most Recent Balance Sheet Date*" has the meaning specified in Section 4.5(a).

"*Multiemployer Plan*" means a plan described in Section 3(37) or 4001(a)(3) of ERISA.

"*Net Working Capital*" means, with respect to a particular date, (i) Current Assets as of such date, *minus* (ii) the Current Liabilities as of such date, in each case as determined using the Company Accounting Policies.

"*NewCo LLC*" has the meaning specified in Section 6.18.

"*NewCo LLC Amount*" means $100,000.

"*Nonparty Affiliates*" has the meaning specified in Section 9.4(g).

"*Notice of Objection*" has the meaning specified in Section 3.3(c)(i).

"*Option Holder*" means a Person holding a Company Option.

"*Owned Real Property*" has the meaning specified in Section 4.7(a).

"*Paying Agent*" means Citibank, N.A., or such other financial institution that is reasonably acceptable to Buyer and the Stockholders' Representative and which has been appointed to act as agent for the Stockholders in connection with the Merger and to receive the funds to which such holders shall become entitled pursuant to this Agreement.

"*Per Preferred Share Merger Consideration*" means the quotient obtained by dividing (i) the Aggregate Merger Consideration by (ii) the total number of issued and outstanding shares of Preferred Stock outstanding immediately prior to the Effective Time.

"*Permitted Liens*" means, with respect to the property or other assets of any Person (or any revenues, income or profits of that Person therefrom): (i) Liens for Taxes, assessments and other governmental levies, fees or charges not yet delinquent or which the taxpayer is contesting in good faith and for which adequate reserves have been established in accordance with GAAP; (ii) cashiers', landlords', mechanics', materialmens', carriers', workmens', repairmens', contractors' and warehousemens' Liens and similar Liens incurred in the ordinary course of business for amounts which are not delinquent or which are being contested in good faith by appropriate proceedings; (iii) zoning, building codes and other land use Laws regulating the use or occupancy of any Owned Real Property or Leased Real Property or the activities conducted thereon which are imposed by any Governmental Entity having jurisdiction over such Owned Real Property or Leased Real Property; (iv) purchase money Liens securing payments under capital or equipment lease arrangements; (v) easements, covenants, conditions, rights-of-way, restrictions and other similar charges and encumbrances of record and other encroachments and title and survey defects, none of which interfere materially with the ordinary conduct of the business of the Company and its Subsidiaries, taken as a whole; (vi) Liens identified on title policies or preliminary title reports or other documents or writings included in the public records (other than those securing Indebtedness); (vii) Liens that affect the underlying fee interest of a Leased Real Property; (viii) Liens supporting surety bonds, performance bonds and similar obligations issued in connection with the business of the Company and its Subsidiaries; (ix) grants to others of rights-of-way, leases or crossing rights and amendments, modifications, and releases of rights-of-way, leases or crossing rights in the ordinary course of business consistent with past practice; and (x) non-exclusive licenses of Intellectual Property rights granted in the ordinary course of business.

"*Person*" means any individual, corporation, partnership, limited partnership, limited liability company, trust, association or entity or Governmental Entity.

"*Plan*" has the meaning specified in Section 4.14(d).

"*Post-Closing Tax Period*" means any Tax period (or portion thereof) beginning after the Closing Date.

"*Pre-Closing Tax Period*" means any Tax period (or portion thereof) ending on or prior to the Closing Date.

"*Pre-Closing Taxes*" mean, without duplication, any liability for Taxes of the Company or any of its Subsidiaries (i) for all Pre-Closing Tax Periods, (ii) that are attributable to any item of income taken into account, or any item of deduction excluded from, taxable income for any Post-Closing Tax Period as a result of any item listed in Section 4.13(f) or (iii) attributable to, or as a result of, collecting any amounts on the SNC Receivables; provided, however, that (x) in each case for clauses (ii) and (iii), to the extent that such liability for Taxes in respect of a Post-Closing Tax Period exceeds the amount of any available net operating loss carryforwards from a Pre-Closing Tax Period actually used by the Buyer to offset such liability for Taxes, (y) in each case

for clauses (i), (ii) and (iii), the liability for such Taxes is in excess of the amount of the liability for such Taxes reflected in the calculation of Closing Net Working Capital, and (z) in each case for clauses (i), (ii) and (iii), the liability for such Taxes is not the result of any direct action taken after the Closing and outside of the ordinary course of business by the Buyer or its Affiliates (including the Company or any of its Subsidiaries), unless such action is otherwise required by Law.

"*Preferred Shares*" means shares of Preferred Stock.

"*Preferred Stock*" means a share of that class of shares designated as "Series A Preferred Stock", par value $0.01 per share, of the Company and having the rights, obligations, and restrictions associated therewith provided in the Company Charter.

"*Preferred Stockholder*" means any holder of record of Preferred Shares immediately prior to the Effective Time.

"*Principal Stockholder*" means Charlesbank Equity Fund VI, Limited Partnership.

"*Privileged Communications*" has the meaning specified in Section 12.12.

"*Pro Rata Portion*" means, with respect to each Stockholder, a fraction (expressed as a percentage) the numerator of which is the portion of the Aggregate Merger Consideration actually paid or payable to such Stockholder pursuant to this Agreement and the dominator of which is the Aggregate Merger Consideration actually paid or payable to all Stockholders pursuant to this Agreement.

"*Products*" means products or services currently researched, designed, developed, manufactured, performed, licensed, sold, distributed or otherwise made commercially available by the Company or any of its Subsidiaries.

"*R&W Insurance Policy*" means a representation and warranty insurance policy containing the terms set forth in the binder agreement contemplated by Section 6.20, a copy of which has been provided by Buyer to the Company.

"*Real Property*" has the meaning specified in Section 4.7(a).

"*Release*" means any releasing, disposing, discharging, injecting, spilling, leaking, pumping, dumping, emitting, escaping or emptying of any Hazardous Substance into the Environment.

"*Repaid Closing Indebtedness*" has the meaning specified in Section 6.14.

"*Representatives*" means, with respect to any Person, such Person's directors, managers, partners, officers, employees, agents, consultants, advisors and representatives (including legal counsel and independent accountants).

"*Requisite Stockholder Approval*" has the meaning specified in Section 4.2(c).

"*Restricted Stock*" means any outstanding award of restricted Common Stock with respect to which the restrictions have not lapsed at or prior to the Effective Time, and which award shall not have previously expired or been terminated, to a current or former employee, director or independent contractor of the Company or any of the Company's Subsidiaries or any predecessor thereof or any other Person pursuant to any restricted stock agreement, subscription agreement or any other contract or agreement entered into by the Company or any of the Company's Subsidiaries.

"*Schedules*" has the meaning specified in the first paragraph of Article IV.

"*Securities Act*" means the Securities Act of 1933, as amended, and all Laws promulgated pursuant thereto or in connection therewith.

"*Seller Group*" has the meaning specified in Section 12.12.

"*Seller Indemnified Parties*" has the meaning specified in Section 9.2.

"*Severance Amount*" means amounts to be paid by the Company in connection with the terminations contemplated by Section 6.22, calculated in the manner set forth in Section 1.1(c) of the Disclosure Schedule.

"*Significant Stockholders*" means each of the Stockholders set forth on Section 1.1(d) of the Disclosure Schedule.

"*SNC Receivables*" has the meaning specified in Section 6.19.

"*Specified Prohibitions*" means the direct or indirect causation or permission by the Company of any state of affairs, action or omission described in clauses (d), (e), or (o) of Section 4.6.

"*Specified Plan*" means that certain Multiemployer Plan identified as the "Specified Plan" in Section 4.14(g) of the Disclosure Schedule.

"*Specified Withdrawal Fund*" has the meaning specified in Section 9.1(h).

"*Specified Withdrawal Losses*" has the meaning specified in Section 9.1(h).

"*Stockholder Notice*" has the meaning specified in Section 6.3.

"*Stockholder Written Consent*" means an action by written consent of the Common Stockholders in lieu of a meeting to adopt this Agreement and approve the Merger pursuant to the DGCL in the form attached hereto as Exhibit D.

"*Stockholders*" mean, collectively, the Common Stockholders and the Preferred Stockholders.

"*Stockholders' Expense Amount*" means $500,000.

"*Stockholders' Representative*" has the meaning specified in the Preamble.

"*Straddle Tax Period*" means any Tax period that includes (but does not end on) the Closing Date.

"*Subsidiary*" of any Person means another Person under the Control of such Person.

"*Support Agreements*" means those certain Support Agreements executed and delivered to Buyer on the date hereof by the Significant Stockholders, pursuant to which each such Stockholder has agreed to, among other things, (i) a release of claims such Stockholder may have against the Company, Buyer, Merger Sub and their Affiliates and (ii) certain restrictions on the solicitation of employees of the Company and its Subsidiaries, in each case in accordance with the terms therein.

"*Surviving Company*" has the meaning specified in Section 2.1.

"*Target Net Working Capital*" means an amount equal to $38,266,000.

"*Tax*" means any federal, state, local or foreign net income, gross income, gross receipts, windfall profit, severance, property, production, sales, use, license, franchise, employment, payroll, withholding, alternative or add-on minimum, ad valorem, goods and services, transfer, or environmental tax, or any other tax, custom, duty, governmental fee or other like assessment or charge, together with any interest or penalty, imposed by any Tax Authority.

"*Tax Authority*" means any Governmental Entity responsible for the administration or collection of Taxes.

"*Tax Benefit*" has the meaning specified in Section 9.4(b).

"*Tax Claim*" has the meaning specified in Section 7.4.

"*Tax Proceeding*" has the meaning specified in Section 7.4.

"*Tax Return*" means any return, declaration, report, estimate, information return or other document (including any documents, statements or schedules attached thereto and amendment thereof) required to be filed with any federal, state, local or foreign Tax Authority with respect to Taxes.

"*Termination Date*" has the meaning specified in Section 11.2.

"*Termination Fee*" has the meaning specified in Section 11.5(b).

"*Third Party Claim*" has the meaning specified in Section 9.3.

"*Top Customer*" has the meaning specified in Section 4.18(a).

"*Top Supplier*" has the meaning specified in Section 4.18(b).

"*Transaction Agreements*" means the Confidentiality Agreement, the Escrow Agreement, the Support Agreements, the Transition Services Agreement, the Change of Control

Bonus Recipient Letters, the waivers contemplated by Section 6.7 and all other agreements and instruments entered into by the Company, the Change of Control Bonus Recipients or any of the Stockholders in connection with the transactions contemplated herein.

"*Transaction Expenses*" means the fees, expenses, charges and other payments (including all sale bonuses, change in control payments, incentive equity or similar payments) incurred or otherwise payable by the Company or any of its Subsidiaries in connection with the consummation of the Merger, including as identified on the Transaction Expenses Annex, in each case, to the extent that such fees, expenses, charges and other payments are in respect of obligations in place prior to the Closing and unpaid prior to the Closing. Notwithstanding the foregoing, "Transaction Expenses" shall exclude any (i) Closing Indebtedness, (ii) Agents' Fees, (iii) intercompany obligations between or among the Company or any of its Subsidiaries, (iv) Current Liabilities included in Net Working Capital, and (v) the Aggregate Change of Control Bonus Distribution.

"*Transaction Expenses Annex*" has the meaning specified in Section 3.7(b).

"*Transfer Taxes*" means all sales, use, real property transfer, real property gains, transfer, stamp, registration, documentary, value-added, goods and services, recording or similar Taxes, together with any interest thereon, penalties, fines, costs, fees or additions to Tax.

"*Transition Services Agreement*" means that certain Transition Services Agreement on the terms set forth on the term sheet attached hereto as Exhibit F, pursuant to which, following the Closing, the Company (or a Subsidiary of the Company) shall provide certain services to NewCo LLC with respect to the storage, maintenance, management, monetization and disposition of the Divested Assets.

"*Waived 280G Benefits*" has the meaning specified in Section 6.7.

"*Warranty*" has the meaning specified in Section 4.19(a).

"*Willful and Material Breach*" means a material breach that is a consequence of either (a) an act knowingly undertaken or a knowing failure to act by the breaching party with the intent of causing a breach of this Agreement or (b) an act knowingly undertaken or a knowing failure to act by the breaching party that was reasonably likely to result in a breach of this Agreement (even if a breach of this Agreement was not the conscious object of such act) and which in fact does cause a breach of this Agreement.

SECTION 1.2 Interpretation. For purposes of this Agreement: (i) the table of contents and headings contained in this Agreement are for reference purposes only and shall in no way modify or restrict any of the terms or provisions hereof, (ii) except as expressly provided herein, the terms "include," "includes" or "including" are not limiting and "or" and "either" are not exclusive, (iii) the words "hereof" and "herein" and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole and not to any particular provision of this Agreement, (iv) article, section, paragraph, exhibit, annex and schedule references are to the articles, sections, paragraphs, exhibits, annexes and schedules of this Agreement unless otherwise specified, (v) the meaning assigned to each term defined herein shall be equally applicable to both the singular

and the plural forms of such term, and words denoting any gender shall include all genders, (vi) a reference to any party to this Agreement or any other agreement or document shall include such party's successors and permitted assigns, (vii) a reference to any Laws or other legislation or to any provision of any Law or legislation shall include any amendment to, and any modification or re-enactment thereof, any provision substituted therefor and all regulations and statutory instruments issued thereunder or pursuant thereto, (viii) all references to "$" or "dollars" shall be deemed references to United States dollars, (ix) the word "or" has the inclusive meaning represented by the phrase "and/or" and (x) capitalized terms used and not defined in the exhibits, annexes and schedules attached to this Agreement shall have the respective meanings set forth in this Agreement.

## ARTICLE II

## THE MERGER

SECTION 2.1 The Merger. At the Effective Time, upon the terms and subject to the conditions of this Agreement and in accordance with the DGCL, (i) Merger Sub shall be merged with and into the Company, (ii) the separate corporate existence of Merger Sub shall cease, and (iii) the Company shall be the surviving entity (the "*Surviving Company*") and shall continue its legal existence under the DGCL.

SECTION 2.2 Effective Time; Closing Date. Upon the terms and subject to the conditions of this Agreement, the Company and Merger Sub shall cause the Merger to be consummated by filing a certificate of merger in the form attached hereto as Exhibit E (the "*Certificate of Merger*") with the Secretary of State of the State of Delaware and all other filings or recordings required by the DGCL in connection with the Merger. The Merger shall become effective at such time as the Certificate of Merger is duly filed in accordance with the relevant provisions of the DGCL, or at such later time as the Company and Buyer shall agree and specify in the Certificate of Merger (the "*Effective Time*"). The closing of the Merger (the "*Closing*") shall take place (a) at the offices of Covington & Burling LLP, The New York Times Building, 620 Eighth Avenue, New York, New York 10018, on the later to occur of (i) two (2) Business Days after the date on which the last of the conditions set forth in Article VIII shall have been satisfied or waived (other than any such conditions that by their nature cannot be satisfied until the Closing, which shall be satisfied or (to the extent permitted by applicable Law) waived at the Closing) or (ii) thirty (30) days after the date of this Agreement; *provided* that, with respect to clause (ii) above, if on such thirtieth (30th) day all conditions to Buyer's obligations in respect of the funding of the Financing have not been satisfied (other than those to be satisfied at the time of such funding, but subject to the satisfaction of such conditions at the time of such funding) and the Closing would otherwise be required to occur pursuant to clause (i) above, so long as Buyer is in compliance with its obligations under Section 6.15, the Closing shall take place no earlier than the earlier of (y) forty-five (45) days after the date of this Agreement and (y) two (2) Business Days after the date on which all conditions to Buyer's obligations in respect of the funding of the Financing have been satisfied (other than those to be satisfied at the time of such funding, but subject to the satisfaction of such conditions at the time of such funding), or (b) such other date, time and place as the Company and Buyer may mutually agree (the actual date of the Closing, the "*Closing Date*"). For purposes of this Agreement, the Closing will be deemed to have occurred at 12:01:01 a.m. (Eastern Time) on the Closing Date.

SECTION 2.3 Effect of the Merger. At the Effective Time, the effect of the Merger shall be as provided in the applicable provisions of the DGCL. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time, all the property, rights, privileges, powers, franchises and assets of the Company and Merger Sub shall vest in the Surviving Company, and all debts, liabilities, obligations and duties of the Company and Merger Sub shall become the debts, liabilities, obligations and duties of the Surviving Company.

SECTION 2.4 Certificate of Incorporation; Bylaws.

(a) The Certificate of Incorporation of Merger Sub, as in effect immediately prior to the Effective Time, shall be the Certificate of Incorporation of the Surviving Company until thereafter amended as provided by the DGCL and such Certificate of Incorporation, except that (i) the name of the corporation set forth therein shall be changed to the name of the Company and (ii) the identity of the incorporator shall be deleted.

(b) The Bylaws of Merger Sub, as in effect immediately prior to the Effective Time, shall be the Bylaws of the Surviving Company until thereafter amended as provided therein or by the DGCL.

SECTION 2.5 Board of Directors and Officers. The Board of Directors and officers of Merger Sub immediately prior to the Effective Time shall, from and after the Effective Time, be the Board of Directors and officers, respectively, of the Surviving Company, each to hold office until his or her respective successors are duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the Bylaws of the Surviving Company.

SECTION 2.6 Further Assurances. If at any time after the Effective Time the Surviving Company shall consider or be advised that any deeds, bills of sale, consents, assignments or assurances or any other acts or things are necessary, desirable or proper (a) to vest, perfect or confirm, of record or otherwise, in the Surviving Company, its right, title or interest in, to or under any of the properties, rights, privileges, powers, franchises or assets of either the Company or Merger Sub, or (b) otherwise to carry out the purposes of this Agreement, the Surviving Company and its proper officers, managers and members or their designees shall be authorized to execute and deliver, in the name and on behalf of the Company or Merger Sub, all such deeds, bills of sale, consents, assignments and assurances and do, in the name and on behalf of the Company or Merger Sub, all such other acts and things necessary, desirable or proper to vest, perfect or confirm its right, title or interest in, to or under any of the properties, rights, privileges, powers, franchises or assets of the Company or Merger Sub, as applicable, and otherwise to carry out the purposes of this Agreement

## ARTICLE III

## EFFECTS OF THE MERGER; CONSIDERATION

SECTION 3.1 Conversion of Company Securities.

(a) Capital Stock of Merger Sub. At the Effective Time, by virtue of the Merger and without any action on the part of the Company, Merger Sub, Buyer, the Stockholders or the Option Holders, each share of capital stock of Merger Sub issued and outstanding immediately prior

to the Effective Time shall be converted into one validly issued, fully paid and nonassessable share of common stock, par value $0.0001 per share, of the Surviving Company.

(b) Buyer-Owned Stock and Treasury Stock. At the Effective Time, by virtue of the Merger and without any action on the part of the Company, Merger Sub, Buyer, the Stockholders or the Option Holders, each Common Share and each Preferred Share that is owned by (i) Buyer, (ii) Merger Sub, (iii) any other wholly-owned Subsidiary of Buyer, or (iv) any wholly-owned Subsidiary of the Company shall be canceled without any conversion thereof and no payment or distribution shall be made with respect thereto.

(c) Capital Stock. Except as otherwise provided in Section 3.1(b) and subject to Section 3.4, at the Effective Time, by virtue of the Merger and without any action on the part of the Company, Merger Sub, Buyer, the Stockholders or the Option Holders:

(i) each share of Preferred Stock issued and outstanding immediately prior to the Effective Time shall be converted into the right to receive from Buyer and the Surviving Company a sum in cash equal to the Per Preferred Share Merger Consideration, as finally determined after taking into account any adjustments made pursuant to Section 3.3 or releases made pursuant to Section 3.8 or Section 3.9, without any interest thereon, at the time and in the manner set forth in this Agreement; and

(ii) each share of Common Stock issued and outstanding immediately prior to the Effective Time shall be cancelled and extinguished, and no payment or distribution shall be made with respect thereto.

(d) Treatment of Company Options and Restricted Stock.

(i) Company Options. At the Effective Time, by virtue of the Merger and without any action on the part of the Company, Merger Sub, Buyer, the Stockholders or the Option Holders, each Company Option issued and outstanding immediately prior to the Effective Time, whether or not then exercisable, shall fully vest. At the Effective Time, by virtue of the Merger and without any action on the part of the Company, Merger Sub, Buyer, the Stockholders or the Option Holders, each issued and outstanding Company Option shall be cancelled and extinguished, and no payment shall be made with respect thereto. As of the Effective Time, the Company Equity Plan and each stock option agreement entered into by the Company shall terminate and all rights under any provision of any other plan, program or arrangement of the Company or any Subsidiary of the Company providing for the issuance or grant of any other interest in respect of the capital stock of the Company or any Subsidiary of the Company shall be cancelled.

(ii) Restricted Stock. At the Effective Time, by virtue of the Merger and without any action on the part of the Company, Merger Sub, Buyer, the Stockholders or the Option Holders, each share of Restricted Stock that has not vested as of the Effective Time shall fully vest and shall be treated hereunder as one (1) share of Common Stock outstanding as of immediately prior to the Effective Time.

(e) From and after the Effective Time, all Common Shares, all Preferred Shares, and all Company Options shall no longer be outstanding and shall automatically be canceled and retired, or converted in accordance with this Section 3.1, as the case may be, and each holder of a certificate representing any such Common Share, Preferred Share or Company Option shall cease to have any rights with respect thereto, other than the right to receive the consideration provided herein, if any.

SECTION 3.2 Closing Estimates. At least five (5) Business Days prior to the Closing Date, the Company shall deliver to Buyer for its review and comment (i) a statement setting forth (A) its estimate of the Net Working Capital as of 12:01:01 a.m. (Eastern Time) on the Closing Date (the "*Estimated Net Working Capital*"), and (B) its estimate of Cash as of 12:01:01 a.m. (Eastern Time) on the Closing Date (the "*Estimated Cash*"); (ii) its estimate of the Transaction Expenses, as set forth in the Transaction Expenses Annex (the "*Estimated Transaction Expenses*"); (iii) its estimate of the Closing Indebtedness, including the Defeasance Costs and the Debt Repayment Expenses, as set forth in the Closing Indebtedness Annex (the "*Estimated Closing Indebtedness*"); and (iv) its estimate of the Severance Amount (the "*Estimated Severance Amount*"). The amount of Aggregate Merger Consideration to be paid at Closing shall be determined on the basis of the estimated amounts provided pursuant to this Section 3.2 as modified by any comments provided by Buyer pursuant to its review under this Section 3.2 no later than two (2) Business Days prior to the Closing Date and reasonably acceptable to the Company.

SECTION 3.3 Adjustment Amount.

(a) As soon as reasonably practicable following the Closing Date, and in any event within sixty (60) days thereafter, Buyer shall cause to be prepared and delivered to the Stockholders' Representative a statement (the "*Closing Statement*") setting forth Buyer's calculation of (i) Cash as of 12:01:01 a.m. (Eastern Time) on the Closing Date (the "*Closing Cash*"), (ii) Net Working Capital as of 12:01:01 a.m. on the Closing Date (the "*Closing Net Working Capital*"), (iii) the Transaction Expenses (the "*Closing Transaction Expenses*"), (iv) the Closing Indebtedness, including the Defeasance Costs and the Debt Repayment Expenses (the "*Adjusted Closing Indebtedness*"), and (v) the Severance Amount (the "*Closing Severance Amount*") in each case along with supporting detail to evidence the calculations of such amounts. The Closing Statement and the calculations set forth therein shall be prepared in accordance with the Company Accounting Policies and the definitions herein. The parties hereto acknowledge and agree that the sole purpose of the determination of the Closing Net Working Capital, the Closing Cash, the Closing Transaction Expenses, the Closing Severance Amount and the Adjusted Closing Indebtedness is to determine the amount, if any, of the purchase price adjustment contemplated by this Section 3.3 so as to reflect, respectively, the differences, if any, between the Estimated Net Working Capital and the Closing Net Working Capital, the Estimated Cash and the Closing Cash, the Estimated Transaction Expenses and the Closing Transaction Expenses, the Estimated Severance Amount and the Closing Severance Amount, and the Estimated Closing Indebtedness and the Adjusted Closing Indebtedness.

(b) After the delivery of the Closing Statement by Buyer, Buyer shall provide to the Stockholders' Representative and its Representatives any information they may reasonably request and access at all reasonable times during normal business hours to the personnel, properties,

working papers (subject to requirements of the applicable auditors), books and records of the Surviving Company and its Subsidiaries in order to review the Closing Statement. Following the Closing, neither Buyer nor the Surviving Company shall take any action with respect to the accounting books, records, policies or procedures of the Company and its Subsidiaries with the specific intent of affecting the components of the Closing Statement or impeding or delaying the preparation thereof in the manner and utilizing the methods required by this Agreement.

(c) Disputes.

(i) Unless the Stockholders' Representative notifies Buyer in writing within forty five (45) days after Buyer's delivery of the Closing Statement, and the supporting detail with respect thereto, of any objection to the computations set forth in the Closing Statement (the "*Notice of Objection*"), the Closing Statement and the calculations set forth therein shall be final and binding for all purposes hereunder. Any Notice of Objection shall, in reasonable detail, specify the basis for the objections set forth therein and shall include the Stockholders' Representative's calculation of any amounts that are disputed by such Notice of Objection (the "*Disputed Amounts*") to the extent that such amounts may be determined. The Closing Net Working Capital, the Closing Cash, the Closing Transaction Expenses, the Closing Severance Amount and the Adjusted Closing Indebtedness shall be final and binding for all purposes hereunder unless the Stockholders' Representative provides a Notice of Objection within such 45-day period objecting to the computation of any of the foregoing amounts (it being understood that an objection to one or more of the foregoing amounts shall not prevent any other amount from becoming final and binding for all purposes hereunder).

(ii) If the Stockholders' Representative provides such Notice of Objection to Buyer within such 45-day period, Buyer and the Stockholders' Representative shall, during the 30-day period following the Stockholders' Representative's delivery of such Notice of Objection to Buyer, attempt in good faith to resolve any Disputed Amounts. If Buyer and the Stockholders' Representative are unable to resolve all such Disputed Amounts within such period, the matters remaining in dispute shall be submitted to the dispute resolution group of Deloitte & Touche LLP (or, if such firm declines to act, to another nationally recognized public accounting or financial consulting firm mutually agreed upon by Buyer and the Stockholders' Representative) (such firm being referred to herein as the "*Independent Accountant*"). The parties shall instruct the Independent Accountant to render its decision within sixty (60) days of its selection. The Independent Accountant shall only resolve the Disputed Amounts by choosing the amounts submitted by either Buyer or the Stockholders' Representative or amounts in between. The Surviving Company and the Stockholders' Representative shall each furnish to the Independent Accountant such work papers (subject to requirements of the applicable auditors) and other documents and information relating to the Disputed Amounts as the Independent Accountant may reasonably request. The resolution of the Disputed Amounts by the Independent Accountant shall be final and binding, and the determination of the Independent Accountant shall constitute an arbitral award that is final, binding and unappealable and upon which a judgment may be entered by a court having jurisdiction thereover. After final determination

of the Closing Net Working Capital, the Closing Cash, the Closing Transaction Expenses, the Closing Severance Amount and the Adjusted Closing Indebtedness, the Stockholders' Representative shall have no further right to make any claims in respect of any element of the foregoing amounts that the Stockholders' Representative raised in the Notice of Objection.

(iii) The date on which the Closing Net Working Capital, the Closing Cash, the Closing Transaction Expenses, the Closing Severance Amount and the Adjusted Closing Indebtedness are finally determined in accordance with this Section 3.3(c) is hereinafter referred as to the "*Determination Date*." Buyer and the Stockholders' Representative shall each pay their own costs and expenses incurred in connection with the resolution of the Disputed Amounts; *provided*, that the fees and expenses of the Independent Accountant shall be allocated between Buyer and the Stockholders' Representative in the same proportion that the total amount of the Disputed Amounts submitted to the Independent Accountant that is unsuccessfully disputed by each such party (as finally determined by the Independent Accountant) bears to the total amount of the Disputed Amounts so submitted by each such party.

(d) "*Adjustment Amount*" (positive or negative) means (i) the sum of (A) the Closing Net Working Capital as finally determined pursuant to Section 3.3(c), (B) the Closing Cash as finally determined pursuant to Section 3.3(c), (C) the Closing Severance Amount as finally determined pursuant to Section 3.3(c), (D) the Estimated Transaction Expenses, and (E) the Estimated Closing Indebtedness, *minus* (ii) the sum of (V) the Estimated Net Working Capital, (W) the Estimated Cash, (X) the Estimated Severance Amount, (Y) the Closing Transaction Expenses as finally determined pursuant to Section 3.3(c), and (Z) the Adjusted Closing Indebtedness as finally determined pursuant to Section 3.3(c). If the Adjustment Amount is a positive number, then, within five (5) Business Days following the Determination Date, Buyer shall, or shall cause its Affiliate to, deliver by wire transfer of immediately available funds to an account, in the name of the Paying Agent, designated in writing by the Stockholders' Representative, an amount equal to the Adjustment Amount. Upon receipt of the Adjustment Amount, the Stockholders' Representative shall direct the Paying Agent to, (i) with respect to amounts payable to the Preferred Stockholders, pay such amounts pro rata to the Preferred Stockholders and (ii) with respect to amounts payable to Change of Control Bonus Recipients, release such amounts to the Surviving Company for payment thereof by the Surviving Company as soon as practicable (but no later than one payroll cycle) after receipt thereof pro rata to the Change of Control Bonus Recipients, in each case (clauses (i) and (ii)), in accordance with the Capital Structure Certificate, Change of Control Bonus Annex and less any applicable withholding taxes and without interest. If the Adjustment Amount is a negative number, then, within five Business Days following the Determination Date, such Adjustment Amount shall be distributed, by wire transfer of immediately available funds, by the Escrow Agent from the Adjustment Fund and the Indemnification Fund, if applicable, to an account designated in writing by Buyer in accordance with Section 3.8(b). The amount of any Adjustment Amount paid pursuant to this Section 3.3(d) shall be deemed an adjustment to the Aggregate Merger Consideration for all purposes including for purposes of the final consideration payable per Preferred Share hereunder.

SECTION 3.4 Dissenting Shares. Notwithstanding any provision of this Agreement to the contrary, Common Shares and Preferred Shares that are outstanding immediately prior to the Effective Time and which are held by holders who shall not have voted in favor of the Merger or consented thereto in writing and who shall have demanded properly in writing appraisal for such shares in accordance with Section 262 of the DGCL (collectively, the "*Dissenting Shares*") shall not be converted into or represent the right to receive the consideration set forth in Section 3.1, if any. Such holders shall be entitled to receive such consideration as is determined to be due with respect to such Dissenting Shares in accordance with the provisions of Section 262 of the DGCL, except that all Dissenting Shares held by holders who shall have failed to perfect or who effectively shall have withdrawn or lost their rights to appraisal of such shares under Section 262 of the DGCL shall thereupon be deemed to have been converted into and to have become exchangeable for, as of the Effective Time, the right to receive the consideration specified in Section 3.1, if any (as adjusted, if applicable), without any interest thereon, upon surrender, in the manner provided in Section 3.5, of the certificate or certificates that formerly evidenced such Dissenting Shares. The Company shall serve prompt notice to Buyer of any demands for appraisal of any Common Shares of Preferred Shares, withdrawals of such demands and any other instrument served pursuant to Section 262 of the DGCL and received by the Company, and Buyer shall have the right to participate in and direct all negotiations and proceedings with respect to such demands. Prior to the Effective Time, the Company shall not, without the prior written consent of Buyer, voluntarily make any payment with respect to, or settle, any such demands, or agree to do any of the foregoing.

SECTION 3.5 Exchange Procedures.

(a) No later than five Business Days following the Closing Date, Buyer shall cause to be mailed at the address set forth opposite such holder's name on the Capital Structure Certificate, or otherwise made available, to each holder of certificates (the "*Certificates*") formerly evidencing Common Shares or Preferred Shares a form of the Letter of Transmittal. After the Effective Time, each holder of Certificates representing Preferred Shares, within one (1) Business Day following the surrender of such Certificates to the Paying Agent, together with the completed Letter of Transmittal, shall be entitled to receive from the Paying Agent, in exchange therefor, by wire transfer of immediately available funds to the account designated by such holder in the Letter of Transmittal, the aggregate consideration for such Preferred Shares in cash as contemplated by Section 3.1(c)(i), and the Certificates so surrendered shall be cancelled. After the Effective Time, each Certificate representing Common Shares surrendered as contemplated by this Section 3.5 and the relevant Letter of Transmittal shall be cancelled. Until surrendered as contemplated by this Section 3.5 (other than Certificates representing Dissenting Shares), each Certificate shall be deemed at any time after the Effective Time to represent only the right to receive the aggregate consideration for such Common Shares or Preferred Shares in cash as contemplated by this Agreement, if any, without interest thereon.

(b) In the event of a transfer of ownership of any Preferred Shares that is not registered in the transfer books of the Company, subject to any applicable deductions or withholdings as described in Section 3.10, payment may be made to a Person other than the Person in whose name the applicable Certificate so surrendered is registered, if such Certificate shall be properly endorsed or otherwise be in proper form for transfer. Notwithstanding the foregoing, if any

Certificate shall be lost, stolen or destroyed, upon the making of an affidavit of that fact and an undertaking of indemnity by the Person claiming such Certificate to be lost, stolen or destroyed and, if required by the Paying Agent, the posting by such Person of a bond in a reasonable amount as the Paying Agent may direct as indemnity against any claim, the Surviving Company will issue (or cause to be issued) in exchange for such lost, stolen or destroyed Certificate the consideration deliverable in respect thereof pursuant to this Agreement.

(c) At any time following the expiration of 12 months after the Effective Time, the Surviving Company shall, in its reasonable discretion, be entitled to require the Paying Agent to deliver to it any funds (including any interest received with respect thereto) which had been made available to the Paying Agent and which have not been disbursed to the Preferred Stockholders, and such funds shall thereafter become the property of the Surviving Company. Such funds may be commingled with the general funds of the Surviving Company and shall be free and clear of any claims or interests of any Person. Thereafter, such holders of Certificates representing Preferred Stock shall be entitled to look to the Surviving Company (subject to any applicable abandoned property, escheat or similar Law) only as general creditors thereof with respect to the applicable consideration payable as contemplated by this Agreement (net of any amounts that would be subject to withholding) upon due surrender of their Certificates, without any interest thereon. Any portion of such remaining cash unclaimed by the Preferred Stockholders as of a date that is immediately prior to such time as such amounts would otherwise escheat to or become property of any Governmental Entity shall, to the extent permitted by applicable Law, become the property of the Surviving Company free and clear of any claims or interest of any Person previously entitled thereto.

(d) At the Effective Time, the transfer books of the Company shall be closed, and there shall be no further registration of transfer in the transfer books of the Surviving Company of the Common Shares, Preferred Shares or Company Options, as the case may be, that were outstanding immediately prior to the Effective Time. If, after the Effective Time, Certificates are presented to the Surviving Company or the Paying Agent for any reason, they shall be canceled and exchanged as provided in this Section 3.5.

SECTION 3.6 Payments at Closing. At the Closing, on behalf of the Surviving Company, Buyer will make (or cause to be made) the following payments:

(i) to the Paying Agent, by wire transfer of immediately available funds to the account or accounts designated by the Stockholders' Representative in writing no later than two (2) Business Days prior to the Closing Date, an amount equal to the Aggregate Merger Consideration;

(ii) to the payroll account of the Surviving Company and for the benefit of the Change of Control Bonus Recipients, by wire transfer of immediately available funds, an amount equal to the Closing Aggregate Change of Control Bonus Distribution, which the Surviving Company will disburse through a special payroll on the Closing Date or as soon as practicable thereafter to each Change of Control Bonus Recipient, as appropriate, in accordance with the amounts set forth the Change of Control Bonus Annex less applicable withholding Taxes, subject to such Change of Control Bonus Recipient executing and

returning a Change of Control Bonus Recipient Letter, in the form attached as Exhibit A (the "*Change of Control Bonus Recipient Letter*");

(iii) to the Escrow Agent, by wire transfer of immediately available funds to the account or accounts designated by the Stockholders' Representative in writing no later than two (2) Business Days prior to the Closing Date, an amount equal to the Escrow Amount;

(iv) to the Stockholders' Representative, by wire transfer of immediately available funds to the account or accounts designated by the Stockholders' Representative in writing no later than two (2) Business Days prior to the Closing Date, an amount equal to the Stockholders' Expense Amount;

(v) on behalf of the Company, by wire transfer of immediately available funds to the account or accounts designated by the Stockholders' Representative in writing no later than two (2) Business Days prior to the Closing Date, an amount in the aggregate equal to the portion of the Transaction Expenses to be paid on behalf of the Company on the Closing Date at its direction, which amount shall be distributed on the Closing Date in accordance with the Transaction Expenses Annex;

(vi) immediately following the consummation of the Merger, on behalf of the Company, by wire transfer of immediately available funds to the account or accounts designated by the payoff letters obtained in respect of the Repaid Closing Indebtedness, or as otherwise designated by the Stockholders' Representative in writing no later than two (2) Business Days prior to the Closing Date, an amount in the aggregate equal to the Repaid Closing Indebtedness; and

(vii) To NewCo LLC, by wire transfer of immediately available funds to the account or accounts designated by the Stockholders' Representative in writing no later than two (2) Business Days prior to the Closing Date, an amount equal to the NewCo LLC Amount.

SECTION 3.7 Payment Annexes; Capital Structure Certificate.

(a) Closing Indebtedness. The Company shall prepare a schedule setting forth an itemized list of the Closing Indebtedness, including the Defeasance Costs and the Debt Repayment Expenses (the "*Closing Indebtedness Annex*"), in a manner consistent with Annex 2 attached hereto.

(b) Transaction Expenses. The Company shall prepare a schedule setting forth an itemized list of any and all Transaction Expenses (the "*Transaction Expenses Annex*"), in a manner consistent with Annex 3 attached hereto.

(c) Closing Aggregate Change of Control Bonus Distribution. The Company shall prepare a schedule setting forth the Closing Aggregate Change of Control Bonus Distribution, together with an itemized list of all Change of Control Bonus Agreements and Change of Control Bonus Recipients and, with respect to each such Person, the portion of the Closing Aggregate Change

of Control Bonus Distribution he or she is to be paid (the "*Change of Control Bonus Annex*"), in a manner consistent with Annex 4 attached hereto.

(d) Delivery of Payment Annexes and Capital Structure Certificate. Each of the Closing Indebtedness Annex, the Transaction Expenses Annex, Change of Control Bonus Annex and the Capital Structure Certificate shall be prepared by the Company in form and substance reasonably satisfactory to Buyer and the Stockholders' Representative, and each shall be delivered to Buyer at least two (2) Business Days prior to the Closing Date.

SECTION 3.8 Escrow Amount .

(a) The Escrow Amount deposited with Citibank, N.A. (the "*Escrow Agent*") pursuant to Section 3.6(iii) (such amount plus all accumulated earnings thereon, the "*Escrow Fund*"), is to be governed in accordance with the terms of this Agreement and the escrow agreement in substantially the form attached hereto as Exhibit B (the "*Escrow Agreement*"), among Buyer, the Escrow Agent and the Stockholders' Representative.

(b) The Escrow Fund shall initially consist of a $5,000,000 portion (together with the accumulated earnings thereon, the "*Adjustment Fund*"), a $675,000 portion (together with the accumulated earnings thereon, the "*Indemnification Fund*"), and a $500,000 portion (together with the accumulated earnings thereon, the "*Specified Withdrawal Fund*") and shall be used to satisfy any amounts owed to Buyer pursuant to this Agreement, including the payment of the Adjustment Amount, if any, pursuant to Section 3.3(d) and any indemnification amounts owed hereunder. In the event an Adjustment Amount determined pursuant to Section 3.3(d) is owing to Buyer (such amount, which shall equal zero if no amount is owing to Buyer, the "*Adjustment Release Amount*"), Buyer and the Stockholders' Representative shall promptly and jointly instruct the Escrow Agent to distribute to Buyer the Adjustment Release Amount from the Adjustment Fund and, if the Adjustment Release Amount is greater than the amount of the Adjustment Fund, then from the Indemnification Fund until the Adjustment Amount is satisfied. To the extent that the Adjustment Release Amount distributed to Buyer pursuant to the preceding sentence is less than the amount of the Adjustment Fund, including if no Adjustment Release Amount is disbursed, Buyer and the Stockholders' Representative shall promptly and jointly instruct the Escrow Agent to distribute an amount equal to the difference thereof, or, if no Adjustment Release Amount is disbursed, the entire amount of the Adjustment Fund, to the Paying Agent for payment thereof by the Paying Agent pro rata to the Preferred Stockholders as set forth in the applicable instructions and in accordance with the Capital Structure Certificate less any applicable withholding taxes and without interest. Buyer and the Stockholders' Representative shall timely provide such joint instructions so that distributions can be made by the Escrow Agent within the time period required by Section 3.3(d).

(c) The portion of the Escrow Fund that is not used to satisfy any other amounts owing to Buyer pursuant to this Agreement, including indemnification amounts, or not subject to any claims hereunder, shall be released on the date that is one (1) Business Day after the close of business on the one-year anniversary of the Closing Date to the Paying Agent for payment thereof by the Paying Agent pro rata to the Preferred Stockholders as set forth in written instructions provided by the Stockholders' Representative and in accordance with the Capital Structure Certificate and less any applicable withholding taxes and without interest; *provided*, that if there are any claims

hereunder that are properly pending on such date, the applicable portion of the Escrow Fund that is subject to any such claims shall not be released to or as instructed by the Stockholders' Representative until such applicable claims are finally resolved and satisfied pursuant to this Agreement and the Escrow Agreement. Upon the final release of all the Escrow Fund, the Escrow Agreement shall terminate. All funds so released from the Escrow Fund shall be distributed in accordance with the first sentence of this Section 3.8(c).

(d) The Escrow Fund shall be held as a trust fund for the potential recipients thereof pursuant to the terms of this Agreement and shall not be subject to any Lien, and shall be held and disbursed solely for the purposes and in accordance with the terms of this Agreement and the Escrow Agreement.

SECTION 3.9 Stockholders' Expense Amount. At the Closing, Buyer shall deposit cash in an amount equal to the Stockholders' Expense Amount into an account designated by the Stockholders' Representative. The Stockholders' Expense Amount shall be used to fund any expenses incurred by the Stockholders' Representative in the performance of its duties and obligations hereunder. The Stockholders' Expense Amount will be held by the Stockholders' Representative until such time as the Stockholders' Representative determines, in its sole discretion, that the Stockholders, Option Holders, and Change of Control Bonus Recipients shall have no further expenses to be incurred in connection with the transactions contemplated by this Agreement. Any portion of the Stockholders' Expense Amount remaining after such date shall be paid by the Stockholders' Representative to, the Paying Agent for payment thereof by the Paying Agent pro rata to the Preferred Stockholders, as set forth in written instructions provided by the Stockholders' Representative and in accordance with the Capital Structure Certificate, Change of Control Bonus Annex and less any applicable withholding taxes and without interest.

SECTION 3.10 Withholding Taxes. The Surviving Company, the Paying Agent and Buyer shall make any payment pursuant to this Agreement free and clear of any deduction or withholding Tax unless otherwise required under any provision of applicable Law. The Surviving Company, the Paying Agent and Buyer shall be entitled to deduct and withhold from any amounts payable pursuant to this agreement such amounts that the Surviving Company, the Paying Agent or the Buyer, respectively, determines are required to be deducted and withheld under any provision of applicable Law; provided, however, that the parties to any such amounts payable shall use commercially reasonably efforts to inform one another of such withholding obligation and to provide forms or other evidence that would exempt such amounts payable from, or reduce or minimize any such, deduction or withholding under applicable Law. The Surviving Company, the Paying Agent and Buyer shall withhold or deduct with respect to amounts payable to Change of Control Bonus Recipients such amounts as the Surviving Company, the Paying Agent or Buyer is required to deduct and withhold with respect to the making of such payment under any provision of applicable Law and timely remit such amounts to the appropriate Tax Authority. To the extent that any amounts are withheld by the Surviving Company, the Paying Agent or Buyer in accordance with this Section 3.10, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the recipient of the payment in respect of which such deduction and withholding was made by the Surviving Company, the Paying Agent or Buyer, as the case may be.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Except as set forth in the disclosure schedule delivered by the Company prior to, or concurrently with, the execution of this Agreement (the "*Disclosure Schedule*" or the "*Schedules*"), the Company hereby represents and warrants to Buyer and Merger Sub as follows:

SECTION 4.1 Organization, Standing and Power. Each of the Company and its Subsidiaries is an entity duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization and has all requisite power and authority to own, lease and operate its properties and to carry on its business as now being conducted. Each of the Company and its Subsidiaries is duly qualified to do business and is in good standing in each jurisdiction in which such qualification is necessary because of the property owned, leased or operated by it or because of the nature of its business as now being conducted, except for any failure to so qualify or be in good standing that, individually or in the aggregate, would not reasonably be expected to have a Company Material Adverse Effect. Section 4.1 of the Disclosure Schedule lists the jurisdictions of organization and qualifications to do business (or the foreign equivalents, if any) of the Company and each of its Subsidiaries. The Company has made available to Buyer complete and correct copies of the constitutive documents of each of the Company and its Subsidiaries, in each case as amended to the date of this Agreement.

SECTION 4.2 Authority; Approvals.

(a) The execution, delivery and performance of this Agreement by the Company and the consummation of the transactions contemplated hereby are within its corporate power and have been duly and validly authorized by all necessary corporate action on the part of the Company (other than the approval of the Merger and this Agreement by the requisite vote of the Company's stockholders and the filing of a Certificate of Merger pursuant to the DGCL). This Agreement has been duly executed and delivered by the Company, and (assuming due authorization, execution and delivery by Buyer, Merger Sub and the Stockholders' Representative) constitutes the valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar Laws of general applicability relating to or affecting creditor's rights generally and by the application of general principles of equity.

(b) The Board of Directors of the Company has (i) determined that this Agreement and the Merger are fair to, and in the best interests of, the Company and its stockholders, (ii) declared the Merger to be advisable, and (iii) resolved to recommend that the Company's stockholders adopt this Agreement, and none of the aforesaid actions by the Board of Directors of the Company has been amended, rescinded or modified.

(c) The affirmative vote of the holders of a majority of outstanding Common Shares to adopt this Agreement is the only vote of the holders of any class or series of the Company's equity interests necessary to approve the Merger (the "*Requisite Stockholder Approval*").

SECTION 4.3 Capitalization; Equity Interests.

(a) As of the date of this Agreement, the authorized capital stock of the Company consists of (i) 250,000 shares of Preferred Stock, of which 118,319.72 shares (excluding shares of Preferred Stock that are issuable as accrued but unpaid dividends thereon) are issued and outstanding, and (ii) 250,000 shares of Common Stock, of which 118,529.13 shares (including 1,500 shares of Restricted Stock) are issued and outstanding. Section 4.3(a) of the Disclosure Schedule sets forth, as of the date of this Agreement, the record ownership of the outstanding shares of Preferred Stock and Common Stock and any declared and accrued, but unpaid, dividends thereon, which constitutes all issued and outstanding shares of capital stock of the Company. Section 4.3(a) of the Disclosure Schedule contains a complete and correct list, as of the date of this Agreement, of each outstanding Company Option, including the holder, the date of grant and the exercise price thereof.

(b) Section 4.3(b) of the Disclosure Schedule sets forth each of the Company's Subsidiaries' authorized capital stock and the number of shares of capital stock issued and outstanding (or, if such Subsidiary is not a corporation, the number of issued and outstanding voting securities of such Subsidiary or other ownership interests therein). Except as set forth in Section 4.3(b) of the Disclosure Schedule, the Company does not have any Subsidiaries or own or hold any equity interest or other security in any other Person. Except as set forth in Section 4.3(b) of the Disclosure Schedule, all issued and outstanding shares of capital stock or other voting securities of, or ownership interests in, the Company's Subsidiaries are directly or indirectly owned beneficially and of record by the Company, free and clear of all Liens, and free of any other limitation or restriction (including any restriction on the right to vote, sell or otherwise dispose of such capital stock, other voting securities or ownership interests).

(c) Except for the Company Equity Plan, the Change of Control Bonus Agreements and the Change of Control Bonus Plan, neither the Company nor any Subsidiary of the Company has adopted, sponsored or maintained any stock option plan or any other plan or agreement providing for equity or equity-related compensation to any Person (whether payable in shares, cash or otherwise), in each case that remains in effect as of the date hereof. The Company has reserved 50,000 shares of Common Stock for issuance to employees and directors of, and consultants to, the Company upon the issuance of stock or the exercise of options or the granting or purchase of restricted stock or the granting of restricted stock units granted under the Company Equity Plan, of which (i) 1,248 shares are issuable, as of the date hereof, upon the exercise of outstanding, unexercised options granted under the Company Equity Plan, and (ii) 48,752 shares remain available for future grant. Each Company Option was originally granted with an exercise price that the Board of Directors of the Company in good faith, based on a reasonable valuation method utilized at the time of grant, determined to be at least equal to the fair market value of a share of Common Stock on the date of grant. True and complete copies of all agreements issued under the Company Equity Plan have been made available to Buyer, along with any amendments thereto, and except for this Agreement, there are no agreements to amend, modify or supplement such agreements from the forms thereof made available to Buyer. No holder of Company Options has the ability to early exercise any Company Options for shares of Restricted Stock under the Company Equity Plan or any other contract or agreement relating to such Company Options. All holders of Company Options are current or former employees or non-employee directors of the Company, or their respective heirs, administrators or assigns.

(d) Except as set forth in Section 4.3(a) above or in Section 4.3(a), Section 4.3(b) or Section 4.3(d) of the Disclosure Schedule, as of the date of this Agreement, no shares of capital

stock or other voting securities of, or ownership interests in, the Company or any of its Subsidiaries are reserved for issuance. Except as set forth in Section 4.3(d) of the Disclosure Schedule, all outstanding shares of capital stock or other voting securities of, or ownership interests in, the Company and its Subsidiaries were duly authorized and validly issued and, with respect to shares of capital stock, fully paid and nonassessable, and none of such shares, other voting securities or ownership interests are subject to preemptive rights. Except as set forth in Section 4.3(d) of the Disclosure Schedule, there are no bonds, debentures, notes or other indebtedness or securities of the Company or any of its Subsidiaries having the right to vote (or convertible into, or exchangeable for, securities having the right to vote) on any matters on which the holders of the Company's or such Subsidiary of the Company's voting securities or interests may vote. Except as set forth in Section 4.3(a) or Section 4.3(d) of the Disclosure Schedule, there are no securities, options, warrants, calls, rights, commitments, agreements, arrangements or undertakings of any kind to which the Company or any of its Subsidiaries is a party or by which any such Person is bound obligating such Person to issue, deliver or sell, or cause to be issued, delivered or sold, additional shares of capital stock or other voting securities of, or ownership interests in, such Person or obligating such Person to issue, grant, extend or enter into any such security, option, warrant, call right, commitment, agreement, arrangement or undertaking. Except as set forth in Section 4.3(d) of the Disclosure Schedule, there are no outstanding rights, commitments, agreements, arrangements or undertakings of any kind obligating the Company or any of its Subsidiaries to repurchase, redeem or otherwise acquire any shares of capital stock or other voting securities of, or ownership interests in, the Company or any of its Subsidiaries or any securities of the type described in the two immediately preceding sentences.

SECTION 4.4 Conflicts; Consents. The execution, delivery and performance by the Company of this Agreement and the Transaction Agreements and the consummation of the transactions contemplated hereby and thereby does not and will not (a) conflict with or result in a breach of the certificate of incorporation, bylaws or other constitutive documents of the Company or any of its Subsidiaries, (b) except as set forth in Section 4.4 of the Disclosure Schedule, conflict with, breach or result in a default (or give rise to any right of termination, cancellation or acceleration), whether after the giving of notice or lapse of time, or both, under any of the provisions of any note, bond, lease, mortgage, indenture, or any license, franchise, permit, agreement or other instrument or obligation to which any of the Company or its Subsidiaries is a party, or by which any such Person or its properties or assets are bound or (c) violate any Laws applicable to the Company or any of its Subsidiaries or any such Person's properties or assets, except where the occurrence of any of the foregoing described in clauses (b) or (c) above would not reasonably be expected to be material to the Company and its Subsidiaries, taken as a whole, or prevent or materially delay the consummation of the Merger. Except as set forth in Section 4.4 of the Disclosure Schedule and except for any filings as may be required under the DGCL in connection with the Merger, no consent or approval by, or notification of or registration or filing with, any Governmental Entity is required in connection with the execution, delivery and performance by the Company of this Agreement or the Transaction Agreements or the consummation of the transactions contemplated hereby or thereby.

SECTION 4.5 Financial Information; Undisclosed Liabilities.

(a) The Company has previously made available to Buyer (i) the audited consolidated balance sheets and statements of operations, changes in stockholders' equity and cash

flows of the Company and its Subsidiaries as of and for the fiscal years ended December 31, 2017 and December 31, 2016, together with the footnotes thereto and the report of the auditors thereon, and (ii) the unaudited consolidated balance sheet and statements of operations of the Company and its Subsidiaries as of and for the eight-month period ended August 31, 2018 (the "*Most Recent Balance Sheet Date*") (the items in clauses (i) and (ii), collectively, the "*Company Financial Statements*"). The Company Financial Statements (including the related notes) present fairly, in all material respects, the consolidated financial position of the Company and its Subsidiaries as of the dates thereof, and the results of their operations and their cash flows for the periods set forth therein, all in conformity with GAAP consistently applied during the periods involved, except as otherwise noted therein and subject, in the case of the unaudited interim financial statements, to year-end adjustments, the absence of notes and any other adjustments described therein. The Company Financial Statements are consistent with the books and records of the Company and its Subsidiaries (which, in turn, are complete and accurate in all material respects).

(b) The Company and each Subsidiary of the Company has a system of internal accounting controls that provides reasonable assurance regarding financial reporting and the preparation of financial statements (including the Company Financial Statements), in accordance with GAAP. Neither the Company nor any Subsidiary of the Company has identified or been made aware of (i) any significant deficiency or material weakness in the system of internal accounting controls utilized by the Company or any Subsidiary of the Company, (ii) any fraud that involves the Company's management or other employees who have a role in the preparation of financial statements or the internal accounting controls utilized by the Company or any Subsidiary of the Company or (iii) any claim or allegation regarding any of the foregoing.

(c) Neither the Company nor any Subsidiary of the Company is a party to, or has any commitment to become a party to, any joint venture, partnership agreement or any similar contract (including any contract relating to any transaction, arrangement or relationship between or among the Company or any Subsidiary of the Company, on the one hand, and any unconsolidated affiliate, including any structured finance, special purpose or limited purpose entity or Person, on the other hand such as any arrangement described in Section 303(a)(4) of Regulation S-K of the United States Securities and Exchange Commission) where the purpose or effect of such arrangement is to avoid disclosure of any material transaction involving the Company or any Subsidiary of the Company in the Company's consolidated financial statements.

(d) Except as set forth in Section 4.5(d) of the Disclosure Schedule or as reflected or reserved against in the consolidated balance sheets of the Company and its Subsidiaries contained in the Company Financial Statements, the Company and its Subsidiaries do not have any liabilities or obligations (whether absolute, accrued, contingent or otherwise, and whether due or to become due), except for liabilities and obligations (i) incurred in the ordinary course of business consistent with past practice since the Most Recent Balance Sheet Date, (ii) that are executory obligations under contracts (other than liabilities arising out of any breach, or any fact or circumstance that, with notice, lapse of time or both, would result in a breach, thereof by the Company or any of its Subsidiaries); (iii) which, individually or the aggregate, would not reasonably be expected to be a material liability for the Company and its Subsidiaries, taken as a whole; (iv) incurred by the Company or its Subsidiaries in connection with the execution and performance of this Agreement and consummation of the transactions contemplated hereby in compliance with the terms and

conditions of this Agreement; or (v) which are specifically set forth in Section 4.7 of the Disclosure Schedule.

SECTION 4.6 Absence of Changes. Except as set forth in Section 4.6 of the Disclosure Schedule, since the Most Recent Balance Sheet Date, the Company and its Subsidiaries have been operated in the ordinary course consistent with past practice and there has not been:

(a) any Company Material Adverse Effect;

(b) any material obligation or liability (whether absolute, accrued, contingent or otherwise, and whether due or to become due) incurred by the Company or any of its Subsidiaries, other than obligations under customer contracts, current obligations and other liabilities incurred in the ordinary course of business consistent with past practice;

(c) any payment, discharge, satisfaction or settlement of any material claim or obligation of the Company or any of its Subsidiaries, except in the ordinary course of business consistent with past practice;

(d) any declaration, setting aside or payment of any dividend or other distribution with respect to any shares of capital stock or other voting securities of, or ownership interests in, the Company or any of its Subsidiaries or any direct or indirect redemption, purchase or other acquisition of any such shares, securities or interests;

(e) any issuance or sale, or any contract entered into for the issuance or sale, of any shares of capital stock or other voting securities of, or ownership interests in, or securities convertible into or exercisable for shares of capital stock or other voting securities of, or ownership interests in, the Company or any of its Subsidiaries;

(f) any sale, assignment, pledge, encumbrance, transfer or other disposition of any material asset of the Company or any of its Subsidiaries (excluding in all events sales of assets no longer useful in the operation of the business and sales of inventory to customers in the ordinary course of business consistent with past practice), or any sale, assignment, transfer or other disposition of any material Intellectual Property or any other material intangible assets of the Company or any of its Subsidiaries (excluding non-exclusive licenses of Intellectual Property rights granted in the ordinary course of business and the lapse or abandonment of Intellectual Property no longer useful in the operation of the business);

(g) any incurrence of Indebtedness or the creation of any Lien on any property of the Company or any of its Subsidiaries, except for (i) Permitted Liens (excluding Permitted Liens described in clause (iv) of the definition thereof), (ii) refinancings of the Credit Agreements to the extent permitted by Section 6.13, and (iii) purchase money Indebtedness and Liens securing such Indebtedness in an aggregate amount not to exceed $150,000;

(h) any write-down of the value of any asset of the Company or any of its Subsidiaries or any write-off as uncollectible of any accounts or notes receivable of the Company or any of its Subsidiaries or any portion thereof, other than write-downs or write-offs that are reserved for on the consolidated balance sheets contained in the Company Financial Statements or which do not exceed $250,000 in the aggregate;

(i) any cancellation of any material debts or claims or any amendment, termination or waiver of any rights of material value to the Company and its Subsidiaries, taken as a whole;

(j) any capital expenditures or commitments of the Company and its Subsidiaries, taken as a whole, other than capital expenditures or commitments which do not exceed $250,000 in the aggregate;

(k) other than as required by applicable Law or the terms of any Plan, contract or agreement in effect prior to the date of this Agreement, (i) entry into any collective bargaining agreement or contract or agreement with any trade union or labor organization or agreement to pay any pension, retirement allowance, termination, or severance pay or other employee benefit; (ii) establishment, adoption, amendment, termination of or increase to any Plan, in any case, that establishes or increases bonus, compensation or benefits for any director, officer, executive or employee of the Company or any of its Subsidiaries having an annual base salary or remuneration in excess of $150,000; (iii) payment, or commitment made to pay, any bonus or make any profit-sharing payment, cash incentive payment or similar payment other than in the ordinary course of business and consistent with past practice; (iv) any increase, or commitment made to increase, the amount of the wages, salary, commissions, fringe benefits or other employee benefits or compensation (including equity-based compensation, whether payable in cash or otherwise) or remuneration payable to any directors, officers, employees or service providers of the Company or any of its Subsidiaries other than increases (1) in the ordinary course of business and consistent with past practice or (2) for officers, employees or service providers with annual base compensation of less than $150,000; (v) funding, or any commitment to fund, any compensation obligation (whether by grantor trust or otherwise); (vi) any hiring, or any offering to hire, any new employee on a full-time, part-time, consulting or other basis with an annual base compensation in excess of $150,000 (other than any such hiring or offering to hire in the ordinary course of business consistent with past practice); (vii) any action to accelerate any payment or benefit or the funding of any payment or benefit, payable or to be provided to any of its directors, officers, employees, independent contractors or consultants; or (viii) any termination of any officer or any other employee whose annual base compensation exceeds $150,000, other than for cause;

(l) any damage, destruction or loss not covered by insurance affecting any asset or property of the Company or any of its Subsidiaries resulting in liability or loss in excess of $150,000;

(m) any change in the independent public accountants of the Company and its Subsidiaries or any material change in the accounting methods or accounting practices followed by the Company or any material change in depreciation or amortization policies or rates of the Company;

(n) (i) any delay or postponement of the payment of any material accounts payable or any other material liability or agreement, or (ii) negotiation with any party to extend the payment date of any material accounts payable or other material liability, or (iii) acceleration of, or any discounting of any material accounts receivable, other than in the case of the preceding clauses (i) and (ii) actions taken in the ordinary course of business consistent with past practice;

(o) any modification, amendment or changes to the organizational documents of the Company or any of its Subsidiaries;

(p) any split, combination or reclassification of any capital stock of the Company or any of its Subsidiaries or direct or indirect repurchases, redemptions or similar actions to acquire any shares of capital stock of the Company or any of its Subsidiaries (including options, warrants or other rights convertible into, exercisable or exchangeable for capital stock of the Company or any of its Subsidiaries), except in accordance with the agreements evidencing Company Options or Restricted Stock;

(q) any proposals or adoptions of a plan of complete or partial liquidation, dissolution, merger, consolidation, restructuring, recapitalization or other reorganization of the Company or any of its Subsidiaries;

(r) any loan to any Person (other than made in the ordinary course of business with respect to immaterial amounts) or purchase of debt securities of any Person;

(s) any entry into, termination or amendment (including change orders) of, or waiver of the Company's or any of its Subsidiary's rights under, any Material Contract in a manner that would result in liability to the Company or its Subsidiaries in excess of $150,000 or would reasonably be expected to result in a Company Material Adverse Effect;

(t) any increase in unpaid Taxes in excess of the reserve for Tax liability; or

(u) any agreement, whether in writing or otherwise, to take any of the actions specified in the foregoing items (a) through (t), subject to any dollar thresholds set forth in items (a) through (t) above.

SECTION 4.7 Real Property and Assets.

(a) Section 4.7(a) of the Disclosure Schedule lists all interests in real property either owned by the Company or its Subsidiaries (each such real property interest, together with any improvements, easements and other rights on or appurtenant thereto, the "*Owned Real Property*") or leased, licensed, subleased, occupied or used by the Company or its Subsidiaries (the "*Leased Real Property*" and together with the Owned Real Property, the "*Real Property*"), in each case, as of the date hereof. The Company or one of its Subsidiaries has (i) good, valid and marketable fee simple title to the Owned Real Property listed in Section 4.7(a) of the Disclosure Schedule, and (ii) a good and valid leasehold interest in the Leased Real Property listed in Section 4.7(a) of the Disclosure Schedule, in each case free and clear of all Liens except for Permitted Liens and except as set forth in Section 4.7(a) of the Disclosure Schedule. Except as set forth in Section 4.7(a) of the Disclosure Schedule and except for Permitted Liens, no Person has any option or right to purchase or acquire any ownership interest in the Owned Real Property. Neither the Company nor any of its Subsidiaries is a party to any lease, license, sublease or other similar agreement granting to any Person the right of use or occupancy of any material portion of the Owned Real Property.

(b) Each written lease pursuant to which the Company or any of its Subsidiaries leases, licenses, subleases or otherwise is granted the right to use or occupy any Leased Real Property as of the date hereof (the "*Leases*") is in full force and effect, and is enforceable against the Company

or the applicable Subsidiary of the Company party thereto and, to the knowledge of the Company, the landlord that is party thereto in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar Laws of general applicability relating to or affecting creditor's rights generally and by the application of the general principles of equity. Except as set forth in Section 4.7(b) of the Disclosure Schedule, there exists no material breach or material default or event of default on the part of the Company or any of its Subsidiaries or, to the knowledge of the Company, any other party thereto under any Leases. The Company has made available to Buyer true and complete copies of all Leases.

(c) Each of the Company and its Subsidiaries has good title to, or a valid leasehold interest in, as applicable, all personal property used in their respective businesses, except for defects in title or failures to have valid leasehold interest, in each case that individually or in the aggregate would not reasonably be expected to have a Company Material Adverse Effect.

(d) All improvements and fixtures on the Real Property (a) are in good operating condition and are in a state of good maintenance and repair, ordinary wear and tear excepted, and (b) are suitable and appropriate for the purposes for which they are presently being used and as they are presently planned to be used. There is no condemnation, expropriation or similar proceeding pending or, to the knowledge of the Company, threatened, against any of the Real Property or any improvement thereon. The Real Property constitutes all of the real property utilized in connection with the business of the Company. None of the Real Property is used for any purpose other than the operation of the business of the Company. All Real Property has and includes the right of access to (x) public roads or valid easements over private roadways for ingress to and egress from public roads, and (y) water supply, storm and sanitary sewer facilities, telephone, gas and electrical connections, fire protection, drainage and public utilities, as is necessary and appropriate for the conduct of the business of the Company in the ordinary course.

(e) All of the Real Property, improvements and fixtures thereon are in compliance in all material respects with all applicable Laws (including zoning ordinances and Environmental Laws).

SECTION 4.8 Material Contracts .

(a) Section 4.8 of the Disclosure Schedule sets forth, as of the date of this Agreement, each of the following written contracts, mortgages, licenses, instruments, leases (other than the Leases) or other agreements, arrangements, understandings or commitments, permits, concessions or franchises of the Company and its Subsidiaries currently in effect to which (1) the Company or any Subsidiary of the Company is a party or (2) by which the Company or any Subsidiary of the Company or any of their assets is bound:

(i) any employment agreement, employment contract or consulting agreement with any director, officer, employee or individual independent contractor of the Company or any of its Subsidiaries providing for base compensation in excess of $150,000 per annum that is not terminable by the Company or its Subsidiaries upon notice of sixty (60) days or less for a cost of less than $150,000;

(ii) any current collective bargaining agreement with any trade union, works council, or labor organization;

(iii) any (A) covenant not to compete entered into between the Company or any of its Subsidiaries and any other Person, (B) agreement materially limiting or restricting the ability of the Company or any of its Subsidiaries (or, following the Closing, their Affiliates) to enter into or engage in any market or line of business, (C) agreement containing any requirement to grant "most favored nation" (or similar preferential treatment) pricing and terms in favor of a third party or (D) agreement creating any exclusive relationship or arrangement;

(iv) any lease or similar agreement under which (A) the Company or any of its Subsidiaries is lessee of, or holds or uses, any machinery, equipment, vehicle or other tangible personal property owned by a third party or (B) the Company or any of its Subsidiaries is a lessor or sublessor of, or makes available for use by any third party, any tangible personal property owned or leased by the Company or such Subsidiary of the Company, in any case which has future liability to the Company and its Subsidiaries in excess of $150,000 per annum and is not terminable by the Company and its Subsidiaries upon notice of sixty (60) days or less for a cost of less than $150,000;

(v) any agreement or contract under which the Company or any of its Subsidiaries has incurred any outstanding Indebtedness (other than endorsements for the purpose of collection) or made any loan or advance to any Person (other than trade receivables and other de minimis loans or advances made in the ordinary course of business);

(vi) any partnership or joint venture agreement;

(vii) any agreement relating to any business acquisition by the Company or any of its Subsidiaries or relating to the acquisition, issuance or transfer of securities of any third party by the Company or any of its Subsidiaries, in each case entered into after December 31, 2016;

(viii) any agreement for capital expenditures or the acquisition of fixed assets in excess of $500,000;

(ix) any agreement with respect to sales, distribution, servicing or similar agreement for the sale by the Company and its Subsidiaries of goods or services that provides for payments to the Company and its Subsidiaries in excess of $500,000 for any twelve-month period and is not terminable by the Company and its Subsidiaries upon notice of sixty (60) days or less without penalty or other cost of $500,000 or greater;

(x) any agreement, including for the purchase by the Company and its Subsidiaries of goods or services, that provides for payments by the Company and its Subsidiaries in excess of $500,000 for any twelve-month period and is not terminable by the Company and its Subsidiaries upon notice of sixty (60) days or less without penalty or other cost;

(xi) any license or agreement (x) relating to the use by the Company or any of its Subsidiaries of any third-party Intellectual Property or (y) relating to the use by any third party of any Intellectual Property owned by the Company or its Subsidiaries, in each case other than software license agreements for commercially available off-the-shelf software or shrink-wrap or click-through software license agreements;

(xii) any agreement that is with a (A) Top Customer or (B) Top Supplier; or

(xiii) any agreement relating to the settlement of any action, governmental investigation, enforcement, suit or complaint against the Company or its Subsidiaries that (A) requires payments by the Company or any of its Subsidiaries in any twelve-month period exceeding $150,000 or (B) provides for injunctive relief.

(b) The Company has made available to Buyer a true and correct copy (or if only oral, has included a description of the material terms in the Disclosure Schedule) of each contract, mortgage license, instrument, lease or other agreement, arrangement, understanding or commitment, permit, concession or franchise listed or required to be listed in Section 4.8 of the Disclosure Schedule (collectively, the "*Material Contracts*"). Except as set forth in Section 4.8(b) of the Disclosure Schedule, each Material Contract is in full force and effect and the Company or the applicable Subsidiary party thereto, and, to the knowledge of the Company, each applicable counterparty, has performed all material obligations required to be performed by it to date under the Material Contracts and is not (with or without the lapse of time or the giving of notice, or both) in material breach or default thereunder. Each Material Contract is enforceable against the Company or the applicable Subsidiary party thereto and, to the knowledge of the Company, the counterparties thereto, in accordance with its terms except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar Laws of general applicability relating to or affecting creditor's rights generally and by the application of general principles of equity.

SECTION 4.9 Environmental Matters. Except as set forth in Section 4.9 of the Disclosure Schedule:

(a) the Company and its Subsidiaries are, and for the last three (3) years have been, in compliance with all Environmental Laws applicable to their operations and use of the Owned Real Property and the Leased Real Property, except for such noncompliance that would not reasonably be expected to result in any material liability to the Company and its Subsidiaries, taken as a whole;

(b) except as would not reasonably be expected to result in any material liability to the Company and its Subsidiaries, taken as a whole, neither the Company nor any of its Subsidiaries has generated, transported, treated, stored, or disposed of any Hazardous Substances, except in material compliance with applicable Environmental Laws, and, to the Company's knowledge, there has been no Release of any Hazardous Substances that requires reporting or remediation by the Company or any of its Subsidiaries pursuant to any applicable Environmental Law; to the Company's knowledge, there has been no Release at, on, under or migrating to or from any Real Property that would reasonably be expected to have a material impact on the business or result in any material liability for the Company and its Subsidiaries, taken as a whole.

(c) there are no underground storage tanks, landfills, impoundments, currently or historically used for the storage or disposal of any Hazardous Substance on any Real Property and the Company has not owned, leased or operated any underground storage tanks, except in compliance with applicable Environmental Laws;

(d) except for those matters that are no longer pending on the date of this Agreement or would not, if determined adversely to the Company and its Subsidiaries, be expected to result in a material liability to the Company and its Subsidiaries, taken as a whole, neither the Company nor any of its Subsidiaries has received any written request for information relating to, or written notice of, any Environmental Claim;

(e) other than any such mergers, acquisitions or divestures set forth on Section 4.9(e) of the Disclosure Schedule, neither the Company nor any of its Subsidiaries are subject to any contractual indemnification obligations or successor liability obligations arising out of a prior merger, acquisition or divestiture, and there are no pending claims for indemnity related to any liability under Environmental Law; and

(f) the Company has made available to Buyer true and complete copies of all final material environmental reports including Phase I, Phase II, audits and compliance assessments and any material correspondence with any Governmental Entity or third party relating to any remediation or liability for corrective action or material non-compliance by the Company or any Subsidiary of the Company under Environmental Laws, in each case that are in the possession or control of the Company or a Subsidiary of the Company.

SECTION 4.10 Litigation. Except as set forth in Section 4.10 of the Disclosure Schedule, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Company, threatened in writing by or before any court, arbitration panel or Governmental Entity against the Company or any of its Subsidiaries, their respective properties and assets or any of their respective officers or directors (solely in their capacities as such), which, if determined adversely to the Company or any of its Subsidiaries, would, individually or in the aggregate, reasonably be expected to be material to the Company and its Subsidiaries, taken as a whole. Except as set forth in Section 4.10 of the Disclosure Schedule, neither the Company nor any of its Subsidiaries is subject to any material injunction, writ, temporary restraining order, decree or any order of any nature issued by any court or other Governmental Entity.

SECTION 4.11 Compliance; Licenses and Permits.

(a) Except as set forth in Section 4.11(a) of the Disclosure Schedule, each of the Company and its Subsidiaries is, and has for the last three (3) years been, in compliance with all Laws applicable to the Company, any of its Subsidiaries or their respective businesses or by which any property or asset of the Company or any of its Subsidiaries is bound, except for failures to comply with such Laws that, individually or in the aggregate, would not reasonably be expected to be material to the Company and its Subsidiaries, taken as a whole. Except as set forth in Section 4.11(a) of the Disclosure Schedule or for matters that are finally resolved and no longer pending, neither the Company nor any of its Subsidiaries has received in the last three (3) years any written notice alleging a material violation of any Law applicable to the Company, any of its Subsidiaries

or their respective businesses or by which any property or asset of the Company or any of its Subsidiaries is bound.

(b) Each of the Company and its Subsidiaries holds, and has held for the last three (3) years, all federal, state, local and foreign governmental licenses and permits (including those issued under Environmental Laws) that are necessary to conduct their respective businesses as presently being conducted, except for failures to have such licenses and permits that, individually or in the aggregate, would not reasonably be expected to be material to the Company and its Subsidiaries, taken as a whole. Section 4.11(b)(i) of the Disclosure Schedule lists all such licenses and permits. Except as set forth in Section 4.11(b)(ii) of the Disclosure Schedule and except for breaches, violations, revocations, limitations, non-renewals and failures to be in full force and effect that, individually or in the aggregate, would not reasonably be expected to be material to the Company and its Subsidiaries, taken as a whole, (i) all such licenses and permits are in full force and effect, (ii) no material violations are or have been recorded in respect of any thereof, (iii) no proceeding is pending or, to the knowledge of the Company, threatened in writing, to revoke or limit any thereof, and (iv) the consummation of the Merger and the transactions contemplated by this Agreement will not result in the non-renewal, revocation or termination of any such license or permit.

SECTION 4.12 Intellectual Property. Schedule 4.12 of the Disclosure Schedules contains a complete and accurate list of all Intellectual Property that is owned by the Company or any of its Subsidiaries and the subject of an application, certificate, filing, registration or other document issued, filed with, or recorded by any Governmental Entity or other public legal authority, and all other Intellectual Property owned by the Company or any of its Subsidiaries and material to the operation of their businesses. Each of the Company and its Subsidiaries owns, free and clear of all Liens except for Permitted Liens, or has a valid license or other right to use all Intellectual Property that is used or held for use in connection with the operation of their businesses. The Company and its Subsidiaries do not jointly own with any third party any Intellectual Property. To the knowledge of the Company, neither the Company nor any of its Subsidiaries nor the operation of their respective businesses has infringed upon, misappropriated, or otherwise violated any Intellectual Property right of any third party. There is no pending or threatened in writing claim, action or proceeding against the Company or any of its Subsidiaries contesting the right of the Company or any of its Subsidiaries to own, license or use any Intellectual Property presently owned, licensed or used by the Company or any of its Subsidiaries. All Intellectual Property which the Company and its Subsidiaries purport to own and developed by or on behalf of the Company and its Subsidiaries was developed by (i) an employee working within the scope of his or her employment at the time of such development, or (ii) agents, consultants, contractors or other Persons who have executed appropriate, valid, enforceable and irrevocable instruments of assignment in favor of the Company or such Subsidiary of the Company as assignee that have conveyed to the Company or such Subsidiary of the Company ownership of all Intellectual Property rights in such Intellectual Property. The consummation of the Merger and the transactions contemplated by this Agreement will not, subject to obtaining any required consents or approvals in connection with the transactions contemplated hereunder, (i) impair any rights of the Company or any of its Subsidiaries to use or otherwise commercialize or exploit any Intellectual Property owned by any third party to which the Company or any of its Subsidiaries have rights by license or otherwise, or (ii) require the disclosure, release, or licensing of any trade secrets, confidential information, or other Intellectual

Property of the Company or any of its Subsidiaries to any third party. The Company and its Subsidiaries have taken reasonable steps to maintain the confidentiality of their confidential information and trade secrets, and each current or former employee, independent contractor, and consultant who has had access to any such confidential information or trade secrets has executed an agreement containing obligations of confidentiality and non-use with respect to the same.

SECTION 4.13 Tax Matters. Except as set forth in Section 4.13 of the Disclosure Schedule:

(a) Each of the Company and its Subsidiaries has timely filed (taking into account applicable extensions) all material Tax Returns required to be filed by it on or prior to the Closing Date and paid all material Taxes due on or prior to the Closing Date (whether or not shown to be due on such Tax Returns). All such Tax Returns are true, correct and complete in all material respects.

(b) The Company and its Subsidiaries have withheld and paid over all material Taxes required to have been withheld and paid over, and have complied in all material respects with the rules and regulations relating to the withholding or remittance of Taxes.

(c) None of the Company or any of its Subsidiaries has requested any extension of time within which to file any Tax Return (other than extensions automatically granted), which Tax Return has not since been filed. There are no outstanding waivers or comparable consents that have been given by the Company or any of its Subsidiaries regarding the application of any statute of limitations with respect to any Taxes or Tax Returns of the Company or any such Subsidiary of the Company. There are no audits, administrative proceedings or court proceedings relating to Taxes or Tax Returns of the Company or any Subsidiary of the Company currently pending. There are no material Liens on any assets of the Company or any Subsidiary of the Company with respect to Taxes, other than Permitted Liens. No claim has been made in writing by a Tax Authority in a jurisdiction where the Company or any of its Subsidiaries has not filed a Tax Return that the Company or such Subsidiary of the Company is required to file a Tax Return in such jurisdiction.

(d) Neither the Company nor any of its Subsidiaries (i) has been a member of an affiliated group filing a consolidated federal income Tax Return (other than a group the common parent of which was the Company) or (ii) has any liability for the Taxes of any Person (other than the Company or any of its Subsidiaries) under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local, or foreign Law) as a transferee or successor, by contract, or otherwise.

(e) Neither the Company nor any of its Subsidiaries is a party to any Tax sharing or Tax indemnity agreement or any other agreement of a similar nature that remains in effect, other than (i) any agreement, the primary purpose of which is not Taxes, that contains a commercial Tax indemnity provision, or (ii) any Tax sharing agreement between the Company and one or more of its Subsidiaries.

(f) Neither the Company nor any of its Subsidiaries will be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any: change in method of accounting for a taxable period ending on or prior to the Closing Date; use of an improper method of accounting

for a taxable period ending on or prior to the Closing Date; "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state, local, or foreign Law) executed on or prior to the Closing Date; intercompany transactions or excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state, local or foreign Law); installment sale or open transaction disposition made on or prior to the Closing Date; prepaid amount received on or prior to the Closing Date; or election under Section 108(i) of the Code.

(g) Neither the Company nor any of its Subsidiaries has distributed stock of another Person, or has had its stock distributed by another Person, in any transaction within the five (5) years preceding the Closing Date that was purported or intended to be governed in whole or in part by Sections 355 or 361 of the Code.

(h) Neither the Company nor any of its Subsidiaries is or has been a party to any "reportable transaction," as defined in Section 6707A(c)(1) of the Code and Treasury Regulation Section 1.6011-4(b).

(i) Neither the Company nor any of its Subsidiaries is a foreign corporation, has a permanent establishment (within the meaning of an applicable Tax treaty) or otherwise has an office or fixed place of business in a country other than the country in which it is organized.

(j) Neither the Company nor any of its Subsidiaries has made a request that is still outstanding or received any ruling from the Internal Revenue Service (or any comparable ruling from any other Tax Authority) that is currently binding on the Company or the Subsidiary of the Company, as applicable.

(k) Section 4.13(k) of the Disclosure Schedule lists any Person that the Company or any of its Subsidiaries has granted a power of attorney that will be in force after the Closing Date with respect to any matter relating to Taxes.

SECTION 4.14 Labor Relations; Employees.

(a) Except as set forth in Section 4.14(a) of the Disclosure Schedule: (i) the Company and each Subsidiary of the Company is and in the past three (3) years has been in compliance in all material respects with all applicable Laws respecting employment and employment practices, terms and conditions of employment, wages, hours of work, equal opportunity, harassment, immigration, disability, affirmative action, leaves of absence, rest periods, meal breaks, workers' compensation, unemployment insurance, occupational safety and health, the collection and payment of withholding and/or social contribution Taxes and similar Taxes, and plant closings, mass layoffs and relocations and in the past three (3) years, has not engaged in any unfair labor practice as defined in the National Labor Relations Act or other applicable Laws, (ii) within the past three (3) years there has been no unfair labor practice charge or complaint against the Company or any Subsidiary of the Company pending or, to the knowledge of the Company, threatened in writing before the National Labor Relations Board or any similar state, local or foreign agency, (iii) there is and within the last three (3) years has been no labor strike, slowdown, stoppage, lockout, concerted refusal to work overtime, picketing or other labor dispute pending or to the knowledge of the Company, threatened in writing against the Company or any Subsidiary of the Company, and

(iv) neither the Company nor any Subsidiary of the Company is or within the past three (3) years has been a party to or bound by any collective bargaining or similar agreement and no employee of the Company or any Subsidiary of the Company is or within the last three (3) years has been represented by a union or other labor organization in connection with his or her employment with the Company or such Subsidiary; (v) neither the Company nor any Subsidiary of the Company within the last twelve (12) months has received any written notice from the Equal Employment Opportunity Commission or any state or local agency responsible for the prevention of unlawful employment practices of any charge or complaint being filed or pending with respect to the Company or any Subsidiary of the Company; and (vi) neither the Company nor any Subsidiary of the Company within the last three (3) years has received written notice from any national, state or local agency responsible for the enforcement of labor or employment Law of an intention to conduct an investigation of the Company or any Subsidiary of the Company and, to the knowledge of the Company, no such investigation is in progress.

(b) Section 4.14(b) of the Disclosure Schedule contains, as of the date hereof, a true and complete list of the name, position, union membership, employing entity, job location, current annualized rate of base compensation or hourly rate of pay, and target annual cash incentive compensation opportunity for each employee of the Company and each Subsidiary of the Company. To the knowledge of the Company, no such employee is party to a Contract (other than a Contract with the Company or a Subsidiary of the Company) that prohibits or restricts such employee's employment with or performance of duties for the Company and its Subsidiaries. To the knowledge of the Company, no officer of the Company or any Subsidiary of the Company or any employee of the Company or any Subsidiary of the Company with an annual base salary in excess of $100,000 has indicated in writing that he or she intends to terminate his or her employment with the Company or such Subsidiary of the Company.

(c) The Company and each Subsidiary of the Company has paid in full to each current and former employee, director and other individual service provider or adequately reflected on the Company Financial Statements all wages, salaries, commissions, bonuses, benefits and other compensation due to or on behalf of such employees, directors and other individual service providers. The Company and each Subsidiary of the Company has properly classified in accordance with all applicable Laws all of its service providers utilized in the last three (3) years as either employees or independent contractors and as exempt or non-exempt from overtime requirements. Except as, individually or in the aggregate, would not reasonably be expected to be material to the Company and its Subsidiaries, taken as a whole, the Company and each Subsidiary of the Company has complied in all material respects in the last three (3) years with applicable Laws concerning workers' compensation benefits or insurance, and there are no material liabilities of the Company or any Subsidiary of the Company relating to claims for workers' compensation benefits that are not fully insured by a third party insurance carrier.

(d) Section 4.14(d) of the Disclosure Schedule contains a list of each material Plan. For purposes of this Agreement, "Plan" means each "employee benefit plan" (within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA) and each other written plan, program, policy, practice, agreement or arrangement providing compensation or benefits of any kind that the Company or any Subsidiary of the Company sponsors, maintains, or contributes to, or is required to contribute to for the benefit of any current or former employee, director, officer or other natural person service provider of the Company or any Subsidiary of the Company or for

which the Company or any Subsidiary of the Company would otherwise be reasonably expected to have any Liability or obligation. No Plan (excluding any Multiemployer Plan) is subject to Laws outside of the United States.

(e) With respect to each Plan (excluding any Multiemployer Plan), the Company has made available to Buyer or Buyer's counsel a true and complete copy of the following documents, as applicable: (i) all documents setting forth the written terms of each Plan; (ii) the most recent summary plan description and any summaries of material modifications thereto; (iii) the most recent IRS determination, opinion, or advisory letter (if any); (iv) the most recent annual report on Form 5500, together with all exhibits and attachments filed with the Department of Labor; (v) all trust agreements and insurance policies relating to the funding of such Plan and material third party administrative services agreements, investment management and investment advisory agreements; (vi) the most recently completed annual compliance tests for Code Sections 401(k)(3), 401(m)(2), 401(a)(4), 410(b), 415 and 416; and (vii) all material written communications received from or sent to the Internal Revenue Service, Department of Labor, the Pension Benefit Guaranty Corporation, or any other Governmental Entity, within the most recent two (2) year.

(f) Each Plan (excluding any Multiemployer Plan) that is intended to be "qualified" within the meaning of Section 401(a) of the Code has received a current favorable determination letter from the IRS that remains in effect on the date hereof or is in the form of a master or prototype plan that is the subject of a current favorable opinion or advisory letter from the IRS that remains in effect on the date hereof and upon which the adopting employer is entitled to rely in accordance with applicable IRS administrative guidance. To the knowledge of the Company, no act or omission has occurred since such favorable determination, opinion or advisory letter was issued that would adversely affect the tax-qualified status of such Plan.

(g) Except as set forth on Section 4.14(g) of the Disclosure Schedule, within the last six (6) years, neither the Company nor any Subsidiary of the Company has contributed to, been required to contribute to or otherwise incurred any Liability or obligation to (including without limitation through any ERISA Affiliate) any Multiemployer Plan. (i) With respect to each Multiemployer Plan set forth on Section 4.14(g) of the Disclosure Schedule that is covered by Title IV of ERISA, neither the Company nor any of its Subsidiaries has experienced a complete or partial withdrawal within the meaning of ERISA Section 4203 or 4205 (as modified by ERISA Section 4208(d)(1), as applicable), respectively, within the last six (6) years; (ii) neither the Company nor any of its Subsidiaries has been notified in writing by any such Multiemployer Plan that such multiemployer plan to which the Company or any of its Subsidiaries currently contributes is currently in "critical" or "endangered" status within the meaning of Code Section 432, is currently insolvent within the meaning of 4245 of ERISA or that such Multiemployer Plan intends to terminate or has been terminated under Section 4041A of ERISA; (iii) within the last six (6) years, except as, individually or in the aggregate, would not reasonably be expected to be material to the Company and its Subsidiaries, taken as a whole, the Company and each Subsidiary of the Company have made in all material respects all contributions owed to each Multiemployer Plan on or prior to their respective due dates; (iv) within the past twelve (12) months, neither the Company nor any of its Subsidiaries has incurred any excise tax under Code Section 4971 or surcharge imposed under any rehabilitation plan; (v) neither the Company nor any Subsidiary of the Company has within the last three (3) years been audited by any Multiemployer Plan; (vi) each Multiemployer Plan set forth on Section 4.14(g) of the Disclosure Schedule that is covered by Title IV of ERISA primarily covers

employees in the building and construction industry or has been amended to incorporate the building and construction industry special withdrawal liability rule set forth in Section 4203(b)(1)(B) of ERISA; and (vii) substantially all the employees with respect to whom the Company and each Subsidiary has an obligation to contribute to such Multiemployer Plan perform work in the building and construction industry. The Company has made available to Buyer or Buyer's counsel true and correct copies of communications, dated no earlier than January 1, 2018, that provide an estimate of the amount of withdrawal liability for the Company and each Subsidiary of the Company, as provided by each Multiemployer Plan to which the Company or a Subsidiary of the Company currently contributes.

(h) Within the last six (6) years, neither the Company nor any Subsidiary of the Company has sponsored, maintained, contributed to, been required to contribute to or otherwise incur any Liability or obligation (including without limitation through any ERISA Affiliate) on account of any employee pension benefit plan (as defined under Section 3(2) of ERISA, whether or not subject to ERISA) subject to Code Section 412 or Section 302 or Title IV of ERISA, excluding any Multiemployer Plan. No Plan (excluding any Multiemployer Plan) (i) is "multiple employer plan" as defined under Code Section 413(c); (ii) is "multiple employer welfare arrangement" as defined in Section 3(42)(A); or (iii) provides for post-retirement or other post-employment welfare benefits (other than health care continuation coverage as required by Code Section 4980B and Part 6 of Subtitle B of Title I of ERISA or similar state law).

(i) No act or omission has occurred that would reasonably be expected to result in the Company or any Subsidiary of the Company incurring any liability as a result of being treated as a single employer under subsection (b), (c), (m) or (o) of Code Section 414 with any Person (other than the Company and its Subsidiaries). Neither the Company nor any Subsidiary of the Company or ERISA Affiliate has been involved in any transaction that would reasonably be expected to cause the Company or any Subsidiary of the Company to be subject to liability under Section 4069 or 4212(c) of ERISA.

(j) No act or omission has occurred that would reasonably be expected to cause the Company or any Subsidiary of the Company to incur (i) a material civil penalty pursuant to Section 409, 502(c), 502(i), or 502(l) of ERISA or (ii) a material Tax or assessable payment imposed pursuant to Chapter 43 of the Code.

(k) Each Plan (excluding any Multiemployer Plan) has been established, documented, maintained and operated in all material respects in accordance with its terms and all applicable Laws.

(l) All contributions, premiums and any other payments required by and due under or in respect of the terms of each Plan (excluding any Multiemployer Plan) or applicable Law, or payable to any Plan insurer or service provider, have in each case been timely paid in all material respects in accordance with the terms of such Plan, any applicable insurance or service provider Contract and the terms of all applicable Laws and all such amounts that are accrued or payable but not yet due are set forth on the Financial Statements. With respect to any insurance policy providing funding or reimbursement for benefits under any Plan (excluding any Multiemployer Plan), to the knowledge of the Company, no insurance company issuing any such policy is in receivership, conservatorship, liquidation or similar proceeding.

(m) Within the last three (3) years (a) no actions, suits or claims (other than routine claims for benefits in the ordinary course) are or have been pending or, to the knowledge of Company, are currently threatened against the Company or any Subsidiary of the Company with respect to any Plan, and (b) no Plan (excluding any Multiemployer Plan) has been the subject of a pending or, to the knowledge of Company threatened audit, examination or investigation by any Governmental Entity.

(n) Each Plan (excluding any Multiemployer Plan) that constitutes a "non-qualified deferred compensation plan" subject to Code Section 409A, to the extent applicable, complies in all material respects with Code Section 409A with respect to its form and operation, and no amount under any such Plan is or has been subject to the interest and additional tax set forth under Code Section 409A(a)(1)(B).

(o) Except as set forth in Section 4.14(o) of the Disclosure Schedule, the consummation of the transactions contemplated by this Agreement will not (i) result in any material compensatory payment becoming due to any current or former employee, director, shareholder or other natural person service provider of the Company, (ii) materially increase any benefits otherwise payable under any Plan (excluding any Multiemployer Plan), (iii) result in the acceleration of time of payment or vesting of any such benefits to any material extent; (iv) limit or restrict the ability of Buyer or its Affiliates to merge, amend or terminate any Plan (excluding any Multiemployer Plan), or (v) result in any "parachute payment" within the meaning of Code Section 280G.

(p) With respect to Multiemployer Plans subject to Title IV of ERISA in which the Company or a Subsidiary currently contributes:

(i) For Multiemployer Plans that have provided a communication with an estimate of withdrawal liability, as set forth under Section 4.14(g) above, if the Company or a Subsidiary incurred a complete withdrawal from each such plan as of the assumed withdrawal date used in such communication, the aggregate amount of withdrawal liability that would be assessed by all such Multiemployer Plans to the Company and each Subsidiary would be, based on such communications, $17,060,582.

(ii) For Multiemployer Plans that have not provided an estimate of withdrawal liability as set forth under Section 4.14(g) above, if the Company or a Subsidiary incurred a complete withdrawal from each such plan, the Company estimates that based on accrued liabilities set forth in each relevant plan's publicly available 2016 or, if available 2017, Form 5500, under a methodology described in more detail in 4.14(p) of the Disclosure Schedule, the aggregate amount of withdrawal liability that would be assessed by all such Multiemployer Plans to the Company and each Subsidiary would not exceed $2,811,313.

SECTION 4.15 Transactions with Related Parties. Except as set forth in Section 4.15 of the Disclosure Schedule or the Capital Structure Certificate, no executive officer, director, equityholder or Affiliate of the Company or any of its Subsidiaries: (i) owns, directly or indirectly, any interest in (excepting less than one percent (1%) stock holdings for investment purposes in securities of publicly held and traded companies), or is an officer, manager, director or employee of, any Person that is a supplier, insurer, distributor, sales agent or customer of the Company or any of its Subsidiaries, (ii) owns, directly or indirectly, or has guaranteed obligations upon, in whole or

in part, any material property that the Company or any of its Subsidiaries uses in the conduct of its business, or (iii) has any cause of action or other claim whatsoever against the Company or any of its Subsidiaries, except for claims in the ordinary course of business such as for accrued vacation pay, accrued benefits under employee benefit plans, and similar matters and agreements arising in the ordinary course of business.

SECTION 4.16 Brokers. Except for Harris Williams & Co. and Moelis & Company LLC, the respective fees and expenses of which are included in the Transaction Expenses, no agent, broker, investment banker, person or firm acting on behalf of the Company or any of its Subsidiaries or under the authority of the Company or any of its Subsidiaries is or will be entitled to any broker's or finder's fee or any other commission or similar fee directly or indirectly from any of the parties hereto in connection with any of the transactions contemplated hereby.

SECTION 4.17 Insurance. Section 4.17 of the Disclosure Schedule contains a list of each insurance policy maintained with respect to the business of the Company and its Subsidiaries. Each such insurance policy is in full force and effect, and all premiums have been paid in full. Except as set forth on Section 4.17 of the Disclosure Schedule, neither the Company nor any of its Subsidiaries is in material default with respect to its obligations under any insurance policy maintained by them or reached or exceeded, with respect to any particular claim, the aggregate applicable policy limits under applicable insurance policies. Neither the Company nor any of its Subsidiaries has received written notice of termination, cancellation or non-renewal of any such insurance policies from any of its insurance brokers or carriers. The Company has complied with each such insurance policy except where the failure to so comply would not reasonably be expected to have a Company Material Adverse Effect.

SECTION 4.18 Customers and Suppliers.

(a) Neither the Company nor any Subsidiary of the Company has any outstanding material disputes with any customer that in either (i) the fiscal year ended December 31, 2017, was, or (ii) the fiscal year ending December 31, 2018, is reasonably projected to be, one of the ten (10) largest customers of the Company and its Subsidiaries based on amounts received or receivable by the Company and the Subsidiaries of the Company from such customer during such period (each, a "*Top Customer*"). During the period beginning on January 1, 2017 and ending on the date of this Agreement, neither the Company nor any Subsidiary of the Company has received any written notice from any Top Customer that such Top Customer intends to terminate or materially and adversely modify any existing contracts or agreements with the Company or any Subsidiary of the Company (or, following the Merger, their Affiliates).

(b) Neither the Company nor any Subsidiary of the Company has any outstanding material dispute with any supplier who, in either (i) the fiscal year ended December 31, 2017, was, or (ii) the fiscal year ending December 31, 2018, is reasonably projected to be, one of the ten (10) largest suppliers of products or services to the Company and its Subsidiaries based on amounts paid or payable by the Company and the Subsidiaries of the Company to such supplier during such period (each, a "*Top Supplier*"). During the period beginning on January 1, 2017 and ending on the date of this Agreement, neither the Company nor any of its Subsidiaries has received any written notice from any Top Supplier that such Top Supplier intends to terminate or materially and adversely

modify existing contracts or agreements with the Company or any of its Subsidiaries (or, following the Merger, their Affiliates).

SECTION 4.19 Product and Service Warranties; Products Liability.

(a) Neither the Company nor any of its Subsidiaries makes any other express warranty or guaranty as to Products sold, delivered or provided by, the Company or any of its Subsidiaries (a "*Warranty*"), and there is no pending or, to the knowledge of the Company, threatened written claim alleging any breach of any Warranty. Neither the Company nor any of its Subsidiaries has exposure to, or liability under, any Warranty beyond the type that is typically assumed in the ordinary course of business by Persons engaged in businesses comparable in size and scope of the Company and its Subsidiaries.

(b) Each Product sold, delivered or provided by, or on behalf of, the Company or any of its Subsidiaries in the last three (3) years has been in conformity in all material respects with all applicable contractual commitments and in conformity with all applicable consumer product safety Laws, regulations and standards adopted, applied, or relied upon by a Governmental Entity, and all express and implied warranties with respect thereto (including any Warranty), and neither the Company nor any of its Subsidiaries has any material liability for replacement or repair of any such Products or other damages in connection therewith. Each Product is, and at all relevant times has been, fit for ordinary purposes for which it is intended to be used and conforms in all material respects to any promises or affirmations of fact made with respect to such products. There is no design defect with respect to any Product. Each Product contains adequate warnings, presented in a reasonably prominent manner, in accordance in all material respects with applicable Law and current industry practice with respect to its contents and use. No Product designed, sold, delivered or distributed by, or on behalf of, the Company or any of its Subsidiaries in the last three (3) years is in violation of any guaranty, warranty or other indemnity. In the last three (3) years, there have been no recalls (whether voluntary or compulsory) of any Products sold, distributed, leased, delivered or provided by, or on behalf of, the Company or any of its Subsidiaries. Neither the Company nor any of its Subsidiaries has any plans to initiate a voluntary product recall.

## ARTICLE V

## REPRESENTATIONS AND WARRANTIES OF BUYER AND MERGER SUB

Buyer and Merger Sub jointly and severally represent and warrant to the Company as follows:

SECTION 5.1 Organization; Power and Authority. Each of Buyer and Merger Sub is a corporation duly organized, validly existing and in good standing under the Laws of its jurisdiction of incorporation. Each of Buyer and Merger Sub is duly qualified to do business and is in good standing in each jurisdiction in which such qualification is necessary because of the property owned, leased or operated by it or because of the nature of its business as now being conducted, except for any failure to so qualify or be in good standing that, individually or in the aggregate, would not reasonably be expected to have a Buyer Material Adverse Effect. Merger Sub has made available to the Company complete and correct copies of its constitutive documents as amended to the date of this Agreement.

SECTION 5.2 Authority; Approvals. The execution, delivery and performance of this Agreement by each of Buyer and Merger Sub and the consummation of the transactions contemplated hereby are within their respective corporate powers and have been duly and validly authorized by all necessary corporate action on the part of each of Buyer and Merger Sub (other than the filing of a Certificate of Merger pursuant to the DGCL). This Agreement has been duly executed and delivered by Buyer and Merger Sub, and (assuming due authorization, execution and delivery by the Company and the Stockholders' Representative) constitutes the valid and binding obligation of each of Buyer and Merger Sub, enforceable against each of Buyer and Merger Sub in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar Laws of general applicability relating to or affecting creditor's rights generally and by the application of general principles of equity.

SECTION 5.3 Conflicts; Consents. The execution, delivery and performance by each of Buyer and Merger Sub of this Agreement and the consummation of the transactions contemplated hereby does not (i) conflict with or result in a breach of the certificate of incorporation, bylaws or other constitutive documents of Buyer or Merger Sub, (ii) conflict with, breach or result in a default (or give rise to any right of termination, cancellation or acceleration), whether after the giving of notice or lapse of time, or both, under any of the provisions of any note, bond, lease, mortgage, indenture, or any license, franchise, permit, agreement or other instrument or obligation to which any of Buyer or Merger Sub is a party, or by which any such Person or its properties or assets are bound, or (iii) violate any Laws or orders or restrictions imposed by any Governmental Entity applicable to Buyer or Merger Sub or any such Person's properties or assets, except where the occurrence of any of the foregoing described in clauses (ii) or (iii) above would not reasonably be expected to have a Buyer Material Adverse Effect. Except for any filings as may be required under the DGCL in connection with the Merger, no consent or approval by, or notification of or registration or filing with, any Governmental Entity is required in connection with the execution, delivery and performance by Buyer or Merger Sub of this Agreement or the Transaction Agreements or the consummation of the transactions contemplated hereby or thereby.

SECTION 5.4 Brokers. No agent, broker, investment banker, person or firm acting on behalf of Buyer or Merger Sub or under the authority of Buyer or Merger Sub is or will be entitled to any broker's or finder's fee or any other commission or similar fee directly or indirectly from any of the parties hereto in connection with the Merger or any of the transactions contemplated hereby.

SECTION 5.5 Litigation. There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of Buyer or Merger Sub, threatened in writing by or before any court or other Governmental Entity against Buyer or Merger Sub that bring into question the validity of this Agreement or would reasonably be expected to have a Buyer Material Adverse Effect. No injunction, writ, temporary restraining order, decree or any order of any nature has been issued by any court or other Governmental Entity seeking or purporting to enjoin or restrain the execution, delivery and performance by Buyer or Merger Sub of this Agreement or the consummation by Buyer or Merger Sub of the transactions contemplated hereby.

SECTION 5.6 Funds. Buyer has delivered to the Company on the date hereof true, correct and complete copies of an executed commitment letter and related term sheets and fee letter (with only fee amounts, pricing caps and other economic and covenant terms redacted (none of which would adversely affect the amount or availability of the Financing)) from the parties identified therein (the "*Commitment Parties*") committing, subject to (and only to) the terms and conditions expressly set forth therein, to provide up to $80,000,000 in the aggregate of debt financing to the Person(s) identified in such commitment letter (such commitment letter, together with all term sheets and attachments thereto and the fee letter executed in connection therewith, the "*Commitment Letter*", and the debt financing committed pursuant to the Commitment Letter, the "*Financing*") the net proceeds of which will be used to refinance certain outstanding indebtedness of the Company on the Closing Date, substantially concurrently with (but immediately after) the Closing. Other than the letters comprising the Commitment Letter, as of the date hereof, there are no side letters or other agreements, contracts or arrangements related to the Financing. Assuming the satisfaction of the conditions set forth in Article VIII (other than those conditions that by their nature are to be satisfied or waived at the Closing), Buyer will have available to it at the relevant times hereunder sufficient unrestricted cash on hand necessary to consummate the transactions contemplated hereby and by the Commitment Letter and to perform its obligations hereunder and thereunder, including (a) all payments to be made pursuant to Section 3.6 and (b) all of the out-of-pocket costs of Buyer arising from the consummation of the transactions contemplated by this Agreement which are necessary to be paid in order to consummate the transactions contemplated hereby. The obligations to fund the commitments under the Commitment Letter are not subject to any condition, other than the conditions expressly set forth in the Commitment Letter. The Commitment Letter has been duly executed and delivered by Buyer and, to the knowledge of Buyer, each other Person party thereto, and the Commitment Letter is in full force and effect as of the date hereof and constitutes the valid and binding obligation of Buyer and, to the knowledge of Buyer, each other Person party thereto, subject to the qualification that such enforceability may be limited by bankruptcy, insolvency, reorganization or other laws of general application relating to or affecting rights of creditors. As of the date hereof, (i) the Commitment Letter has not been amended or modified, (ii) to the knowledge of the Buyer, no such amendment or modification is contemplated or the subject of current discussions, and (iii) the commitments contained in the Commitment Letter have not been withdrawn or rescinded in any respect. There are no fees, expense reimbursement obligations or other amounts that are required to be paid by Buyer prior to Closing under or in respect of the Commitment Letter which have not been paid. As of the date hereof, (x) no event has occurred or circumstance exists which, with or without notice, lapse of time or both, would or would reasonably be expected to constitute a default or breach under the Commitment Letter and (y) Buyer does not have any reason to believe that any of the conditions to the Financing will not be satisfied on the Closing Date or that the full amount of the Financing contemplated by the Commitment Letter will not be made available on the Closing Date. Notwithstanding anything in this Section 5.6 or elsewhere in this Agreement to the contrary, but subject to the limitations of Section 12.9(b), Buyer affirms, represents and warrants that (A) it is not a condition to the Closing or to any of its obligations under this Agreement that it obtain financing for or related to any of the transactions contemplated by this Agreement, (B) the obligations of Buyer under this Agreement are not contingent in any respect upon the funding of the amounts contemplated to be funded pursuant to the Commitment Letter and (C) the obligations of Buyer under this Agreement are not subject

to any conditions regarding Buyer's, its Affiliates', or any other Person's ability to obtain financing for the consummation of the transactions contemplated hereby.

SECTION 5.7 Solvency. Immediately after giving effect to the transactions contemplated by this Agreement (including any financings related thereto), Buyer and the Surviving Company shall on a consolidated basis, be able to pay their respective debts as they become absolute and matured in the ordinary course and shall own property on a consolidated and going concern basis having a fair saleable value greater than the amounts required to pay their respective debts (including a reasonable estimate of the amount of all contingent liabilities). Immediately after giving effect to the transactions contemplated by this Agreement (including any financings related thereto), Buyer and the Surviving Company shall on a consolidated and going concern basis have adequate capital to carry on their respective businesses. No transfer of property is being made and no obligation is being incurred in connection with the transactions contemplated by this Agreement with the intent to hinder, delay or defraud either present or future creditors of Buyer, Merger Sub or the Surviving Company.

SECTION 5.8 Tax Matters. Buyer and its Subsidiaries have been filing a consolidated federal income tax return pursuant to Section 1502 of the Code and the Treasury Regulations promulgated thereunder, and after the Closing Date, the Company and its Subsidiaries will join in the filing of the consolidated federal income tax return that includes Buyer.

## ARTICLE VI

## CERTAIN COVENANTS

SECTION 6.1 Conduct of Business.

(a) From the date of this Agreement until the earlier of the Closing and the termination of this Agreement in accordance with Article XI, (i) except as set forth in Section 6.1 of the Disclosure Schedule or as expressly permitted or required by this Agreement or otherwise consented to by Buyer in writing (which consent shall not be unreasonably withheld, conditioned or delayed), the Company shall operate its business only in the ordinary course of business consistent with past practice and (ii) the Company shall use its commercially reasonable efforts to:

(i) preserve intact the present organization of the Company and its Subsidiaries;

(ii) keep available the services of the present officers and employees of the Company;

(iii) preserve the Company's goodwill and relationships with material customers, suppliers, licensors, licensees, contractors, distributors, lenders and other Persons having significant business dealings with the Company and its Subsidiaries;

(iv) continue all current sales, marketing and other promotional policies, programs and activities;

(v) maintain the assets of the Company and its Subsidiaries in good repair, order and condition;

(vi) not assign, transfer, dedicate to the public, abandon, cancel, or license any material Intellectual Property, other than (x) non-exclusive licenses of Intellectual Property granted by the Company or its Subsidiaries in the ordinary course of business or (y) the lapse or abandonment of Intellectual Property no longer useful in the operation of the business of the Company or its Subsidiaries; and

(vii) maintain the Company's insurance policies and risk management programs, and in the event of casualty, loss or damage to any material assets of the Company or any of its Subsidiaries, repair or replace such assets in the reasonable determination of the Company with assets of comparable quality, as the case may be.

(b) Without limiting the generality of the foregoing, except as set forth in Section 6.1 of the Disclosure Schedule, the Company shall not, and shall not permit any of its Subsidiaries to, without the prior written consent of Buyer (which consent, other than with respect to the Specified Prohibitions, shall not be unreasonably withheld, conditioned or delayed), directly or indirectly (i) cause or permit any state of affairs, action or omission described in Section 4.6 (except for clauses (a), (l) and (t) thereof), (ii) make or change any Tax election, change an annual accounting period, adopt or change any accounting method, file any amended Tax Return, file any Tax Return with a due date after the Closing Date, enter into any closing agreement, settle any Tax claim or assessment relating to the Company or any of its Subsidiaries, surrender any right to claim a refund of Taxes, consent to any extension or waiver of the limitation period applicable to any Tax claim or assessment relating to the Company or any of its Subsidiaries, if such election, adoption, change, filing, amendment, agreement, settlement, surrender or consent would have the effect of increasing the Tax liability of the Company or any of its Subsidiaries, reducing the availability of any Tax attribute of the Company or any of its Subsidiaries (other than utilizing such Tax attributes in a manner consistent with past practice unless otherwise required by applicable Law), or otherwise adversely impacting the Buyer, the Company or any of its Subsidiaries for any Post-Closing Tax Period or (iii) take or agree in writing or otherwise to take any action that would reasonably be expected to prevent the satisfaction of any condition to closing set forth in Article VIII.

SECTION 6.2 Access and Information; Confidentiality.

(a) Subject to the terms of the Confidentiality Agreement, from the date of this Agreement until the earlier of (i) the Closing, and (ii) the termination of this Agreement in accordance with Article XI, the Company shall (x) allow Buyer and its Representatives to make such reasonable investigation of the business, operations and properties of the Company, including granting reasonable access to the respective Representatives of the Company and its Subsidiaries and the properties, books and records of the Company and its Subsidiaries and (y) furnish Buyer and its Representatives with such financial, operating and other data and information and copies of documents with respect to the Company or any of the transactions contemplated by this Agreement as Buyer shall from time to time reasonably request. Notwithstanding anything to the contrary in this Section 6.2(a), the foregoing shall (a) be permitted only to the extent reasonably necessary to enable Buyer to complete the transactions contemplated by this Agreement, (b) not apply with

respect to any information the disclosure of which would, based on the advice of the Company's outside counsel, waive any privilege or breach any duty of confidentiality owed to any Person without the consent of the beneficiary thereof of which the Company shall promptly notify Buyer, (c) not apply with respect to any document or information regarding the Company's or any of its Subsidiaries' entry into or conducting of a competitive sale process prior to the execution of this Agreement, (d) not apply with respect to any investigation, sampling or testing of any environmental media at any properties of the Company or its Subsidiaries, except with the Company's prior written consent (e) not apply to such portions of documents or information relating to pricing or other matters that are highly sensitive if the exchange of such documents (or portions thereof) or information, as determined by the Company's outside counsel, might reasonably result in antitrust difficulties between the Company and its Subsidiaries and Buyer or any of their respective Affiliates and (f) not apply with respect to any document or information the disclosure of which would be in violation of applicable Laws of any Governmental Entity or the provisions of any agreement to which the Company or any of its Subsidiaries is a party. Neither Buyer nor Merger Sub shall, prior to the Closing Date, have any contact whatsoever with respect to the Company or any of its Subsidiaries or with respect to the transactions contemplated by this Agreement, with any partner, lender, lessor, vendor, customer, supplier, employee or consultant of the Company or any of its Subsidiaries, except in consultation with the Company and then only with the express prior approval of the Company (which approval shall not be unreasonably withheld, conditioned or delayed).

(b) All access and investigation pursuant to this Section 6.2 shall be coordinated through the Company's Chief Financial Officer, shall occur only upon reasonable notice and during normal business hours and shall be conducted at Buyer's expense and in such a manner as not to interfere with the normal operations of the business of the Company and its Subsidiaries and shall be subject to existing confidentiality obligations of the Company and its Subsidiaries and applicable Law.

SECTION 6.3 Stockholder Consent and Notice. Promptly following the execution of this Agreement, the Company shall solicit the Stockholder Written Consent from all of its Stockholders entitled to vote thereon. The Company shall promptly deliver to Buyer a copy of each executed Stockholder Written Consent upon receipt thereof from any Stockholder pursuant to such solicitation. It is anticipated that, promptly after the execution of this Agreement, the Company will receive Stockholder Written Consents from Stockholders pursuant to the preceding solicitation that are sufficient to fully and irrevocably deliver the Requisite Stockholder Approval. Upon receipt of the Requisite Stockholder Approval, the Company shall promptly deliver a written notice (the "*Stockholder Notice*") to each Stockholder whose consent was not obtained prior to the Company's receipt of the Requisite Stockholder Approval, which notice shall include the notice to stockholders required by Section 262 of the Delaware General Corporation Law of the approval of the Merger and that appraisal rights are available. Buyer shall have a right to review and comment upon the Stockholder Notice prior to any delivery of the Stockholder Notice to any Stockholders, and the Company shall consider in good faith any comments made by Buyer on the Stockholder Notice prior to the delivery thereof to any Stockholders.

SECTION 6.4 Reasonable Best Efforts; Further Assurances.

(a) Upon the terms and subject to the conditions set forth in this Agreement, each of the parties hereto will use all reasonable best efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or advisable (including making any requisite filings or giving any requisite notices) under applicable Laws to consummate and make effective the transactions contemplated by this Agreement as expeditiously as practicable and to ensure that the conditions set forth in Article VIII are satisfied, insofar as such matters are within the control of any of them. Without limiting the generality of the foregoing and subject to Section 6.2, the Company, on the one hand, and Buyer and Merger Sub, on the other hand, shall each furnish to the other such necessary information and reasonable assistance as the other party may reasonably request in connection with the foregoing.

(b) In case at any time after the Effective Time any further action is necessary to carry out the purposes of this Agreement, each of the parties to this Agreement shall take or cause to be taken all such necessary action, including the execution and delivery of such further instruments and documents, as may be reasonably requested by any party hereto for such purposes or otherwise to consummate the transactions contemplated by this Agreement.

SECTION 6.5 Public Announcements. The parties hereto will not, and will cause each of their Affiliates and Representatives not to, issue or cause the publication of any press release or other public announcement with respect to this Agreement or the transactions contemplated hereby without the prior written consent of the other parties hereto, which consent shall not be unreasonably withheld, conditioned or delayed; *provided, however*, that a party hereto may, without the prior consent of the other parties hereto, issue or cause the publication of any such press release or other public announcement to the extent that such party reasonably determines, after consultation with outside legal counsel, that such action is required by applicable Law or by the rules of any applicable self-regulatory organization, in which event such party will use its commercially reasonable efforts to allow the other parties hereto reasonable time to comment on such press release or other public announcement in advance of its issuance or publication.

SECTION 6.6 Indemnification of Directors and Officers; Insurance.

(a) For a period of six (6) years following the Effective Time, Buyer shall, and shall cause the Surviving Company or its successor to, fulfill and honor in all respects the obligations of the Company with respect to all rights to indemnification (including advancement of expenses) or exculpation existing in favor of, and all limitations on the personal liability of, any Person who is now, or has been at anytime prior to the date hereof, or who becomes prior to the Effective Time, a director, officer or fiduciary of the Company or any of its Subsidiaries (the "*Company Indemnified Parties*") under the certificate of incorporation or bylaws of the Company or in any indemnification agreements in effect as of the date hereof and set forth in Section 6.6 of the Disclosure Schedule (copies of which have been made available to Buyer) to the fullest extent permitted under applicable Law.

(b) At or prior to the Closing, the Company shall obtain, maintain and fully pay for irrevocable "tail" insurance policies naming all Persons who were directors or officers of the Company and its Subsidiaries prior to the Closing as direct beneficiaries with a claims period of at least six (6) years from the Closing Date from an insurance carrier with the same or better credit

rating as the Company's current insurance carrier with respect to directors' and officers' liability insurance and related coverages that are under the same policy in an amount and scope at least as favorable as the Company's existing policies with respect to matters existing or occurring at or prior to the Closing Date; *provided* that the cost of the annual premium for such "tail" insurance policies shall not be required to exceed an amount equal to 300% of the annual premiums currently paid by the Company and its Subsidiaries for such insurance; *provided*, *further*, that, if such amount is insufficient for such coverage, the Company may spend up to such amount to obtain "tail" insurance policies with the greatest coverage available at such cost. Buyer shall not, and shall cause the Company and its Subsidiaries not to, cancel or change such insurance policies in such a manner as to adversely affect any Company Indemnified Party to whom this Section 6.6 applies without the prior written consent of such Company Indemnified Party. For the avoidance of doubt, the costs of such insurance policies shall constitute Transaction Expenses.

(c) The obligations under this Section 6.6 shall not be terminated or modified in such a manner as to adversely affect any Company Indemnified Party to whom this Section 6.6 applies without the consent of such affected Company Indemnified Party. The provisions of this Section 6.6 (i) are intended to be for the benefit of, and will be enforceable by, each Company Indemnified Party, his or her heirs and his or her representatives and (ii) are in addition to, and not in substitution for, any other rights to indemnification or contribution that any such Person may have by contract or otherwise.

(d) In the event that the Surviving Company or any of its successors or assigns (i) consolidates with or merges into any other Person and shall not be the continuing or surviving corporation or entity of such consolidation or merger, or (ii) transfers or conveys all or substantially all of its properties and assets to any Person, then, and in each such case, to the extent necessary, proper provision shall be made so that the successors and assigns of the Surviving Company, as the case may be, assume the obligations set forth in this Section 6.6.

SECTION 6.7 Section 280G. To the extent that any individual who is a "disqualified individual" (as defined in Section 280G(c) of the Code) may receive any payment or benefit in connection with the transactions contemplated by this Agreement that individually or in the aggregate could be characterized as a "parachute payment" (as defined in Section 280G(b)(2) of the Code), then no later than three (3) calendar days prior to the Closing, the Company shall obtain a written waiver from each such individual, pursuant to which the individual shall have waived his or her rights to some or all of such payments and benefits so that all remaining such payments and benefits applicable to such individual shall not constitute "parachute payments" (such waived payments and benefits, the "*Waived 280G Benefits*"), provided, however that at least three (3) calendar days prior to such deadline, Buyer shall have provided to the Company sufficient information regarding any payments or benefits offered by Buyer to such individual that could be so characterized as "parachute payments." Promptly following the execution of such waivers, and in any event at least one (1) calendar day prior to the Closing, the Company shall solicit a vote of the Waived 280G Benefits from the stockholders of the Company in the manner provided under Section 280G(b)(5)(B) of the Code and its associated Treasury Regulations. Prior to soliciting such waivers and vote, the Company shall provide a draft of such waivers and such stockholder vote solicitation materials (together with any calculations) to Buyer for Buyer's review and comment, and the Company shall consider in good faith Buyer's comments thereto submitted before such

waivers and vote are required to be provided to the applicable Persons. To the extent that any of the Waived 280G Benefits are not approved by the stockholders of the Company as contemplated above, prior to the Closing, such Waived 280G Benefits shall not be made or provided in any manner, except to the extent that such Waived 280G Benefits constitute reasonable compensation for personal services to be rendered after the Closing. Prior to the Closing, the Company shall deliver to Buyer evidence that a vote of the stockholders of the Company was solicited in accordance with the foregoing provisions of this Section 6.7 and that either (A) the requisite number of votes was obtained with respect to the Waived 280G Benefits (the "*280G Approval*"), or (B) the 280G Approval was not obtained, and, as a consequence, the Waived 280G Benefits shall not be made or provided.

SECTION 6.8 Post-Closing Record Retention and Access. From and after the Closing, Buyer shall provide the Stockholders' Representative and its authorized representatives with reasonable access (for the purpose of examining and copying), during normal business hours, to any books and records and other materials in the possession of the Company relating to the preparation of Tax Returns, to verify any item or information relevant pursuant to this Agreement (and any materials necessary for the preparation of any of the foregoing). Buyer shall not and shall cause the Company and its Subsidiaries not to, for a period of seven years following the Closing Date, destroy, alter or otherwise dispose of any such books and records and other materials of the Company and its Subsidiaries, or any portions thereof, relating to periods prior to the Closing Date without first offering to surrender to the Stockholders' Representative such books and records and other materials or such portions thereof.

SECTION 6.9 Notices and Consents. Prior to the Closing, the Company shall (a) give (and shall cause its Subsidiaries to give) any required notices to third parties triggered as a result of this Agreement or the transactions contemplated hereby, and (b) use commercially reasonable efforts (and will cause its Subsidiaries to use commercially reasonable efforts) to obtain any third party consents triggered as a result of this Agreement or the transactions contemplated hereby, in each case of clauses (a) and (b) that Buyer may reasonably request in connection with the matters referred to in Section 4.4; *provided*, *however*, that nothing in Section 6.4(a) or this Section 6.9 shall require the Company or its Subsidiaries to (i) expend any money to obtain any such consent or to remedy any breach of any representation or warranty hereunder, (ii) commence any action, suit or proceeding or (iii) offer or grant any accommodation (financial or otherwise) to any third party.

SECTION 6.10 Expenses. Each party hereto shall bear its own fees, costs and expenses incurred in the pursuit of the transactions contemplated by this Agreement, including the fees and expenses of its respective counsel, financial advisors and accountants; *provided* that Buyer shall pay, or cause to be paid, (i) all Transaction Expenses as provided in Section 3.6 and (ii) all Debt Repayment Expenses that are part of the Repaid Closing Indebtedness as provided in Section 3.6, and (iii) all fees, costs and expenses of the Escrow Agent and the Paying Agent (collectively, the "*Agents' Fees*"); and *provided*, *further*, that the fees and expenses of the Independent Accountant, if any, shall be allocated as provided in Section 3.3.

SECTION 6.11 Employees and Employee Benefits. During the one-year period immediately following the Closing Date, Buyer and the Surviving Company shall provide employees of the Surviving Company and its Affiliates who were employees of the Company and

its Subsidiaries immediately prior to the Closing and who continue employment with the Company and its Subsidiaries following the Closing Date with (i) annual rates of base salary or hourly wages, as applicable, and annual target cash incentive opportunities that are no less than the annual rates of base salary or hourly wages and annual target cash incentive opportunities provided to such employees immediately before the Closing; and (ii) coverage and benefits pursuant to employee benefit plans, programs, policies and arrangements that are, in the aggregate, substantially comparable to the benefits provided to such employees under the Plans (excluding any Multiemployer Plan) as in effect immediately prior to the Closing. Where applicable, each such employee shall receive full credit for service with the Company and its Subsidiaries for purposes of determining eligibility to participate and vesting (excluding equity-based compensation vesting) under each employee benefit plan, program, policy or arrangement to be provided by Buyer or the Surviving Company to such employee (excluding equity-based compensation) and for purposes of accruing vacation and other paid time off benefits to the same extent such service was recognized under the applicable Plan (excluding any Multiemployer Plan) immediately prior to the Closing. To the extent any such employee has satisfied any deductible or co-payments under the Plans that are group health plans for the Plan year in which the Closing occurs, Buyer or the Surviving Company shall use commercially reasonable measures to provide such employee with credit for such payment under the group health plans of Buyer or the Surviving Company that most closely resembles the group health Plan under which the deductible or co-payment was satisfied. Nothing in this Agreement (i) requires the Buyer or the Surviving Company and its Affiliates to continue the employment of any employee following the Closing, or (ii) constitutes a benefit plan or an amendment to a benefit plan.

SECTION 6.12 Omitted.

SECTION 6.13 No Solicitations. The Company will not, and will not permit any of its Subsidiaries or any Representative of the Company or any of its Subsidiaries to, directly or indirectly, (a) solicit, initiate, engage in, respond to, or encourage, discussions or negotiations with any Person (whether such discussions or negotiations are initiated by them or otherwise), or solicit or encourage proposals from any Person, other than Buyer and its advisors and representatives, with respect to (i) any purchase, sale or other disposition of any material portion of the assets of the Company (other than sales of assets in the ordinary course of business otherwise permissible under Section 6.1), (ii) any issuance, sale or other disposition of any equity interests in the Company, (iii) any merger, acquisition, consolidation or similar business combination transaction involving the Company, or (iv) any recapitalization of the Company (each of the foregoing being defined as an "*Acquisition Transaction*"); (b) provide any information with respect to the Company to any person or entity, other than Buyer and its advisors and representatives, in connection with an Acquisition Transaction; or (c) enter into any agreement (whether or not binding or definitive) with any Person, other than Buyer and its advisors and representatives, concerning or relating to an Acquisition Transaction. The Company shall, and shall cause its Subsidiaries and their Representatives to, immediately cease and cause to be terminated any existing discussions or negotiations with any Persons (other than Buyer and Merger Sub) conducted heretofore with respect to any Acquisition Transaction. The Company agrees not to (and to cause its Subsidiaries not to) release any third party from the confidentiality provisions of any agreement to which the Company or any of its Subsidiaries is a party.

SECTION 6.14 Payoff Letters. The Company shall use commercially reasonable efforts to obtain, no later than two (2) Business Days prior to the Closing Date, payoff letters in form reasonably satisfactory to Buyer and its Commitment Parties and their Representatives from the holders (or the agents for such holders) of the Closing Indebtedness set forth on Annex 5 attached hereto (collectively, the "*Repaid Closing Indebtedness*"), and all documents related thereto, including any credit agreements, pledge agreements, security agreements, notes and guarantees, and all Liens securing the Repaid Closing Indebtedness, shall be released or terminated upon the repayment of the Repaid Closing Indebtedness in accordance with the terms of such payoff letters and any possessory collateral securing any Repaid Closing Indebtedness shall be delivered to Buyer, its Commitment Parties or their respective designees, as directed by Buyer.

SECTION 6.15 Financing.

(a) Buyer shall use its reasonable best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable to obtain the proceeds of the Financing on the terms and conditions described in the Commitment Letter and to consummate the Financing on the Closing Date, including using its reasonable best efforts to (i) maintain in effect the commitment for the Financing set forth in the Commitment Letter, (ii) negotiate definitive agreements with respect thereto on the conditions contemplated by the Commitment Letter (including any "market flex" terms and conditions to which the Commitment Letter is subject), (iii) satisfy (and cause each of its Affiliates to satisfy), or if deemed advisable by Buyer obtain the waiver of, on a timely basis, all conditions applicable to Buyer or any of its Affiliates in the Commitment Letter and the definitive agreements related thereto (including payment of all fees and expenses) and comply with its obligations thereunder and (iv) enforce its rights under the Commitment Letter in the event of any breach or purported breach thereof (other than through the commencement of litigation). In the event that all conditions to the commitment of any counterparty to the Commitment Letter providing the Financing (other than conditions that are within the control of Buyer, including conditions relating to (1) the failure of any equity funding condition in the Commitment Letter, (2) the failure by Buyer or any of its Affiliates to deliver documents at the Closing, (3) the failure to pay costs, fees, expenses or other compensation contemplated by the Commitment Letter or related letters which are payable by Buyer or any of its Affiliates to the lead arrangers, other lenders and administrative agents or any other Person or (4) any breach, in any material respect, by Buyer, or any of its Affiliates under the Commitment Letter or related letters) have been satisfied, unless Buyer has obtained an equivalent amount of funds (to be applied to the same uses) from an alternate source of financing in lieu of the Financing Sources in one or more transactions that would not reasonably be expected to prevent, impede or delay the consummation of the transactions contemplated by this Agreement, Buyer shall use reasonable best efforts to cause the Financing Sources, and each other Person providing such Financing, to fund when required hereunder the Financing required to consummate the transactions contemplated hereby. Buyer shall not and shall cause its Affiliates not to take or refrain from taking, directly or indirectly, any action that would reasonably be expected to result in a failure of any of the conditions contained in the Commitment Letter or in any definitive agreements related thereto.

(b) Buyer shall not, without the prior written consent of the Company, permit any amendment or modification to, or any waiver of any provision (including any remedy) under, or voluntarily replace the Commitment Letter if such amendment, modification, waiver or voluntary

replacement (i) adds new (or adversely modifies any existing) conditions to the consummation of the Financing as compared to those in the Commitment Letter as in effect on the date of this Agreement, (ii) adversely affects in any material respect the ability of Buyer to enforce its rights against other parties to the Commitment Letter or the definitive agreements related to the Financing, (iii) reduces the aggregate amount of the Financing, unless other financing is increased by a corresponding amount (or Buyer or its Affiliates may draw upon an available revolving credit facility to fund an amount equal to such reduction; provided that such draw would not impair any availability required to fund the maximum amount of market flex that might be imposed), or (iv) could otherwise be expected to prevent, impede or delay the consummation of the transactions contemplated by this Agreement.

(c) If any portion of the Financing becomes unavailable on the terms and conditions contemplated by the Commitment Letter (including any "market flex" terms and conditions to which the Commitment Letter is subject), or Buyer becomes aware of any event or circumstance that could reasonably be expected to make any portion of the Financing unavailable on the terms and conditions contemplated by the Commitment Letter (including any "market flex" terms and conditions to which the Commitment Letter is subject), regardless of the reason therefor, then Buyer shall (i) use its reasonable best efforts to arrange and obtain in replacement thereof, and to negotiate and enter into agreements with respect to, alternative financing from alternative sources, in an amount sufficient to consummate the transactions contemplated hereby and to pay related fees and expenses, with terms and conditions (including "market flex" terms and conditions) not materially less favorable to Buyer than the terms and conditions contemplated by the Commitment Letter (including any "market flex" terms and conditions to which the Commitment Letter is subject), as promptly as practicable following the occurrence of such event, but in no event later than the date on which Buyer is required to consummate the transactions contemplated by this Agreement in accordance with this Agreement, and (ii) promptly notify the Company of such unavailability and the reason therefor. For purposes of this Agreement, references to the "Financing" shall include the financing contemplated by the Commitment Letter as permitted to be amended, modified or replaced by this Section 6.15(c), and references to the "Commitment Letter" shall include such documents as permitted to be amended, modified or replaced by this Section 6.15(c).

(d) Buyer shall keep the Company informed on a current basis and in reasonable detail of the status of its efforts to arrange and consummate the Financing. Buyer shall give the Company prompt written and electronic notice of any knowledge of (i) any actual or potential breach, default, termination or repudiation by any party to the Commitment Letter or definitive documents related to the Financing of which Buyer becomes aware, (ii) the receipt of any notice or other communication from any Financing Source or other Person providing the Financing with respect to (A) any actual or potential breach, default, termination or repudiation by any party to the Commitment Letter or any definitive document related to the Financing of any provisions of the Commitment Letter or any definitive document related to the Financing (or any statement by any such Person that such Person does not intend to enter into any such document or to consummate the transactions contemplated thereby) or (B) any material dispute or disagreement between or among any parties to the Commitment Letter or any definitive document related to the Financing and (iii) the occurrence of any event or development that could reasonably be expected to adversely impact the ability of Buyer to obtain all or any portion of the Financing contemplated by the Commitment Letter on the terms and conditions, in the manner or from the sources contemplated

by the Commitment Letter or the definitive documents related to the Financing (or if at any time for any other reason Buyer believes that it will not be able to obtain all or any portion of the Financing contemplated by the Commitment Letter on the terms and conditions, in the manner or from the sources contemplated by the Commitment Letter or the definitive documents related to the Financing). As soon as reasonably practicable (and in any event within two (2) Business Days) after the date on which the Company delivers to Buyer a written request, Buyer shall provide any information reasonably requested by the Company relating to any circumstance referred to in the immediately preceding sentence.

SECTION 6.16 Assistance with Financing.

(a) From the date of this Agreement until the earlier of the Closing or the termination of this Agreement in accordance with Article XI, subject to the limitations set forth in this Section 6.16, and unless otherwise agreed by Buyer, the Company will use commercially reasonable efforts to cooperate with Buyer as reasonably requested by Buyer in connection with Buyer's arrangement of the Financing; *provided* that nothing herein shall require such cooperation to the extent it would interfere in any material respect with the business or operations of the Company or any of its Subsidiaries. Such cooperation will include (i) subject to the remaining provisions of this Section 6.16, making appropriate executive officers available for participation in a reasonable number of meetings, lender meetings, due diligence sessions and road shows at mutually agreeable times and upon reasonable notice, (ii) assistance in the preparation of offering memoranda, lender presentations, private placement memoranda, prospectuses and similar documents and the execution and delivery of any definitive financing documents as may be reasonably requested by Buyer or any prospective lender to Buyer; *provided* that any private placement memoranda, lender meetings, prospectuses and similar documents shall contain disclosures and financial statements reflecting the Company's financial position after giving effect to the transactions contemplated by this Agreement, (iii) furnishing Buyer and its financing sources with copies of such financial and operating data with respect to the Company and its Subsidiaries which is prepared by the Company in the ordinary course of business and is customarily required for completion of debt financings similar to the Financing; *provided* that, notwithstanding anything in this Agreement to the contrary, the Company shall not be required to deliver or cause the delivery of any legal opinions or accountants' cold comfort letters or reliance letters (but excluding customary authorization letters) or any certificate as to solvency or any other certificate necessary for the Financing; *provided*, *further*, that nothing in this Agreement shall require the Company to cause the delivery of (x) any financial information in a form not customarily prepared by the Company with respect to such period or (y) any financial information with respect to a month or fiscal period that has not yet ended or has ended less than forty five (45) days prior to the date of such request (or ninety (90) days in the case of a fiscal year end), (iv) obtaining customary pay-off letters, lien terminations, title transfers, and instruments of discharge or transfer relating to any assets to be delivered at the Closing Date; (v) ensuring that there are no competing issuances of debt securities or syndicated credit facilities of the Company or its Subsidiaries being offered, placed or arranged between the execution of this Agreement and the Closing Date (other than the Financing); (vi) assisting reasonably in the preparation of one or more credit or other agreements, as well as any pledge and security documents, and other definitive financing documents, collateral filings or other certificates or documents as may be reasonably requested by Buyer or Merger Sub and otherwise reasonably facilitating the pledging of collateral; (vii) subject to the immediately following sentence, executing

and delivering any necessary and customary pledge and security documents, guarantees, mortgages, collateral filings, other definitive financing documents (including one or more credit agreements, note purchase agreements, indentures and/or other instruments) in connection with such Financing or other certificates or documents as may reasonably be requested by Buyer or Merger Sub and reasonably facilitating the taking of all corporate actions by the Company and its Subsidiaries with respect to entering such definitive financing documents and otherwise necessary to permit consummation of the Financing; and (viii) at least five (5) Business Days prior to Closing, providing all documentation and other information about the Company and its Subsidiaries that is reasonably requested by the Financing Sources and the Financing Sources that they reasonably determine is required by applicable "know your customer" and anti-money laundering rules and regulations including the USA PATRIOT Act, to the extent requested by Buyer or Merger Sub in writing at least ten (10) Business Days prior to Closing. Buyer agrees that the execution by the Company or any of its Subsidiaries of any documents (other than customary authorization letters) in connection with the financing for the transactions contemplated by this Agreement shall be subject to the consummation of the transactions contemplated hereby at the Closing and such documents will not take effect until the Closing. Notwithstanding anything in this Section 6.16 or elsewhere in this Agreement to the contrary, in no event shall the Company or any of its Subsidiaries be required to bear any cost or expense, pay any fee or incur any liability or make any commitment or agreement effective in connection with the Financing prior to the Closing.

(b) Buyer shall promptly upon any request by the Company reimburse the Company for all fees, costs and expenses (including fees and expenses of counsel) incurred by the Company or any of its Subsidiaries or any of their respective Representatives in connection with their compliance with this Section 6.16 and shall indemnify and hold harmless the Company, its Subsidiaries, their respective current and former managers, directors, officers and employees and each of their respective Representatives from and against all losses, damages, claims, costs or expenses suffered or incurred by any of them in connection with the arrangement of the Financing and any information used in connection therewith, except for any of the foregoing to the extent the same is the result of gross negligence, willful misconduct or Intentional Fraud committed by or on behalf of the Company, its Subsidiaries or their respective Representatives in connection with the arrangement of the Financing and any information provided for or used in connection therewith (other than information provided by the Company, its Subsidiaries, and their respective Representatives).

SECTION 6.17 Additional Agreements.

(a) Buyer acknowledges that in making its determination to proceed with the transactions contemplated by this Agreement it has relied solely on the results of its own independent investigation and the representations and warranties of the Company expressly and specifically set forth in Article IV, as qualified by the Disclosure Schedule. Such representations and warranties by the Company expressly and specifically set forth in Article IV, as qualified by the Disclosure Schedule, Section 6.17(b) and the Transaction Agreements, constitute the sole and exclusive representations and warranties of or regarding the Company and its Subsidiaries to Buyer in connection with the transactions contemplated hereby, and Buyer (a) represents, warrants and agrees that it has not relied upon the accuracy or completeness of any other representation, warranty, statement or information of any kind or nature expressed or implied (including in respect of any of

the financial condition, results of operations, assets, liabilities, properties and projected operations of the Company and its Subsidiaries or in respect of the accuracy or completeness of any information regarding the Company or any of its Subsidiaries furnished or made available to Buyer and its representatives), and (b) waives any right Buyer may have against the Company with respect to any inaccuracy of any such other representation, warranty, statement or information or with respect to any omission or nondisclosure, on the part of the Company or any Representative of the Company or any Subsidiary thereof, of any potentially material information. In connection with Buyer's investigation of the Company and its Subsidiaries, Buyer has received certain projections, including projected statements of operating revenues and income from operations of the Company and its Subsidiaries and certain business plan information. Buyer acknowledges that there are uncertainties inherent in attempting to make such estimates, projections and other forecasts and plans, that Buyer is familiar with such uncertainties and that Buyer is taking full responsibility for making its own evaluation of, and expressly disclaims reliance upon, the adequacy and accuracy of all estimates, projections and other forecasts and plans so furnished to it, including the reasonableness of the assumptions underlying such estimates, projections and forecasts. Accordingly, Buyer hereby acknowledges that none of the Company, its Subsidiaries, or any of their respective direct or indirect Affiliates or Representatives (or any of their directors, officers, employees, members, managers, partners or agents) is making any representation or warranty with respect to such estimates, projections and other forecasts and plans, including the reasonableness of the assumptions underlying such estimates, projections and forecasts except as explicitly set forth in Article IV. BUYER ACKNOWLEDGES THAT THE COMPANY IS NOT MAKING ANY REPRESENTATION OR OTHER WARRANTY (EITHER EXPRESS OR IMPLIED, BY FACT OR LAW) OTHER THAN THOSE EXPRESSLY AND SPECIFICALLY SET OUT IN ARTICLE IV (AS QUALIFIED BY THE DISCLOSURE SCHEDULE), AND THE TRANSACTION AGREEMENTS INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. Notwithstanding anything to the contrary set forth herein, the foregoing shall not apply in the event of Intentional Fraud or to any claims or rights of Buyer, any Affiliate of Buyer or any other Person arising out of Intentional Fraud.

(b) The representations and warranties by Buyer and Merger Sub expressly and specifically set forth in Article V, Section 6.17(a) and the Transaction Agreements constitute the sole and exclusive representations and warranties of or regarding Buyer and Merger Sub to the Company in connection with the transactions contemplated hereby and thereby, and the Company represents, warrants and agrees that it has not relied upon the accuracy or completeness of any other representation, warranty, statement or information of any kind or nature expressed or implied (including in respect of any of the financial condition, results of operations, assets, liabilities, properties and projected operations of Buyer and Merger Sub or in respect of the accuracy or completeness of any information regarding Buyer or Merger Sub furnished or made available to the Company and its representatives). THE COMPANY ACKNOWLEDGES THAT NEITHER BUYER NOR MERGER SUB IS MAKING ANY REPRESENTATION OR OTHER WARRANTY (EITHER EXPRESS OR IMPLIED, BY FACT OR LAW) OTHER THAN THOSE EXPRESSLY AND SPECIFICALLY SET OUT IN ARTICLE V, SECTION 6.17(a) AND THE TRANSACTION AGREEMENTS. Notwithstanding anything to the contrary set forth herein, the foregoing shall not apply in the event of Intentional Fraud or to any claims or rights of the Company, any Affiliate of the Company or any other Person arising out of Intentional Fraud.

SECTION 6.18 Divested Assets and Transition Services Agreement. Prior to the Closing, the Company shall, or shall cause its applicable Subsidiary to, contribute the assets described on Section 6.18 of the Disclosure Schedule (the "*Divested Assets*"), together with all associated rights, claims, obligations and liabilities, to a newly formed Delaware limited liability company ("*NewCo LLC*"), (which, initially shall be owned by the Company and prior to or at the Closing, all of the equity interests in which entity shall be distributed to the Preferred Stockholders) pursuant to a contribution agreement in form and substance reasonably satisfactory to Buyer (the "*Divestiture*") and to that end, the Company shall inform Buyer of the amount of taxable gain (if any) resulting from the Divestiture and the Preferred Stockholders shall pay Buyer an amount equal to all Taxes imposed in respect of such gain, in accordance with Section 7.2(d). Subject to the preceding sentence, each of Buyer and Merger Sub hereby consents to the Divestiture. Following the Closing, the Buyer shall cause the Company to provide the services set forth in the Transition Services Agreement on the terms and subject to the conditions set forth therein.

SECTION 6.19 Collection of Certain Receivables. Following the Closing, Buyer shall cause the Company (and its Subsidiaries) to use commercially reasonable efforts to collect the outstanding accounts receivable set forth on Section 6.19 of the Disclosure Schedule (the "*SNC Receivables*") and as reasonably requested by the Stockholders' Representative from time to time, provide the Stockholders' Representative with (i) information regarding the status of collection of the SNC Receivables and (ii) reasonable access during normal business hours to all documentation and information in the possession or control of the Company or its Subsidiaries related to or supporting the SNC Receivables, in each case, subject to confidentiality requirements, if any, associated therewith. Upon any such collection, as and when received from time to time, Buyer shall, or shall cause the Company to, (i) promptly (but in any event within three (3) Business Days following collection) notify the Stockholders' Representative of such collection and (ii) deliver all such collected amounts by wire transfer of immediately available funds to the account or accounts to be designated by the Stockholders' Representative in writing as soon as reasonably practicable after receipt of such instructions from the Stockholders' Representative. Without the prior written consent of the Stockholders' Representative (which consent shall not be unreasonably withheld, conditioned or delayed), neither Buyer nor the Company nor any of its Subsidiaries may discount or compromise the SNC Receivables or any portion thereof. Upon reasonable request from the Stockholders' Representative, notwithstanding anything to the contrary herein, Buyer shall (A) permit the Stockholders' Representative's, at its sole expense, to assign to any Person or Persons designated by the Stockholders' Representative in writing its rights under this Section 6.19, or (B) cause the Company to assign the economic benefit of the SNC Receivables to any Person or Persons designated by the Stockholders' Representative in writing; provided, however, that in the case of any assignment pursuant to clause (B) above, the assignment shall be subject to the assignee executing an acknowledgment reasonably satisfactory to Buyer of Buyer's exclusive right to control the prosecution and collection of the SNC Receivables and a waiver of any right to litigate or otherwise directly pursue collection of any SNC Receivable against the applicable counterparty. Upon reasonable request from the Stockholders' Representative, Buyer shall cause the Company (and its Subsidiaries) to provide copies of all documentation and information in the possession or control of the Company or its Subsidiaries related to or supporting the SNC Receivables to any such assignee.

SECTION 6.20 R&W Insurance Policy. Buyer has obtained a binder agreement with respect to the R&W Insurance Policy and hereby represents to the Company that such policy shall be bound as of the Closing Date. The Company shall cooperate with Buyer and the applicable insurance provider as reasonably requested by Buyer and such insurance provider in connection with obtaining the R&W Insurance Policy.

SECTION 6.21 Transition Services Agreement. Prior to the Closing Date, Buyer and the Stockholders' Representative shall negotiate in good faith a Transition Services Agreement containing the terms set forth on Exhibit F and other customary terms in form and substance reasonably acceptable to Buyer and the Stockholder's Representative.

SECTION 6.22 Termination of Employment. Prior to the Closing, if not otherwise terminated, the Company shall terminate its employment of Brent Smith and Doug Vail and satisfy any severance or other payment obligations resulting therefrom.

## ARTICLE VII

## TAX MATTERS

SECTION 7.1 Transfer Taxes. Transfer Taxes imposed as a result of any transaction contemplated by this Agreement shall be borne (i) 50%, on a joint, but not several basis, by the Preferred Stockholders and (ii) 50% by Buyer. The party with primary responsibility under applicable Law for the payment of any particular Transfer Tax shall prepare and file the relevant Tax Return and notify the other party in writing of the Transfer Taxes shown on such Tax Return. Such other party shall reimburse the first party for its portion of such Transfer Tax liability as determined pursuant to this Section 7.1 within 10 Business Days of receipt of such notice.

SECTION 7.2 Pre-Closing Tax Returns.

(a) The Company shall prepare and timely file or cause to be prepared and timely filed all Tax Returns of the Company and its Subsidiaries due on or prior to the Closing Date. All such Tax Returns shall be prepared in a manner consistent with past practice, except as otherwise required by applicable Law.

(b) The Stockholders' Representative shall, at Stockholders' Representative's expense, prepare, or cause to be prepared in a manner consistent with past practices, except as otherwise required by applicable Law, and shall timely file or cause to be timely filed, all income Tax Returns of the Company and its Subsidiaries with respect to any Pre-Closing Tax Period (not including any Straddle Tax Period ending on and including the Closing Date). No later than fifteen (15) Business Days prior to the due date for filing any such Tax Returns, the Stockholders' Representative shall provide Buyer with an opportunity to review and approve such Tax Returns (which approval shall not be unreasonably withheld, conditioned or delayed). Buyer shall file such Tax Return, or cause any such Tax Return to be filed, on a timely basis. If Buyer disagrees with the treatment of any item on such Tax Return, the Stockholders' Representative and the Buyer shall attempt to resolve such disagreement in good faith. If the Stockholders' Representative and Buyer cannot resolve such disagreement, any disputed items shall be referred to, and decided by, the Independent Accountant, without limiting Buyer's right to indemnification hereunder.

(c) Buyer shall prepare, or cause to be prepared in a manner consistent with past practice, except as otherwise required by applicable Law, and shall timely file or cause to be timely filed, all Tax Returns of the Company and its Subsidiaries with respect to any Pre-Closing Tax Period (including with respect to any Straddle Tax Period) other than Tax Returns prepared and filed pursuant to Section 7.2(a) and Section 7.2(b). No later than fifteen (15) Business Days prior to the due date for filing any such Tax Returns, Buyer shall provide the Stockholders' Representative with an opportunity to review and approve such Tax Returns(which approval shall not be unreasonably withheld, conditioned or delayed).

(d) The Preferred Stockholders and Option Holders shall, jointly but not severally, pay Buyer an amount equal to all Taxes shown as due on a Tax Return prepared in accordance with Section 7.2(b)or (c)at least three (3) Business Days prior to the due date for such Tax Return (or within ten (10) Business Days of the Stockholders' Representative receiving the Tax Return for review pursuant to Section 7.2(c), if later), but only to the extent that the aggregate amount of such Taxes exceeds the amount of Taxes reflected as a liability in the Closing Net Working Capital.

SECTION 7.3 Refunds and Credits. Except to the extent such amounts were taken into account in the calculation of Closing Net Working Capital, the Preferred Stockholders shall be entitled to receive from Buyer, the Surviving Company and their respective Subsidiaries and Affiliates all refunds (or credits for overpayments, to the extent such credits actually reduce Tax liabilities) of Taxes, including any interest actually received from the relevant Tax Authority, attributable to a Pre-Closing Tax Period and promptly upon receipt of any such Tax refund or the filing of the Tax Return reflecting such credit for overpayment Buyer will make a payment or will cause to make a payment of such amounts to the Paying Agent for payment thereof by the Paying Agent pro rata to the Preferred Stockholders less any applicable withholding taxes and without interest (except for any interest paid by the Tax Authority to the Buyer with respect to such refund).

SECTION 7.4 Tax Proceedings.

(a) Buyer shall promptly notify the Stockholders' Representative in writing of the commencement of any audit or examination of any Tax Return of the Surviving Company or

its Subsidiaries for any Pre-Closing Tax Period and any other proposed change or adjustment, claim, dispute, arbitration or litigation (a "*Tax Proceeding*") that, if sustained, may give rise to a claim for indemnification in respect of Taxes under this Agreement (a "*Tax Claim*"). Such notice shall describe the asserted Tax Claim in reasonable detail and shall include copies of any notices and other documents received from any Tax Authority in respect of any such asserted Tax Claim.

(b) Stockholders' Representative shall, at its own cost and expense, control any Tax Proceeding in respect of any Pre-Closing Tax Period (not including Straddle Tax Periods); provided, however, that (i) the Stockholders' Representative shall inform the Buyer of the status and progress of such Tax Proceeding, (ii) the Buyer shall have the opportunity to participate in such Tax Proceeding at its own cost and expense and (iii) the Stockholders' Representative shall not settle any such Tax Proceeding or any Tax Claim that is the subject of such Tax Proceeding without the Buyer's prior written approval (which approval shall not be unreasonably withheld, conditioned or delayed).

(c) Buyer shall, at its own cost and expense, control any Tax Proceeding in respect of any Straddle Tax Period; provided, however, that (i) Buyer shall inform the Stockholders' Representative of the status and progress of such Tax Proceeding, (ii) the Stockholders' Representative shall have the opportunity to participate in such Tax Proceeding at its own cost and expense and (iii) Buyer shall not settle any such Tax Proceeding or any Tax Claim that is the subject of such Tax Proceeding without the Stockholders' Representative's prior written approval (which approval shall not be unreasonably withheld, conditioned or delayed).

SECTION 7.5 Straddle Tax Periods. In the case of any Taxes with respect to a Straddle Tax Period, the portion of such Tax related to the Pre-Closing Tax Period shall be determined based on a closing of the books as of the close of business on the Closing Date except that the amount of Taxes of the Company or any of its Subsidiaries imposed on a periodic basis for a Straddle Tax Period that relates to the portion of the Straddle Tax Period ending on and including the Closing Date shall be deemed to be the amount of such Tax for the entire taxable period multiplied by a fraction the numerator of which is the number of days in the taxable period ending on the Closing Date and the denominator of which is the number of days in such Straddle Tax Period.

SECTION 7.6 Pre-Closing Actions.

(a) Except as provided in Section 7.2(c), Buyer or its Affiliates (including the Company or any of its Subsidiaries) shall not file or amend any Tax Return with respect to any Pre-Closing Tax Period or make any election that has retroactive effect to any Pre-Closing Tax Period without the prior written consent of the Stockholders' Representative (which consent shall not be unreasonably withheld, delayed or conditioned) unless required by law or pursuant to the settlement of a Tax Proceeding.

(b) Prior to the Closing, the Company and each applicable Subsidiary shall terminate any and all powers of attorney granted and currently in force with respect to any matter relating to Taxes.

SECTION 7.7 Payment Mechanics. For any payments required to be made or caused to be made by Buyer under this Article VII, Buyer will, and will cause the Surviving Company or its Subsidiaries or their Affiliates, as applicable, to, deliver and pay over, by wire transfer of immediately available funds the amount of such payment to, (i) with respect to amounts payable to the Preferred Stockholders, the Paying Agent for payment thereof by the Paying Agent pro rata to the Preferred Stockholders and (ii) with respect to amounts payable to Change of Control Bonus Recipients, the Surviving Company for payment thereof by the Surviving Company as soon as practicable (but no later than one payroll cycle) after receipt thereof pro rata to the Change of Control Bonus Recipients, in each case (clauses (i) and (ii)), in accordance with the Capital Structure Certificate, Change of Control Bonus Annex and less any applicable withholding Taxes and without interest.

SECTION 7.8 Buyer's Tax Return The parties acknowledge that the taxable year of the Company and its Subsidiaries will end at the end of the day on the Closing Date.

SECTION 7.9 Cooperation The Stockholders' Representative and Buyer shall reasonably cooperate, and shall cause their respective Affiliates reasonably to cooperate, in preparing and filing all Tax Returns of the Company and Company Subsidiaries, including maintaining and making available to each other all records necessary in connection with Taxes and in resolving all disputes and audits relating to Taxes with respect to all Pre-Closing Tax Periods and Straddle Tax Periods. Buyer shall, and shall cause each of its Affiliates to, (i) properly retain and maintain such records until the earlier of (A) such time as Buyer and Stockholders' Representative mutually agree that such retention and maintenance is no longer necessary or (B) six (6) years following the Closing Date and (ii) allow Buyer or the Stockholders' Representative, as applicable, and each of its Affiliates at times and dates mutually acceptable to the parties hereto, to inspect, review and make copies of such records as Buyer or the Stockholders' Representative, as applicable, may deem necessary or appropriate from time to time, such activities to be conducted during normal business hours and at the requesting party's expense.

## ARTICLE VIII

## CONDITIONS PRECEDENT

SECTION 8.1 Conditions Precedent to Obligations of Each Party. The respective obligations of each party hereto to effect the Merger shall be subject to the fulfillment or satisfaction, prior to or on the Closing Date, of each of the following conditions precedent:

(a) Approvals. All authorizations, consents, orders, declarations or approvals of, or filings with, or terminations or expirations of waiting periods imposed by, any Governmental Entity, which the failure to obtain, make or occur would have the effect of making the Merger or any of the transactions contemplated hereby illegal, shall have been obtained or be in effect, as the case may be.

(b) No Injunctions, Orders or Restraints; Illegality. No preliminary or permanent injunction or other order, decree or ruling issued by a court or other Governmental Entity of competent jurisdiction nor any statute, rule, regulation or executive order promulgated or enacted by any Governmental Entity of competent jurisdiction shall be in effect which would have the effect of (i) making the consummation of the Merger illegal, or (ii) otherwise prohibiting the consummation of the Merger.

(c) Stockholder Approval. The Merger shall have been duly approved by holders of the Company's capital stock as required by the Company Charter and the DGCL.

SECTION 8.2 Conditions Precedent to Obligations of Buyer and Merger Sub. The obligations of Buyer and Merger Sub to effect the Merger shall be subject to the fulfillment or satisfaction, prior to or on the Closing Date, of each of the following conditions precedent:

(a) Representations and Warranties; Performance of Obligations. Other than the Fundamental Representations, the Company's representations and warranties contained in Article IV (without giving effect to any "material," "materiality" or "Company Material Adverse Effect" qualification on such representations and warranties, except for the term "Company Material

Adverse Effect" as used in Section 4.6 and "Material Contract" as used in Section 4.8), shall be true and correct on and as of the Closing with the same effect as though such representations and warranties were made on and as of the Closing Date, except to the extent that such representations and warranties expressly relate to another date, in which case such representations and warranties shall be true and correct as of such date, except where the failure to be true and correct individually or in the aggregate would not reasonably be expected to have a Company Material Adverse Effect. The Fundamental Representations shall be true and correct in all material respects on and as of the Closing with the effect as though such representations and warranties were made on and as of the Closing Date, except to the extent that such representations and warranties expressly relate to another date, in which case such representations and warranties shall be true and correct in all material respects as of such date. The Company shall have performed in all material respects and complied in all material respects with all agreements and conditions contained in this Agreement that are required to be performed or complied with by it prior to or at the Closing Date; provided that with respect to Section 6.16, there is no Willful and Material Breach of such Section 6.16 that is not cured by the Company within a reasonable time under the circumstances but no later than by the Termination Date following receipt of written notice of such breach from Buyer (which notice shall be given promptly after discovery of such Willful and Material Breach). Buyer shall have received a certificate dated the Closing Date and signed by an authorized officer of the Company, certifying that the conditions specified in this Section 8.2(a) have been satisfied.

(b) Company Material Adverse Effect. No Company Material Adverse Effect shall have occurred since the date hereof and be continuing. Buyer shall have received a certificate dated the Closing Date and signed by an authorized officer of the Company, certifying that the condition specified in this Section 8.2(b) have been satisfied.

(c) Annex and Certificate Delivery. The Company shall have delivered to Buyer each of the Closing Indebtedness Annex, the Transaction Expenses Annex, Change of Control Bonus Annex and the Capital Structure Certificate.

(d) Director Resignations. The Company shall have delivered to Buyer a resignation, effective as of the Effective Time, from each member of the Board of Directors of the Company or the Board of Directors or comparable body for each Subsidiary of the Company, unless specified by Buyer no later than three Business Days prior to Closing.

(e) Charlesbank Services Agreement. The Corporate Development and Administrative Services Agreement, dated as of July 31, 2007, by and between Charlesbank, Michael E. Horn, the Company and certain Subsidiaries of the Company shall have been terminated.

(f) Escrow Agreement. The Escrow Agreement shall have been executed and delivered by each of the Stockholders' Representative and the Escrow Agent.

(g) FIRPTA Certificate. The Company shall deliver or cause to be delivered to Buyer a duly executed certificate and related notice to the Internal Revenue Service, dated as of the Closing Date, satisfying each of the requirements of Treasury Regulations Section 1.897-2(h) and Treasury Regulations Section 1.1445-2(c)(3).

(h) Secretary's Certificate. Buyer shall have received a certificate dated the Closing Date and signed by the Secretary of the Company certifying as to (i) the terms and effectiveness of the certificate of incorporation and bylaws of the Company, (ii) the valid adoption of resolutions of the Board of Directors of the Company (whereby the Merger, this Agreement and the transactions contemplated hereunder were approved by the Company's Board of Directors) and (iii) the valid adoption of this Agreement and approval of the Merger by the Requisite Stockholder Approval.

(i) Payoff Letters. The payoff letters contemplated by Section 6.14 shall have been executed and delivered by each of the holders of Repaid Closing Indebtedness.

(j) Change of Control Bonus Recipient Letter. Change of Control Bonus Recipient Letters shall have been executed and delivered by each Change of Control Bonus Recipient.

(k) Support Agreements. Each of the Support Agreements executed concurrently with this Agreement shall be in full force and effect and shall not have been revoked, rescinded or otherwise repudiated by the respective signatories thereto.

(l) Transition Services Agreement. The Transition Services Agreement shall have been executed and delivered by NewCo LLC.

SECTION 8.3 Conditions Precedent to Obligations of the Company. The obligations of the Company to effect the Merger shall be subject to the fulfillment or satisfaction, prior to or on the Closing Date, of each of the following conditions precedent:

(a) Performance of Obligations; Representations and Warranties. The representations and warranties of Buyer and Merger Sub contained in Article V (without giving effect to any "material," "materiality" or "Buyer Material Adverse Effect" qualification on such representations and warranties) shall be true and correct on and as of the Closing with the same effect as though such representations and warranties were made on and as of the Closing Date, except to the extent that such representations and warranties expressly relate to another date, in which case such representations and warranties shall be true and correct as of such date, except where the failure to be true and correct individually or in the aggregate would not reasonably be expected to have a Buyer Material Adverse Effect. Buyer and Merger Sub shall have performed in all material respects and complied in all material respects with all agreements and conditions contained in this Agreement that are required to be performed or complied with by them prior to or at the Closing. The Company shall have received a certificate dated the Closing Date and signed by an authorized officer of Buyer, certifying that the conditions specified in this Section 8.3(a) have been satisfied.

(b) Escrow Agreement. The Escrow Agreement shall have been executed and delivered by Buyer.

## ARTICLE IX

## INDEMNIFICATION

SECTION 9.1 Indemnification of Buyer Indemnified Parties. From and following the Closing and subject to the procedures and limitations contained in this Article IX, each of Buyer, the Surviving Company and their respective officers, managers, directors, partners and Affiliates (each a "*Buyer Indemnified Party*" and, together, the "*Buyer Indemnified Parties*") shall be indemnified and held harmless in accordance with this Article IX, from and against all claims, losses, liabilities, damages, deficiencies, costs, amounts paid in settlement, penalties and expenses, including reasonable attorneys' fees and expenses (individually a "*Loss*" and, collectively, "*Losses*") incurred by the Buyer Indemnified Parties to the extent arising out of or resulting from:

(a) any breach of any representation or warranty of the Company contained in this Agreement without regard, for purposes of this clause (a), to any qualifications as to materiality or Company Material Adverse Effect (or any correlative terms);

(b) any breach of any covenant of the Company contained in this Agreement prior to the Closing;

(c) any Pre-Closing Taxes;

(d) the portion of Transfer Taxes for which the Preferred Stockholders are responsible pursuant to Section 7.1;

(e) any and all claims by any Stockholder, holder of Company Options, or other equityholder of the Company (or any other Person who claims such Person was granted equity interests in the Company prior to the Closing) relating to or arising out of the transactions contemplated hereby, including the allocation of the Aggregate Merger Consideration;

(f) any claim or right asserted or held by any Person who is or at any time was an officer, director, employee or agent of the Company or any of its Subsidiaries (against the Company, Buyer, Merger Sub or any of their Affiliates (including the Surviving Company) or any other Person) involving a right or entitlement or an alleged right or entitlement to indemnification, reimbursement of expenses or any other relief or remedy;

(g) any payment in respect of any Dissenting Shares in excess of the consideration that otherwise would have been payable in respect of such shares in accordance with this Agreement, and any other Losses paid, incurred, suffered or sustained in respect of any Dissenting Shares, including any fees, costs and expenses incurred in connection with investigating, defending against or settling any action or proceeding in respect of Dissenting Shares; and

(h) any payment obligation in respect of a withdrawal liability assessment by the Specified Plan with respect to a complete or partial withdrawal within the meaning of ERISA Section 4203 or 4205 (as modified by ERISA Section 4208(d)(1), as applicable) that occurred prior to the Closing ("*Specified Withdrawal Losses*").

SECTION 9.2 Indemnification of Seller Indemnified Parties. From and following the Closing, Buyer and the Surviving Company shall, jointly and severally, indemnify and hold harmless each Stockholder, the Stockholders' Representative and their respective officers, managers, directors, partners and Affiliates (the "*Seller Indemnified Parties*") against all Losses incurred by the Seller Indemnified Parties to the extent arising out of or resulting from (a) any breach of any representation or warranty of Buyer or Merger Sub contained in this Agreement, or (b) any breach of any covenant of Buyer or Merger Sub prior to the Closing or after the Closing, or of the Surviving Company after the Closing, in each case contained in this Agreement.

SECTION 9.3 Indemnification Procedures.

(a) If any party (the "*Indemnified Party*") receives written notice of the commencement of any action or proceeding or the assertion of any claim by a third party or the imposition of any penalty or assessment for which a claim for indemnification is sought under this Article IX (a "*Third Party Claim*") the Indemnified Party shall promptly provide the party or parties from which indemnification is sought hereunder (the "*Indemnifying Party*") (and, if Buyer, with a copy to the Escrow Agent, the R&W Insurance Policy provider and the Stockholders' Representative) with written notice of such Third Party Claim, stating the nature, basis and the amount thereof, to the extent known, along with copies of the relevant documents evidencing such Third Party Claim and the basis for indemnification sought (it being understood that any claim for indemnity under this Article IX must be made by written notice on or prior to the close of business on the Indemnity Termination Date). Failure of the Indemnified Party to give such notice will not relieve the Indemnifying Party from its indemnification obligations hereunder, except if and to the extent that the Indemnifying Party is actually and materially prejudiced thereby. The Indemnifying Party shall be entitled to participate in the defense of a Third Party Claim at its own expense and, to the extent that it wishes, to assume the defense of a Third Party Claim, if (i) within thirty (30) days from receipt of any such notice of a Third Party Claim, the Indemnifying Party provides written notice to the Indemnified Party that the Indemnifying Party intends to undertake such defense pursuant to its indemnification obligations hereunder, (ii) if the Indemnifying Party is a party to the Third Party Claim, the Indemnified Party has not determined in good faith that joint representation would be inappropriate because of a conflict in interest, (iii) such Third Party Claim does not seek equitable relief or an amount of damages in excess of what would otherwise be recoverable by the Indemnified Party under this Agreement, (iv) if the Indemnified Party is a Buyer Indemnified Party (A) the Third Party Claim, if resolved adversely, would not cause the Buyer Indemnified Parties to lose coverage under the R&W Insurance Policy, as determined by Buyer in good faith and with notice to the Stockholders' Representative with detail supporting such determination and (B) the Indemnified Party does not reasonably believe that the Indemnifying Party's assumption of the defense of such Third Party Claim would adversely affect the business operations or commercial reputation of Buyer, the Surviving Company or any of their respective Affiliates and (v) the Indemnifying Party simultaneously agrees to fully indemnify the Indemnified Parties for such matter (subject to the procedures and limitations set forth in this Article IX). The Indemnified Party shall, in its sole discretion, have the right to employ separate counsel (who may be selected by the Indemnified Party in its sole discretion) in any such action and to participate in the defense thereof, and the fees and expenses of such counsel shall be paid by such Indemnified Party. The Indemnified Party shall reasonably assist and cooperate with the Indemnifying Party and its counsel in the defense or compromise of such claim or demand. Such assistance and cooperation will include providing

reasonable access during normal business hours to information, records, personnel and documents relating to such matters. If the Indemnifying Party assumes the defense of a Third Party Claim, no compromise or settlement of such claims may be effected by the Indemnifying Party without the Indemnified Party's consent (which consent shall not be unreasonably withheld, conditioned or delayed) unless (A) there is no finding or admission of any violation of law or any violation of the rights of any Person and no material and adverse effect on any other claims that may be made against the Indemnified Party, and (B) the sole relief provided is monetary damages that are paid in full by the Indemnifying Party (subject to the deductible amount set forth in Section 9.4(a)(i)). If, however, the Indemnifying Party elects not to assume the defense of a Third Party Claim, no compromise or settlement of such claims may be effected by the Indemnified Party without the Indemnifying Party's consent (which consent shall not be unreasonably withheld, conditioned or delayed). For the avoidance of doubt, the foregoing shall not apply to Tax Proceedings which shall be governed by Section 7.4.

(a) If an Indemnified Party shall have a claim to be indemnified by an Indemnifying Party under this Agreement which does not involve a Third Party Claim, the Indemnified Party shall send to the Indemnifying Party (and, if Buyer, with a copy to the Escrow Agent, the R&W Insurance Policy provider and the Stockholders' Representative) a written notice specifying the nature, the amount thereof, to the extent known, and the basis for indemnification sought which may be updated from time to time (it being understood that any claim for indemnity under this Article IX must be made by written notice on or prior to the close of business on the Indemnity Termination Date). The Indemnifying Party will have forty five (45) days from receipt of any such notice to give notice of dispute of the claim to the Indemnified Party; *provided* that if the Indemnifying Party does not give such notice of dispute, the Indemnified Party will be deemed to be entitled to the full amount of the claim for Losses set forth in the applicable notice. The Indemnified Party will reasonably cooperate and assist the Indemnifying Party in making its determination as to the validity of any claim for indemnity by the Indemnified Party by providing reasonable access during normal business hours to information, records, personnel and documents relating to such matters.

SECTION 9.4 Limitations on Indemnification.

(a) No Buyer Indemnified Party or Seller Indemnified Party shall be entitled to assert any claim for indemnification pursuant to Section 9.1 or Section 9.2, respectively, unless such claim is asserted by a written notice given by such party in accordance with the terms hereof prior to the close of business on the Indemnity Termination Date. Notwithstanding anything in this Agreement to the contrary,

(i) other than with respect to Fundamental Representations, the representations set forth in Section 4.14(g)(i) and Intentional Fraud, the Buyer Indemnified Parties shall not be entitled to assert any claim for indemnification under Section 9.1(a) unless and until the aggregate liability for Losses suffered by the Buyer Indemnified Parties thereunder exceeds $675,000 (the "*Deductible*"), and then only to the extent of such excess (*provided* that, in calculating whether such amount has been exceeded, only particular Losses under Section 9.1(a) involving items or matters arising out of substantially similar facts and circumstances in excess of $15,000 shall be considered), and

(ii) other than with respect to Intentional Fraud, the Seller Indemnified Parties shall not be entitled to assert any claim for indemnification under Section 9.2(a) unless and until the aggregate liability for Losses suffered by the Seller Indemnified Parties thereunder exceeds the Deductible, and then only to the extent of such excess (*provided* that, in calculating whether such amount has been exceeded, only particular Losses under Section 9.2(a) involving items or matters arising out of substantially similar facts and circumstances in excess of $15,000 shall be considered).

(b) No claim for indemnification pursuant to Section 9.1 may be asserted with respect to any Losses suffered by the Buyer Indemnified Parties (and the amount of any such Loss shall not be included in the calculation of any limitations on indemnification set forth herein) resulting from amounts taken into account in the determinations of or amounts included in the calculations of Closing Net Working Capital, Closing Cash, Closing Transaction Expenses, Closing Severance Amount or the Adjusted Closing Indebtedness, in each case, as finally determined in accordance with Section 3.3(c). The amount of the payment for any Losses that any Buyer Indemnified Party is entitled to receive pursuant to Section 9.1 shall be reduced to reflect any Tax Benefit actually realized, in the year in which the indemnity payment is required to be made or in any prior year, by Buyer, the Surviving Company or any Subsidiary of the Surviving Company. For purposes of this Agreement, "*Tax Benefit*" means any deduction, amortization, exclusion from income or other allowance that actually reduces in cash the amount of Tax that Buyer, the Surviving Company or any Subsidiary of the Surviving Company would have been required to pay (or actually increases in cash the amount of Tax refund to which Buyer, the Surviving Company or any Subsidiary of the Surviving Company would have been entitled) in the absence of the item giving rise to the indemnity claim. For purposes of determining the amount of any payment due to the Indemnifying Party pursuant to this Section 9.4(b), Buyer, the Surviving Company or any Subsidiary of the Surviving Company shall be deemed to use all other deductions, amortizations, exclusions from income or other allowances of the Surviving Company or any Subsidiary of the Surviving Company (to the extent that such deductions, amortizations, exclusions from income or other allowances are entitled to be used under applicable Tax law) prior to the use of any Tax Benefits in respect of which Buyer is obligated to pay the Indemnifying Party hereunder.

(c) Notwithstanding any other provision of this Agreement, but subject to the following sentence, no Buyer Indemnified Party shall be indemnified hereunder for any Losses related to (i) Taxes (or the non-payment thereof) of the Company or any of its Subsidiaries for any Tax periods that are not Pre-Closing Tax Periods or (ii) the amount or usability of any net operating loss, capital loss, Tax basis, or other Tax asset. The foregoing shall not limit a Buyer Indemnified Party's right to be indemnified under Section 9.1(c) for Losses attributable to Taxes described in clauses (ii) or (iii) of the definition of Pre-Closing Taxes.

(d) To the extent required under applicable Law, the Indemnified Party shall use reasonable efforts to mitigate Losses for which indemnification may be claimed by such party pursuant to this Agreement upon and after becoming aware of any event that could reasonably be expected to give rise to any such Losses.

(e) The amount of the payment for any Losses that any Indemnified Party is entitled to receive pursuant to this Article IX shall be reduced by any related recoveries to which

the Indemnified Party actually receives under applicable insurance policies (other than pursuant to the R&W Insurance Policy) or from any other Person alleged to be responsible for any such Losses (net of any costs or expenses incurred in obtaining such recoveries, including any resulting increases in insurance premiums). If an Indemnified Party actually receives any amounts under applicable insurance policies, or from any other Person in respect of any Losses, subsequent to an indemnification payment by an Indemnifying Party in respect thereof, then such Indemnified Party shall promptly reimburse such Indemnifying Party for any such previous payment made that has not otherwise been reimbursed up to the amount received by the Indemnified Party, net of any unpaid or unreimbursed costs or expenses incurred by such Indemnified Party in collecting such amount, including any resulting increases in insurance premiums (*provided* that if such reimbursement is owed to a Seller Indemnified Party, Buyer shall pay such amount to (i) with respect to amounts payable to the Stockholders, the Paying Agent or the Stockholders' Representative for payment thereof by the Paying Agent or the Stockholders' Representative, as applicable, pro rata to the Stockholders and (ii) with respect to amounts payable to Change of Control Bonus Recipients, the Surviving Company for payment thereof by the Surviving Company as soon as practicable (but no later than one payroll cycle) after receipt thereof pro rata to the Change of Control Bonus Recipients, in each case (clauses (i) and (ii)), as set forth in written instructions provided by the Stockholders' Representative and in accordance with the Capital Structure Certificate, Change of Control Bonus Annex and less any applicable withholding taxes and without interest.

(f) Notwithstanding anything to the contrary contained herein, no party hereto shall be liable to any other party hereto (including its respective heirs, legal representatives, successors or assigns, as the case may be, hereunder) for any punitive, special or exemplary damages, pursuant to this Article IX, whether for breach of representation or warranty or of covenant or other agreement or any obligation arising therefrom or otherwise, whether liability is asserted in contract or tort (including negligence and strict product liability) and regardless of whether such party has been advised of the possibility of any such loss or damage; *provided*, *that* an Indemnified Party may assert a claim for indemnification under this Article IX for any Losses for punitive, special or exemplary damages, if such Indemnified Party is required by an order, judgment, injunction, decree, ruling or award issued or entered by any Governmental Entity to pay such damages to a third party. Each party hereto hereby waives any claims that these exclusions deprive such party of an adequate remedy.

(g) Following the Closing, except as expressly provided in Section 12.9 (but subject to the limitations therein) or as provided for in a Transaction Agreement against the party thereto and other than in the case of Intentional Fraud, each party hereto acknowledges and agrees that its sole and exclusive remedy with respect to any and all claims relating to the subject matter of this Agreement and transactions contemplated hereby shall be pursuant to the indemnification provisions set forth in this Article IX (which (i) Losses under Sections 9.1(b), (c), (d), (e), (f), or (g) may only be recovered from first, the Indemnification Fund second, the R&W Insurance Policy, (ii) Losses under Section 9.1(a) incurred prior to the Indemnity Termination Date may be only recovered from first, the Indemnification Fund and second, under the R&W Insurance Policy, and (iii) Losses under Section 9.1(a) with respect to Fundamental Representations incurred after the Indemnity Termination Date may be only be recovered from the R&W Insurance Policy) or the post-closing adjustment provisions set forth in Section 3.3 (which, in the case of an Adjustment Amount payable to Buyer, may only be recovered from the Adjustment Fund and the Indemnification

Fund in accordance with Section 3.8(b)). Without limiting anything in this paragraph, and without limiting their rights pursuant to the indemnification provisions of this Article IX, the Buyer Indemnified Parties expressly waive any and all rights and remedies under any Environmental Laws including the Comprehensive Environmental Response Compensation and Liability Act, similar state statutes and common law in connection with any Losses relating to this Agreement (including the Schedules and exhibits attached hereto and the certificates delivered pursuant hereto) or the transactions contemplated hereby. All rights, claims and causes of action that may be based upon, in respect of, arise under, out or by reason of, be connected with, or relate in any manner to this Agreement or the Transaction Agreements, or the negotiation, execution, or performance of this Agreement (including any representation or warranty made in, in connection with, or as an inducement to, this Agreement), may be made only against (and are those solely of) the parties hereto and thereto. Except as otherwise expressly provided for in this Agreement or the Transaction Agreements or in the case of Intentional Fraud, no Person who is not a party hereto or to the Transaction Agreements, including any current, former or future representative or Affiliate of any party hereto, or any current, former or future representative or Affiliate of any of the foregoing (collectively, "*Nonparty Affiliates*"), shall have any liability (whether in contract or in tort, in law or in equity, or granted by statute) for any claims, causes of action, obligations, or liabilities arising under, out of, in connection with, or related in any manner to this Agreement or the Transaction Agreements or based on, in respect of, or by reason of this Agreement or the Transaction Agreements or their negotiation, execution, performance, or breach, and, to the maximum extent permitted by Law, each party hereto hereby waives and releases all such liabilities, claims, causes of action, and obligations against any such Nonparty Affiliates. The parties hereto agree that the Nonparty Affiliates shall be third party beneficiaries of this Section 9.4(g).

SECTION 9.5 Survival of Representations, Warranties and Covenants. The representations and warranties contained in this Agreement shall survive the Closing solely for purposes of Sections 9.1 and 9.2 and shall terminate at the close of business on the one (1) year anniversary of the Closing Date (the "*Indemnity Termination Date*"), except for the Fundamental Representations which shall survive until the close of business on the six (6) year anniversary of the Closing Date (other than the representations and warranties set forth in Section 4.13 (Tax Matters) which shall survive until the close of business on the date that is sixty (60) days following the expiration of the applicable statute of limitations (giving effect to any waiver, mitigation or extension thereof)). The covenants and agreements contained in this Agreement shall survive the Closing in accordance with their terms, except for the obligations set forth in Sections 9.1(e), 9.1(f), and 9.1(g), which, in each case, shall survive the Closing and terminate on the Indemnity Termination Date. No party shall have any liability or obligation of any nature with respect to any representation, warranty, agreement or covenant after the termination thereof or otherwise after the applicable Indemnity Termination Date, except (i) with respect to Intentional Fraud or (ii) with respect to a claim for indemnification under this Article IX if written notice thereof has been given in accordance with the provisions hereof by the Indemnified Party to the Indemnifying Party prior to the close of business on the Indemnity Termination Date. Notwithstanding anything to the contrary contained herein, if such written notice has been given in accordance with the provisions hereof and prior to the termination of the applicable representation, warranty, covenant or agreement, then the relevant representations, warranties, covenants and agreements shall survive as to such claim until the claim has been finally resolved.

SECTION 9.6 Payment of Losses.

(a) No later than ten Business Days following the final determination of the amount of any Losses payable to any Buyer Indemnified Party in accordance with this Article IX and subject to Section 9.8, Buyer and the Stockholders' Representative shall jointly direct the Escrow Agent in writing to release to Buyer, from the Indemnification Fund, the lesser of (i) the amount of such Losses and (ii) the then-remaining balance of the Indemnification Fund.

(b) No later than ten Business Days following the final determination of the amount of any Losses payable to any Seller Indemnified Party in accordance with this Article IX, Buyer shall pay to such Seller Indemnified Party, in cash, by wire transfer of immediately available funds to an account designated in writing by such Seller Indemnified Party, the amount of such Losses.

SECTION 9.7 Treatment of Indemnification Payments. For all Tax purposes, the parties hereto agree to treat any indemnity payment under this Agreement as an adjustment to the Aggregate Merger Consideration unless a final determination of a Tax Authority provides otherwise.

SECTION 9.8 R&W Insurance Policy. Notwithstanding anything herein to the contrary, (a) all claims by Buyer Indemnified Parties for any Losses under this Article IX, to the extent not satisfied by the Indemnification Fund and to the extent covered by the R&W Insurance Policy, shall be asserted against the R&W Insurance Policy and resolved in compliance with the procedures set forth in the R&W Insurance Policy, and (b) Buyer's sole and exclusive remedy for any Losses under Section 9.1, except with respect to Intentional Fraud, shall be first, the Indemnification Fund, and second, the R&W Insurance Policy, and Buyer shall be permitted to be indemnified only from the Indemnification Fund for any amounts not acknowledged as covered and payable under the R&W Insurance Policy by the insurer within the timeframe for such acknowledgement set forth in the R&W Insurance Policy. Except as set forth in this Section 9.8, the Stockholders and Option Holders shall have no indemnification obligation to Buyer or Merger Sub with respect to Losses under this Article IX. Any objections by the provider under the R&W Insurance Policy for any indemnification claim brought by a Buyer Indemnified Party, as well as the resolution of any disputes related thereto, shall also proceed in accordance with the procedures set forth in the R&W Insurance Policy. Buyer agrees to pay the total premium and any related costs (including but not limited to Taxes, underwriting fees and broker fees and commissions associated with the R&W Insurance Policy) for the R&W Insurance Policy; *provided*, *however*, fifty percent (50%) of such premium and related costs shall be deemed Transaction Expenses and borne by the Company. Buyer acknowledges and agrees that the obtaining of the R&W Insurance Policy is not a condition to the Closing and that Buyer's failure or inability to obtain the R&W Insurance Policy shall not affect the Buyer's and Merger Sub's obligation to consummate the transactions contemplated hereunder. In addition, Buyer acknowledges and agrees that the obtaining of the R&W Insurance Policy shall not materially impede or delay the Closing. From and after the Closing Date, Buyer shall not (and shall cause its Affiliates to not) amend the R&W Insurance Policy in a manner which would materially prejudice the Stockholders and other Seller Indemnified Parties without Stockholders' Representative's prior written consent (such consent not to be unreasonably withheld, conditioned or delayed); provided that the foregoing provision shall not be interpreted to

in any way impair or diminish the right of Buyer or any other insured under the R&W Insurance Policy to pursue and obtain recovery for any Loss under the R&W Insurance Policy.

SECTION 9.9 No Duplication. Notwithstanding anything to the contrary in this Agreement or the Transaction Agreements, it is intended that the provisions of this Agreement will not result in any duplicative payment of any amount required to be paid under this Agreement (and the Buyer Indemnified Parties shall not be indemnified in respect of any amount to the extent such amount can be shown by the Stockholders' Representative to have been included in the computation of the Closing Net Working Capital, Closing Cash, Closing Transaction Expenses, Closing Severance Amount or Adjusted Closing Indebtedness, in each case as finally determined in accordance with Section 3.3(c)), and this Agreement shall be construed accordingly.

SECTION 9.10 Specified Withdrawal Losses. Notwithstanding anything to the contrary herein, the following provisions shall apply to indemnification of the Buyer Indemnified Parties with respect to any Specified Withdrawal Loss pursuant to Section 9.1(h).

(a) The Buyer Indemnified Parties may only seek indemnification for claims related to any Specified Withdrawal Loss pursuant to Section 9.1(h) and not pursuant to any other subsection of Section 9.1.

(b) Buyer shall promptly notify (but in any event no later than five (5) Business Days) the Stockholder's Representative upon receipt by Buyer, the Surviving Company or any of their Affiliates of a written assessment of withdrawal liability from the Specified Plan with respect to a complete or partial withdrawal within the meaning of ERISA Section 4203 or 4205 (as modified by ERISA Section 4208(d)(1), as applicable) that occurred prior to the Closing (the "*Assessment*"). Such notice provided by Buyer shall include a copy of the written assessment received from the Specified Plan.

(c) If the Stockholders' Representative requests the Buyer to do so in writing not later than ten (10) Business Days after its receipt of Buyer's notice provided pursuant to Section 9.10(b) hereof, the Buyer shall and shall cause the Surviving Company and its Subsidiaries to take commercially reasonable measures to dispute or, subject to this paragraph, settle the Assessment, only if the Stockholders' Representative advances all costs and expenses on the Buyer's behalf including the payment of all Assessment amounts that are due and payable during the pendency of the settlement negotiations or dispute, with any Assessment amounts being satisfied by a release from the Specified Withdrawal Fund (and the Buyer and the Stockholders' Representative hereby agree to provide joint instructions to the Escrow Agent to effect such release). In the event that following a dispute or settlement of an Assessment the Specified Plan refunds the Buyer or any of its Subsidiaries or Affiliates any amounts released from the Specified Withdrawal Fund, the Buyer shall, or shall cause its applicable Subsidiary or Affiliate to, deliver all such refunded amounts by wire transfer of immediately available funds to the account or accounts to be designated by the Stockholders' Representative in writing as soon as reasonably practicable after receipt of such instructions from the Stockholders' Representative. The Stockholders' Representatives shall be entitled to participate in the dispute of such Assessment at its own expense and, to the extent that it wishes, to control the dispute of the Assessment at its sole cost and expense. If the Stockholders' Representative elects to control the dispute, Buyer shall, and shall cause its Subsidiaries (including

the Surviving Company) to, reasonably assist and cooperate with the Stockholders' Representative and its counsel. Such assistance and cooperation will include providing reasonable access during normal business hours to information, records, personnel and documents relating to the Assessment and causing the Surviving Company to execute any documents or take any actions reasonably necessary to effectuate the Stockholders' representative's control of a dispute. If the Stockholders' Representative elects to control the dispute, no compromise or settlement with respect to the Assessment may be effected by the Stockholders' Representative without Buyer's consent (which consent shall not be unreasonably withheld, conditioned or delayed). If, however, the Stockholders' Representative elects not to control the dispute, no compromise or settlement with respect to the Assessment may be effected by Buyer without the Stockholders' Representative's consent (which consent shall not be unreasonably withheld, conditioned or delayed).

(d) The Buyer Indemnified Parties sole and exclusive source of recovery for any Specified Withdrawal Losses that are covered by the indemnification pursuant to Section 9.1(h) and this Section 9.10 shall be the Specified Withdrawal Fund.

(e) The Deductible shall not apply to any Specified Withdrawal Losses.

(f) Buyer shall not, and shall cause its ERISA Affiliates (including the Surviving Company) not to, take any actions intended to cause an Assessment to be delivered or a Specified Withdrawal Loss to occur. Buyer hereby agrees not to perform any work following the Closing in the jurisdiction of the agreement referenced in Section 4.8(a)(ii) of the Disclosure Schedule, unless such work is performed in connection with an obligation to make contributions to the Specified Plan. In the event that Buyer takes any action prohibited by this Section 9.10(g), the indemnification provided pursuant to Section 9.1(h) and this Section 9.10 shall not be available.

## ARTICLE X

## STOCKHOLDERS' REPRESENTATIVE

SECTION 10.1 Stockholders' Representative.

(a) Appointment. Each Stockholder (other than a holder of Dissenting Shares) and Option Holder constitutes and appoints the Stockholders' Representative to act as such Person's representative under this Agreement and the Escrow Agreement, with full authority to act on behalf of, and to bind, each such Person for purposes of this Agreement and the Escrow Agreement, and the Stockholders' Representative hereby accepts such appointment. The Stockholders' Representative shall have full power and authority to represent all of such Persons and their

successors with respect to all matters arising under this Agreement and the Escrow Agreement and all actions taken by the Stockholders' Representative hereunder or thereunder shall be binding upon all such holders and their successors as if expressly confirmed and ratified in writing by each of them. The Stockholders' Representative shall take any and all actions that it believes are necessary or appropriate under this Agreement or the Escrow Agreement for and on behalf of such Persons, as fully as if such holders were acting on their own behalf, including dealing with Buyer, the Surviving Company, the Paying Agent and the Escrow Agent under this Agreement or the Escrow Agreement with respect to all matters arising hereunder or thereunder, taking any and all other actions specified in or contemplated by this Agreement or the Escrow Agreement, and engaging counsel, accountants or other Stockholders' representatives, in connection with any of the foregoing matters. Without limiting the generality of the foregoing, the Stockholders' Representative shall have full power and authority to effect and interpret all the terms and provisions of this Agreement (including the determination of the Adjustment Amount, the prosecution, defense or settlement of any claims for indemnification under Article IX and the authorization of disbursements and payments in accordance with the terms of this Agreement) or the Escrow Agreement and to consent to any amendment hereof or thereof on behalf of all such holders and their successors.

(b) Indemnification of the Stockholders' Representative. The Stockholders' Representative may act upon any instrument or other writing believed by the Stockholders' Representative in good faith to be genuine and to be signed or presented by the proper Person and shall not be liable in connection with the performance by it of its duties pursuant to the provisions of this Agreement or the Escrow Agreement, except for its own willful default or gross negligence. The Stockholders' Representative shall be, and hereby is, indemnified and held harmless by each Stockholder (other than a holder of Dissenting Shares) and Option Holder, up to a maximum amount equal to such Stockholder's or Option Holder's Pro Rata Portion, from all losses, costs and expenses (including attorneys' fees) that may be incurred by the Stockholders' Representative as a result of the Stockholders' Representative's performance of its duties under this Agreement or the Escrow Agreement; *provided*, that the Stockholders' Representative shall not be entitled to indemnification for losses, costs or expenses that result from any action taken or omitted by the Stockholders' Representative as a result of its own willful default or gross negligence.

(c) Reasonable Reliance. In the performance of its duties hereunder, the Stockholders' Representative shall be entitled to rely upon any document or instrument reasonably believed by it to be genuine, accurate as to content and signed by any Stockholder (other than a holder of Dissenting Shares), Option Holder, Buyer, the Paying Agent or the Escrow Agent. The Stockholders' Representative may assume that any Person purporting to give any notice in accordance with the provisions hereof has been duly authorized to do so.

(d) Attorney-in-Fact.

(i) The Stockholders' Representative is hereby appointed and constituted the true and lawful attorney-in-fact of each Stockholder (other than a holder of Dissenting Shares) and Option Holder with full power in their name and on their behalf to execute and act according to the terms of this Agreement and the Escrow Agreement in the absolute discretion of the Stockholders' Representative; and in general to do all things and

to perform all acts including, without limitation, executing and delivering the Escrow Agreement and any other agreements, certificates, receipts, instructions, notices or instruments contemplated by or deemed advisable in connection with this Agreement and the Escrow Agreement. Such appointment shall be deemed to be a power coupled with an interest.

(ii) This power of attorney and all authority hereby conferred is granted and shall be irrevocable, subject to replacement of the Stockholders' Representative pursuant to Section 10.1(f), and shall not be terminated by any act of any Stockholder (other than a holder of Dissenting Shares) or Option Holder by operation of Law, whether by such holder's death, disability, protective supervision or any other event.

(iii) Each Stockholder (other than a holder of Dissenting Shares) and Option Holder waive any and all defenses that may be available to contest, negate or disaffirm the action of the Stockholders' Representative taken in good faith under this Agreement or the Escrow Agreement.

(iv) Notwithstanding the power of attorney granted in this Section 10.1, no agreement, instrument, acknowledgment or other act or document shall be ineffective by reason only of a Stockholder (other than a holder of Dissenting Shares) or an Option Holder having signed or given such act or document directly instead of the Stockholders' Representative.

(e) Liability. If the Stockholders' Representative is required to determine the occurrence of any event or contingency, the Stockholders' Representative may request from any Stockholder (other than a holder of Dissenting Shares) and Option Holder, or any other Person, such reasonable additional evidence as the Stockholders' Representative in its sole discretion may deem necessary to determine any fact relating to the occurrence of such event or contingency, and may at any time inquire of and consult with others, including any Stockholder (other than a holder of Dissenting Shares) and Option Holder, and the Stockholders' Representative shall not be liable to any such holder for any damages resulting from its delay in acting hereunder pending its receipt and examination of additional evidence requested by it. Notwithstanding any other provision of this Agreement or any other agreement entered into or document delivered in connection with the transactions contemplated by this Agreement, in no event shall the Stockholders' Representative be liable to Buyer, Merger Sub, the Company, the Surviving Company or any of their respective Representatives or Affiliates.

(f) Successor Representatives. The Stockholders' Representative shall designate one or more Persons to serve as successor Stockholders' Representatives in the event of its death, incapacity, bankruptcy or dissolution, which Person or Persons shall in such event succeed to and become vested with all the rights, powers, privileges and duties of the Stockholders' Representative under this Agreement. Each successor Stockholders' Representative shall designate one or more Persons to serve as successor Stockholders' Representatives in the event of such successor Stockholders' Representative's death, incapacity, bankruptcy or dissolution.

SECTION 10.2 Expenses of the Stockholders' Representative. The Stockholders' Representative shall be entitled to withdraw cash amounts held in the account containing the Stockholders' Expense Amount in reimbursement for out of pocket fees and expenses (including legal, accounting and other advisors' fees and expenses, if applicable) incurred by the Stockholders' Representative in performing under this Agreement and the Escrow Agreement. In the event that the Stockholders' Expense Amount is insufficient to cover the fees and expenses incurred by the Stockholders' Representative in performing under this Agreement and the Escrow Agreement, first, the Stockholders' Representative shall be entitled to be paid out of the Escrow Fund prior to any payments made out of such fund for the benefit of the Preferred Stockholders, and second, each of the Stockholders and Option Holders shall be obligated to pay their share of any such deficiency, which share shall be determined by multiplying (i) the amount of such deficiency by (ii) each such holder's Pro Rata Portion.

## ARTICLE XI

## TERMINATION

SECTION 11.1 Termination by Mutual Consent. This Agreement may be terminated, and the Merger may be abandoned at any time prior to the Effective Time, by mutual written consent of the Company and Buyer.

SECTION 11.2 Termination by Either Buyer or the Company. This Agreement may be terminated, and the Merger may be abandoned at any time prior to the Effective Time, by action of either Buyer or the Company if (a) any order, decree, ruling or other non-appealable final action has been issued by a Governmental Entity permanently restraining, enjoining or otherwise prohibiting consummation of the Merger, or (b) the Merger shall not have been consummated by November 30, 2018 (the "*Termination Date*"); *provided*, *however*, that the right to terminate this Agreement under this Section 11.2 shall not be available to any party hereto whose action or failure to act has been a principal cause of or resulted in the failure of the Merger to occur on or before such date and such action or failure to act constitutes a material breach of this Agreement.

SECTION 11.3 Termination by the Company. This Agreement may be terminated, and the Merger may be abandoned at any time prior to the Effective Time, by the Company:

(a) if the Company is not in breach of any representation, warranty, covenant or other agreement of it under this Agreement such as would cause a condition set forth in Section 8.2(a) to be incapable of being satisfied and there is a breach by Buyer or Merger Sub of any representation, warranty, covenant or other agreement of them contained in this Agreement and such breach has not been cured within thirty (30) days after written notice thereof to Buyer, or such breach cannot be cured, and would cause a condition set forth in Section 8.3(a) to be incapable of being satisfied; or

(b) if: (i) all of the conditions set forth in Sections 8.1 and 8.2 have been satisfied or waived (other than those conditions which by their terms or nature are to be satisfied by performance at the Closing, *provided* that such conditions would be satisfied at the Closing), (ii) the

Company has sent written notice to Buyer confirming that the Company stands ready, willing and able to consummate the Closing, and (iii) Buyer fails to consummate the transactions contemplated by this Agreement by the first date on which the Closing was required to occur pursuant to Section 2.2; *provided* that any termination of this Agreement pursuant to Section 11.2, 11.3(a) or 11.4 shall be deemed a termination pursuant to this Section 11.3(b) if prior to the time of such termination the conditions set forth in this Section 11.3(b) have been satisfied.

SECTION 11.4 Termination by Buyer. This Agreement may be terminated, and the Merger may be abandoned at any time prior to the Effective Time, by written notice given to the Company by Buyer, if Buyer is not in breach of any representation, warranty, covenant or other agreement of it under this Agreement such as would give cause a condition set forth in Section 8.3(a) to be incapable of being satisfied and (a) there is a breach by the Company of any representation, warranty, covenant or other agreement of it contained in this Agreement, and such breach has not been cured within thirty (30) days after written notice thereof to the Company, or such breach cannot be cured, and would cause a condition set forth in Section 8.2(a) to be incapable of being satisfied, or (b) if, within 24 hours after the execution and delivery of this Agreement, the Stockholder Written Consent shall not have been executed and delivered to the Company, with a copy to Buyer, duly adopting the resolutions contained therein.

SECTION 11.5 Effect of Termination and Abandonment.

(a) In the event of termination of this Agreement and the abandonment of the Merger pursuant to this Article XI, written notice thereof shall be given to the other parties hereto, and this Agreement (other than as set forth in this Section 11.5 and other than Section 6.5 (*Public Announcements*), Section 6.10 (*Expenses*), Article I and Article XII) shall become void and of no effect with no liability on the part of any party hereto (or of any of its respective Representatives); *provided*, *however*, except as otherwise provided herein, no such termination shall relieve any party hereto of any liability or damages resulting from any Intentional Fraud or a Willful and Material Breach of this Agreement and Buyer shall remain liable for payment of the Termination Fee and other liabilities as provided in this Section 11.5. If this Agreement is terminated and the Merger is abandoned pursuant to this Article XI, all confidential information received by Buyer or its Representatives and Affiliates with respect to the Company, its Subsidiaries and their respective Affiliates shall be treated in accordance with the Confidentiality Agreement, which shall remain in full force and effect notwithstanding the termination of this Agreement.

(b) If this Agreement is terminated pursuant to Section 11.3 (including any termination deemed to be pursuant to Section 11.3), then Buyer shall, as promptly as reasonably practicable (and in any event within two (2) Business Days) following such termination, pay $5,750,000 (the "*Termination Fee*") to the Company (or its designee(s)) by wire transfer of immediately available funds. If this Agreement is terminated in accordance with the first sentence of this Section 11.5(b) and the Company (or its designee(s)) shall receive full payment of the Termination Fee pursuant to this Section 11.5(b), the receipt of the Termination Fee, shall be the sole and exclusive remedy for any and all losses or damages suffered or incurred by the Company or any other Person in connection with this Agreement, the transactions contemplated hereby (and the abandonment or termination thereof) or any matter forming the basis for such termination, and

neither the Company nor any other Person shall be entitled to bring or maintain any claim, suit, action or proceeding against Buyer or any of its Affiliates and their respective officers, directors, employees, partners, members, managers, agents, attorneys, representatives, successors or permitted assigns (collectively, "*Buyer Parties*") or, without limiting Section 12.13, any Financing Sources arising out of or in connection with this Agreement, the transactions contemplated hereby (and the abandonment or termination thereof) or any matter forming the basis for such termination; *provided* that nothing in this Section 11.5(b) shall limit the right of the Company, its Subsidiaries or their Representatives (x) to bring or maintain any claim, suit, action or proceeding against Buyer or any Buyer Parties arising out of or in connection with any breach of the Confidentiality Agreement or (y) to be indemnified and reimbursed for expenses in accordance with Section 6.16(b). Each of the parties hereto acknowledges and agrees that the agreements contained in this Section 11.5(b) are an integral part of the transactions contemplated by this Agreement and that, without these agreements, the other party would not enter into this Agreement. Buyer and the Company acknowledge and agree that (1) Buyer and the Company have expressly negotiated the provisions of this Section 11.5(b), (2) in light of the circumstances existing at the time of the execution of this Agreement (including the inability of the parties hereto to quantify the damages that may be suffered by the Company) the provisions of this Section 11.5(b) are reasonable, (3) the Termination Fee represents a good faith, fair estimate of the damages that the Company would suffer as a result of the termination of this Agreement and the failure of Buyer to acquire the Company, and (4) the Termination Fee shall be payable as liquidated damages (and not as a penalty) without requiring the Company or any other Person to prove actual damages.

(c) Notwithstanding anything to the contrary in this Agreement (including this Section 11.5), under no circumstances will the Company, its Subsidiaries or any of their Affiliates be entitled to aggregate monetary damages or other monetary remedies for any losses, liabilities, expenses or damages suffered as a result of the failure of the transactions contemplated hereby to be consummated or for a breach or failure to perform hereunder or for any representation made or alleged to have been made in connection herewith, in any case, in excess of the sum of (i) the Termination Fee and (ii) all costs and expenses actually incurred or accrued by the Company or its Subsidiaries or their respective Representatives (including fees and expenses of counsel) in connection with their compliance with Section 6.16, in each case, subject to the limitations set forth in Section 11.5(b).

(d) Notwithstanding this Section 11.5 or anything else in this Agreement to the contrary, but subject in all respects to Section 12.9(b), Buyer affirms that it is not a condition to the Closing or to any of its obligations under this Agreement that Buyer obtain financing for or related to any of the transactions contemplated by this Agreement.

## ARTICLE XII

## MISCELLANEOUS

SECTION 12.1 Entire Agreement. This Agreement (including the annexes, exhibits and schedules hereto) and the Transaction Agreements set forth the entire understanding of the parties hereto with respect to the transactions contemplated hereby and thereby. Except for the matters set forth in the Confidentiality Agreement, any and all previous agreements and understandings between or among the parties hereto regarding the subject matter hereof, whether written or oral, are superseded by this Agreement, the Transaction Agreements and the agreements referred to or contemplated herein.

SECTION 12.2 Assignment and Binding Effect; No Third Party Beneficiaries. Except as set forth in Section 6.19, This Agreement may not be assigned by any party hereto without the prior written consent of the other parties hereto; *provided*, *however*, that Buyer shall be permitted to assign this Agreement to (i) any Affiliate of Buyer or to (ii) to the Financing Sources or any other Person from which it or its Affiliates has borrowed money or obtained financing for collateral security purposes (*provided* that in the case of clause (i) or (ii) Buyer shall remain liable for all of its obligations hereunder following such assignment). All the terms and provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective successors and assigns of the parties hereto. Except for the provisions set forth in Sections 6.6, 12.12 and 12.14, nothing in this Agreement is intended to, or shall be construed to, confer upon any other Person any rights or remedies hereunder.

SECTION 12.3 Notices. Any notice, request, demand, waiver, consent, approval, or other communication that is required or permitted to be given to any party hereunder shall be in writing and shall be deemed given only if delivered to such party personally or sent to such party by facsimile transmission or email (promptly followed by a hard-copy delivered in accordance with this Section 12.3), by overnight courier or by registered or certified mail (return receipt requested), with postage and registration or certification fees thereon prepaid, addressed to the party at its address set forth below:

If to Buyer, Merger Sub or the Surviving Company:

DBM Global Inc.
3020 E. Camelback Rd., Suite 100
Phoenix, AZ 85016
Attention: Scott D. Sherman, Vice-President and General Counsel
Email: scott.sherman@dbmglobal.com

with a copy (which shall not constitute notice) to:

Paul Hastings LLP
200 Park Avenue
New York, NY 10166

Attention: Stefan dePozsgay@paulhastings.com
Email: stefandepozsgay@paulhastings.com

If to the Company or the Stockholders' Representative:

c/o Charlesbank Capital Partners, LLC
200 Clarendon Street
54th Floor
Boston, MA 02116
Attention: Sam Bartlett and Stephanie Sullivan

with a copy (which shall not constitute notice) to:

Covington & Burling LLP
The New York Times Building
620 Eighth Avenue
New York, NY 10018
Attention: Stephen A. Infante
Email: sinfante@cov.com

or to such other address or Person as any party hereto may have specified in a notice duly given to the other parties hereto as provided herein. Such notice, request, demand, waiver, consent, approval or other communication will be deemed to have been given as of the date so delivered, sent by facsimile, overnight couriered or mailed.

SECTION 12.4 Amendment and Modification. This Agreement may only be amended, modified or supplemented at any time prior to the Effective Time by mutual agreement of Buyer, Merger Sub, the Company and the Stockholders' Representative, except as provided in Section 251(d) of the DGCL; *provided* that no amendment or waiver to this Section 12.4 or Sections 11.5, 12.2, 12.5 12.6, 12.13 or 12.14 or defined term used therein (or to any other provision or definition of this Agreement to the extent that such amendment or waiver would modify the substance of any such foregoing Section or defined term used therein) that is material and adverse to any Financing Source shall be effective as to such Financing Source without the written consent of the Lead Arranger. Any amendment, modification or revision of this Agreement and any waiver of compliance or consent with respect hereto shall be effective only if in a written instrument executed by the parties hereto.

SECTION 12.5 Governing Law; Jurisdiction.

(a) This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware without giving effect to principles of conflicts of laws thereof. Notwithstanding anything to the contrary contained herein, any right or obligation with respect to any Financing Source in connection with this Agreement, the Financing, the Commitment Letter and the transactions contemplated hereby and thereby, and any claim, controversy, dispute, suit, action or proceeding relating thereto or arising thereunder, shall be governed by and construed in accordance with the law of the State of New York.

(b) For purposes of this Agreement, each of the parties hereto hereby (i) consents to service of process in any legal action, suit or proceeding among the parties to this Agreement arising in whole or in part under or in connection with the negotiation, execution and performance of this Agreement in any manner permitted by the laws of the State of Delaware, (ii) agrees that service of process made in accordance with this Section 12.5 or made by registered or certified mail, return receipt requested, at its address specified pursuant to Section 12.3, will constitute good and valid service of process in any such legal action, suit or proceeding, and (iii) waives and agrees not to assert (by way of motion, as a defense, or otherwise) in any such legal action, suit or proceeding any claim that service of process made in accordance with clause (i) or (ii) does not constitute good and valid service of process. Each of the parties hereto (a) consents to submit itself to the exclusive personal jurisdiction of the Delaware Court of Chancery, New Castle County, or a federal court sitting in the State of Delaware, in any action or proceeding arising out of or relating to this Agreement or any of the transactions contemplated by this Agreement, (b) agrees that all claims in respect of such action or proceeding may be heard and determined in any such court, (c) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court, and (d) agrees not to bring any action or proceeding arising out of or relating to this Agreement or any of the transactions contemplated by this Agreement in any other court. Each of the parties hereto waives any defense of improper venue or inconvenient forum to the maintenance of any action or proceeding so brought and waives any bond, surety or other security that might be required of any other party with respect thereto. Notwithstanding anything to the contrary contained herein, each party hereto hereby submits itself to the exclusive jurisdiction of the Supreme Court of the State of New York sitting in the Borough of Manhattan in the City of New York and the United States District Court for the Southern District of New York and any appellate courts thereof with respect to any suit, action or proceeding against any Financing Source in connection with this Agreement, the Financing, the Commitment Letter and the transactions contemplated hereby and thereby, whether at law or in equity and whether in tort, contract or otherwise, and hereby agrees that it will not bring or support any such suit, action or proceeding in any other forum.

SECTION 12.6 Waiver of Jury Trial. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE CONFIDENTIALITY AGREEMENT, THE FINANCING OR THE COMMITMENT LETTER OR BY THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

SECTION 12.7 Severability. If any term or other provision of this Agreement is determined to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other terms and provisions of the Agreement shall remain in full force and effect. Upon such determination, the parties hereto shall negotiate in good faith to modify this Agreement so as to give effect to the original intent of the parties hereto to the fullest extent permitted by applicable Law.

SECTION 12.8 Counterparts. This Agreement may be executed in one or more counterparts (including by facsimile or other electronic transmission), each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement and any amendments hereto, to the extent signed and delivered by means of digital imaging and electronic mail or a facsimile machine, shall be treated in all manner and respects as an original

contract and shall be considered to have the same binding legal effects as if it were the original signed version thereof delivered in person.

SECTION 12.9 Specific Performance.

(a) Subject to Section 12.9(b), the parties hereto agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed by the parties hereto in accordance with their specific terms or were otherwise breached. It is accordingly agreed that, subject to Section 12.9(b), Buyer, on the one hand, and the Company, on the other hand, shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof in any court of competent jurisdiction, including the right of the Company to cause Buyer to fully perform the terms of this Agreement to the fullest extent permissible pursuant to this Agreement and applicable Laws and to thereafter cause this Agreement and the transactions contemplated hereby to be consummated on the terms and subject to the conditions set forth in this Agreement. Such remedies shall, however, be cumulative and not exclusive and shall be in addition to any other remedies which any party may have under this Agreement. Subject to Section 12.9(b), each of the parties hereby waives (i) any defense that a remedy at law would be adequate, and (ii) any requirement under any Law to post a bond or other security as a prerequisite to obtaining equitable relief. If any party hereto brings any action to enforce specifically the performance of the terms and provisions of this Agreement by the other party prior to the Termination Date, the Termination Date shall automatically be extended for so long as the party bringing such action is actively seeking a court order for an injunction or injunctions or to specifically enforce the terms and provisions of this Agreement.

(b) Notwithstanding anything herein to the contrary, including the provisions of Section 12.9(a), the right of the Company to obtain an injunction, specific performance or other equitable relief, with respect to the obligation of Buyer to effect the Closing, shall only be available in the event that: (i) all conditions to the Closing set forth in Sections 8.1 and 8.2 have been satisfied or waived at the time when the Closing would have occurred pursuant to the terms hereof (other than those conditions which by their terms or nature are to be satisfied by performance at the Closing, *provided* that such conditions would be satisfied or waived at the Closing); (ii) the Financing has been funded or will be funded in accordance with the terms of the Commitment Letter at or prior to the Closing; and (iii) the Company has irrevocably confirmed in a written notice to Buyer that: (A) all conditions to the Closing set forth in Sections 8.1 and 8.3 have been satisfied or that the Company is willing to waive any unsatisfied conditions (other than those conditions which by their terms or nature are to be satisfied by performance at the Closing, *provided* that such conditions would be satisfied or waived at the Closing), and (B) if specific performance is granted and the Financing is funded, then the Company is ready, willing and able to consummate the Closing. For the avoidance of doubt, the Company may pursue a grant of specific performance as expressly permitted by this Section 12.9(b) and the payment of the Termination Fee by Buyer, but under no circumstances shall Buyer be obligated to both specifically perform the terms of this Agreement and pay the Termination Fee in accordance with Section 11.5(b).

SECTION 12.10 Mutual Drafting. The parties hereto acknowledge that they are sophisticated parties and have been represented by legal counsel throughout the negotiation and drafting of this Agreement and the transactions contemplated hereby, and that the terms of the

provisions hereof have been carefully negotiated by such legal counsel. Accordingly, the parties hereto hereby agree that the presumptions of Laws or rules relating to the interpretation of contracts against the drafter of any particular clause should not be applied to this Agreement or any agreement or instrument executed in connection herewith, and each party hereto hereby waives the application thereof.

SECTION 12.11 Disclosure Schedule. The representations and warranties contained in Article IV are qualified by reference to the disclosures as are specifically set forth in the appropriate section, subsection or subclause of the Disclosure Schedule attached hereto. Buyer and Merger Sub acknowledge that (i) the Disclosure Schedule may include items or information that the Company is not required to disclose under this Agreement, (ii) disclosure of such items or information shall not affect, directly or indirectly, the interpretation of this Agreement or the scope of the disclosure obligation of the Company under this Agreement, and (iii) inclusion of information in the Disclosure Schedule shall not be construed as an admission that such information is material to the Company. Similarly, in such matters where a representation or warranty is given or other information is provided, the disclosure of any matter in the Disclosure Schedule shall not imply that any other undisclosed matter having a greater value or other significance is material. Buyer and Merger Sub further acknowledge that (A) headings have been inserted on sections of the Disclosure Schedule for the convenience of reference only and shall not affect the construction or interpretation of any of the provisions of this Agreement or the Disclosure Schedule, (B) cross references that may be contained in sections of the Disclosure Schedule to other sections of the Disclosure Schedule are not all-inclusive of all disclosures contained on such referenced sections of the Disclosure Schedule, and (C) information contained in various sections of the Disclosure Schedule may be applicable to other sections of the Disclosure Schedule; accordingly, every matter, document or item referred to, set forth or described in one section of the Disclosure Schedule shall be deemed to be disclosed under each and every part, category, heading or subheading of such section and all other sections of the Disclosure Schedule and shall be deemed to qualify the representations and warranties of the Company in this Agreement, to the extent such matter, document or item may apply if (x) a cross-reference to such other section of the Disclosure Schedule is made, or (y) it is reasonably apparent on the face of such disclosure that the disclosed matter, document or item would relate to other representations or warranties or the matters covered thereby.

SECTION 12.12 Provisions Respecting Representation of the Company. Each of Buyer, Merger Sub, the Company and the other parties hereto hereby agrees, on its own behalf and on behalf of its directors, members, partners, stockholders, officers, employees and Affiliates, that Covington & Burling LLP and any other legal counsel representing the Company or any of its Subsidiaries prior to the Closing (each, a "*Prior Company Counsel*") may serve as counsel to any of the Stockholders' Representative, Principal Stockholder, other Stockholders, Option Holders, and any of each such Person's respective Affiliates (other than the Company and its Subsidiaries) (individually and collectively, the "*Seller Group*"), on the one hand, and the Company and its Subsidiaries, on the other hand, in connection with the negotiation, preparation, execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, and that, following consummation of the transactions contemplated hereby, any Prior Company Counsel may serve as counsel to the Seller Group or any director, member, partner, stockholder, officer, employee or Affiliate of the Seller Group, in connection with any litigation, claim or obligation arising out of or relating to this Agreement or the transactions contemplated by this Agreement

notwithstanding such prior representation of the Company and its Subsidiaries, and each of the parties hereto hereby consents thereto and waives any conflict of interest arising therefrom, and each of such parties shall cause any Affiliate thereof to consent to and waive any conflict of interest arising from such representation. Buyer further agrees, on its own behalf and on behalf of its Affiliates, including the Surviving Company and its Subsidiaries following the Closing, that in the event the Stockholders' Representative assumes the defense of a Third Party Claim brought against any Buyer Indemnified Party (including the Surviving Company or any of its Subsidiaries) in accordance with Section 9.3, notwithstanding that any Prior Company Counsel may be representing the Company and its Subsidiaries in connection with such Third Party Claim, Buyer waives any claim of conflict of interest with respect to any Prior Company Counsel's representation of the Seller Group in connection with any dispute between Buyer and the Stockholders' Representative or any member of the Seller Group, including in connection with disputes under this Agreement. Each of Buyer, Merger Sub and the Company hereby irrevocably acknowledges and agrees that all privileged communications prior to the Closing between the Company and its Subsidiaries or the Seller Group, on the one hand, and their external legal counsel, including any Prior Company Counsel, on the other hand, made in connection with the negotiation, preparation, execution, delivery and performance under, or any dispute or proceeding arising out of or relating to, this Agreement, any agreements contemplated by this Agreement or the transactions contemplated hereby, or any matter relating to any of the foregoing, are privileged communications between the Company, its Subsidiaries and the Seller Group and such counsel (collectively, the "*Privileged Communications*") and belong solely to the Seller Group, and from and after the Closing none of the Surviving Company, its Subsidiaries, Buyer or any Person purporting to act on behalf of or through the Surviving Company or its Subsidiaries shall seek to obtain such communications, whether by seeking a waiver of the attorney-client privilege or through any other means. To the extent that files in respect of any Privileged Communications constitute client property, only the Seller Group shall hold such property rights. As to any such Privileged Communications prior to the Closing Date, Buyer, Merger Sub, the Company, and each of its Subsidiaries together with any of their respective Affiliates, successors or assigns, further agree that no such party may use or rely on any of the Privileged Communications in any action against or involving any of the parties hereto after the Closing. This Section 12.12 is for the benefit of the Seller Group and each Prior Company Counsel, and the Seller Group and each Prior Company Counsel are express third party beneficiaries of this Section 12.12. This Section 12.12 shall be irrevocable, and no term of this Section 12.12 may be amended, waived or modified, without the prior written consent of each of the Seller Group and each Prior Company Counsel affected thereby.

SECTION 12.13 Liability of Financing Sources. Notwithstanding anything to the contrary contained herein, the Company and the Stockholders' Representative (on behalf of themselves, their respective Affiliates, each officer, director, employee, member, manager, partner, controlling person, advisor, attorney, agent and representative thereof and the Stockholders) (i) hereby waives any claims or rights against any Financing Source relating to or arising out of this Agreement, the Financing, the Commitment Letter and the transactions contemplated hereby and thereby, whether at law or in equity and whether in tort, contract or otherwise, (ii) hereby agrees not to bring or support any suit, action or proceeding against any Financing Source in connection with this Agreement, the Financing, the Commitment Letter and the transactions contemplated hereby and thereby, whether at law or in equity and whether in tort, contract or otherwise, and (iii) hereby agrees to cause any suit, action or proceeding asserted against any Financing Source by or

on behalf of the Company or the Stockholders' Representative or any of their respective Affiliates or any officer, director, employee, member, manager, partner, controlling person, advisor, attorney, agent and representative thereof or the Stockholders in connection with this Agreement, the Financing, the Commitment Letter and the transactions contemplated hereby and thereby to be dismissed or otherwise terminated. In furtherance and not in limitation of the foregoing waivers and agreements, it is acknowledged and agreed that no Financing Source shall have any liability for any claims or damages to the Company or the Stockholders' Representative in connection with this Agreement, the Financing, the Commitment Letter and the transactions contemplated hereby and thereby.

SECTION 12.14 Financing Sources as Third-Party Beneficiaries. Notwithstanding anything to the contrary contained herein, each Financing Source is intended to be, and shall be, an express third-party beneficiary of this Section 12.14 and Sections 11.5, 12.2, 12.4, 12.5 12.6 and 12.13.

[*Signature Page Follows*]

The parties hereto, intending to be legally bound hereby, have duly executed this Agreement and Plan of Merger as of the date first above written.

DBM GLOBAL INC.

By: /s/ James Rustin Roach
Name: James Rustin Roach
Title: CEO and President

*Signature Page to Agreement and Plan of Merger*

DBM MERGER SUB, INC.

By: /s/Michael Hill
Name: Michael Hill
Title: President

*Signature Page to Agreement and Plan of Merger*

DBM GLOBAL INC.

By:
Name:
Title:

DBM MERGER SUB, INC.

By:
Name:
Title:

CB-HORN HOLDINGS, INC.

By: /s/Brent Smith
Name: Brent Smith
Title: President and Chief Executive Officer

STOCKHOLDERS' REPRESENTATIVE:

CHARLESBANK EQUITY FUND VI, LIMITED PARTNERSHIP, solely as the Stockholders' Representative under this Agreement

By: Charlesbank Equity Fund VI GP,
Limited Partnership, its General Partner

By: Charlesbank Capital Partners, LLC, its
General Partner

By:
Name: Samuel P. Bartlett
Title: Managing Director

DBM GLOBAL INC.

By:__
Name:
Title:

DBM MERGER SUB, INC.

By:__
Name:
Title:

CB-HORN HOLDINGS, INC.

By:__
Name: Brent Smith
Title: President and Chief Executive Officer

STOCKHOLDERS' REPRESENTATIVE:

CHARLESBANK EQUITY FUND VI, LIMITED PARTNERSHIP, solely as the Stockholders' Representative under this Agreement

By: Charlesbank Equity Fund VI GP,
Limited Partnership, its General Partner

By: Charlesbank Capital Partners, LLC, its
General Partner

By: /s/ Samuel P. Bartlett
Name: Samuel P. Bartlett
Title: Managing Director

Exhibit 2.2

***Execution Version***

**AMENDMENT NO. 1**
**TO AGREEMENT AND PLAN OF MERGER**

AMENDMENT NO. 1 TO AGREEMENT AND PLAN OF MERGER (this "Amendment"), dated as of November 29, 2018, by and among DBM Global Inc., a Delaware corporation ("Buyer"), DBM Merger Sub, Inc., a Delaware corporation, and a wholly owned subsidiary of Buyer ("Merger Sub"), CB-Horn Holdings, Inc., a Delaware corporation (the "Company"), and Charlesbank Equity Fund VI, Limited Partnership, a Massachusetts limited partnership, solely in its capacity as representative for the Company's securityholders (the "Stockholders' Representative").

RECITALS

WHEREAS, the Buyer, Merger Sub, the Company, and the Stockholders' Representative are parties to that certain Agreement and Plan of Merger, dated as of October 10, 2018 (the "Merger Agreement");

WHEREAS, Section 12.4 of the Merger Agreement provides that it may be amended, modified or supplemented at any time prior to the Effective Time by mutual agreement of Buyer, Merger Sub, the Company and the Stockholders' Representative; and

WHEREAS, the undersigned parties desire to amend the Merger Agreement as set forth herein.

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Section 1. Defined Terms. Unless otherwise specifically defined herein, each term used herein which is defined in Merger Agreement, as amended hereby, has the meaning assigned to such term in the Merger Agreement, as amended hereby.

Section 2. Amendment of Certain Definitions.

(a) The following defined terms set forth in Section 1.1 of the Merger Agreement are hereby amended and restated in their entirety:

"*Target Net Working Capital*" means $35,000,000. "*Escrow Amount*" means $3,925,000.

(b) The reference to "SNC Receivables" in the definition of "Pre-Closing Taxes" is hereby replaced in its entirety with "Specified Accounts".

(c) The following defined terms are hereby added to Section 1.1 of the Merger

Agreement:

**"***Fluor CEB Accounts***"** has the meaning specified in Section 6.19.

"*Fluor Project*" means FTI/Sasol Contract No. L2CC-SASOL-50-Kl12, Titan Contracting Project 1711087.

**"***Specified Accounts***"** has the meaning specified in Section 6.19.

Section 3. Amendment to Company Accounting Policies. Item 5 of Annex 1 of the Merger Agreement is hereby amended and restated in its entirety as follows:

"5. Current Assets shall (A) not include any (i) Cash, (ii) assets related to income Taxes, whether current or deferred, (iii) assets related to Indebtedness or Transaction Expenses, (iv) the SNC Receivables, (v) any assets associated with the AMECS projects referred to in item 7 below or (vi) the Fluor CEB Accounts, and (B) include any and all amounts due to the Company (i) under contract #15-53-023 (also known as the Shamokin Dam, PA / Hummel Station Project) and (ii) from Valmet, Inc. (including any amounts secured by that irrevocable letter of credit issued on behalf of Valmet, Inc. dated December 28, 2017)."

Section 4. Amendment of Section 3.8(b). The reference to "$5,000,000" in Section 3.8(b) of the Merger Agreement, which is included in the definition of "Adjustment Fund", is hereby replaced in its entirety with $2,750,000.

Section 5. Amendment of Section 6.19. Section 6.19 of the Merger Agreement is hereby amended and restated in its entirety as follows:

**"**SECTION 6.19 Collection of Certain Accounts. Following the Closing, Buyer shall cause the Company (and its Subsidiaries) to use commercially reasonable efforts to collect (a) the outstanding accounts receivable set forth in Section 6.19 of the Disclosure Schedule (the **"***SNC Receivables***"**) and (b) costs in excess of billings relating to the existing scope of the Fluor Project as detailed in Exhibit A (the **"***Fluor CEB Accounts***"**, and together with the SNC Receivables, the (**"***Specified Accounts***"**), and, as reasonably requested by the Stockholders**'** Representative from time to time, provide the Stockholders**'** Representative with

(i) information regarding the status of collection of the Specified Accounts and

(ii) reasonable access during normal business hours to all documentation and information in the possession or control of the Company or its Subsidiaries related to or supporting the Specified Accounts, in each case, subject to confidentiality requirements, if any, associated therewith. Any new work will be tracked internally on a separate job or contract number to ensure transparency in the segregation of the Fluor CEB Accounts and any new contract scope for Buyer. For the sake of clarity, any new or emerging work that Buyer chooses to perform that is not part of the existing scope of the Fluor Project shall not be considered part of the Fluor CEB Accounts. Upon any such collection, as and when received from time to time, Buyer shall, or shall cause the Company to, (i) promptly (but in any event within three (3) Business Days following collection) notify

the Stockholders' Representative of such collection and (ii) deliver all such collected amounts by wire transfer of immediately available funds to the account or accounts to be designated by the Stockholders' Representative in writing as soon as reasonably practicable after receipt of such instructions from the Stockholders' Representative. Without the prior written consent of the Stockholders' Representative (which consent shall not be unreasonably withheld, conditioned or delayed), neither Buyer nor the Company nor any of its Subsidiaries may waive, discount, settle or otherwise compromise the Specified Accounts or any portion thereof. Upon reasonable request from the Stockholders' Representative, notwithstanding anything to the contrary herein, Buyer shall (A) permit the Stockholders' Representative's, at its sole expense, to assign to any Person or Persons designated by the Stockholders' Representative in writing its rights under this Section 6.19, or (B) cause the Company to assign the economic benefit of the Specified Accounts to any Person or Persons designated by the Stockholders' Representative in writing; provided, however, that in the case of any assignment pursuant to clause (B) above, the assignment shall be subject to the assignee executing an acknowledgment reasonably satisfactory to Buyer of Buyer's exclusive right to control the prosecution and collection of the Specified Accounts and a waiver of any right to litigate or otherwise directly pursue collection of any Specified Account against the applicable counterparty. Upon reasonable request from the Stockholders' Representative, Buyer shall cause the Company (and its Subsidiaries) to provide copies of all documentation and information in the possession or control of the Company or its Subsidiaries related to or supporting the Specified Accounts to any such assignee. Notwithstanding anything to the contrary set forth herein: (1) nothing in this Section 6.19 shall require the commencement of any action, suit or similar proceeding by Buyer or its Affiliates in order to collect the Specified Accounts; (2) in the event that the Buyer and the Stockholders' Representative agree to initiate any such action, suit or similar proceeding, Stockholders' Representative shall be responsible for and pay any reasonable out of pocket costs and expenses associated therewith, including attorneys' fees and expert fees; and (3) any such costs and expenses, if unpaid by the Stockholders' Representative may be deducted by Buyer from any amount payable to the Stockholders' Representative under this Section 6.19.

Section 6. Additional Disclosures. The disclosures set forth on Appendix A are hereby added to the Disclosure Schedule and are deemed to have been included under Section 4.6(n), 4.8(b) and Section 4.18(a) of the Disclosure Schedule as of the date of the Merger Agreement for all purposes thereunder. Effective as of the effectiveness of this Amendment, Buyer, on behalf of itself and its Affiliates and Representatives, releases, discharges and waives any and all claims against the Company, the stockholders and former stockholders of the Company, and their respective Affiliates and Representatives, arising out of the matters disclosed in Appendix A and the disclosure thereof.

Section 7. Effectiveness and Effect of Amendment. This Amendment is automatically effective upon receipt of written consents adopting this Amendment from the holders of a majority of the outstanding voting capital stock of the Company, including a majority of outstanding shares of Common Stock of Company. From and after the effectiveness of this Amendment, each reference to "hereof", "hereunder", "herein" and "hereby" and each other similar reference and each reference

to “this Agreement” and each other similar reference contained in the Merger Agreement shall refer to Merger Agreement, as amended hereby. Except as expressly set forth herein, this Amendment shall not by implication or otherwise limit, impair, constitute a waiver of or otherwise affect the rights and remedies of the parties under the Merger Agreement, and shall not alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in Merger Agreement.

Section 8. Governing Law. This Amendment shall be governed by, and construed in accordance with, the laws of the State of Delaware without giving effect to principles of conflicts of laws thereof.

Section 9. Counterparts. This Amendment may be executed in one or more counterparts (including by facsimile or other electronic transmission), each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement and any amendments hereto, to the extent signed and delivered by means of digital imaging and electronic mail or a facsimile machine, shall be treated in all manner and respects as an original contract and shall be considered to have the same binding legal effects as if it were the original signed version thereof delivered in person.

[*Signature Page Follows*]

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

DBM GLOBAL INC.

By: /s/ Michael Hill
Name: Michael Hill
Title: VP & CFO

DBM MERGER SUB, INC.

By: /s/ Michael Hill
Name: Michael Hill
Title: President

CB-HORN HOLDINGS, INC.

By: /s/ Michael V. Lampert
Name: Michael V. Lampert
Title: COO

STOCKHOLDERS' REPRESENTATIVE:

CHARLESBANK EQUITY FUND VI, LIMITED PARTNERSHIP, solely as the Stockholders' Representative under this Agreement

By: Charlesbank Equity Fund VI GP,
Limited Partnership, its General Partner

By: Charlesbank Capital Partners, LLC, its
General Partner

By: /s/ Samuel P. Bartlett
Name: Samuel P. Bartlet
Title:

By: /s/Brandon White
Name: Brandon White
Title:

Exhibit 2.3

**Execution Version**

# SERIES A SECURITIES PURCHASE AGREEMENT

**BY AND AMONG**

**DBM GLOBAL INTERMEDIATE HOLDCO INC.**

**AND**

**DBM GLOBAL INC.**

**DATED AS OF NOVEMBER 30, 2018**

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## LIST OF EXHIBITS

**SERIES A SECURITIES PURCHASE AGREEMENT**

This SERIES A SECURITIES PURCHASE AGREEMENT (together with the exhibits hereto, this "Agreement"), dated as of November 30, 2018, is made by and among (i) DBM Global Intermediate Holdco Inc., a Delaware corporation (the "Purchaser"), and (ii) DBM Global Inc., a Delaware corporation (the "Company" and together with the Purchaser and any permitted transferee thereof that becomes a party to this Agreement in accordance with the terms hereof, the "Parties" and each, a "Party"). Capitalized terms used in this Agreement and not otherwise defined shall have the meanings specified in Section 7.1.

**PRELIMINARY STATEMENT**

The Company desires to issue and sell to the Purchaser an aggregate of 40,000 authorized but unissued shares of Series A Fixed-to-Floating Rate Perpetual Preferred Shares of the Company, par value $0.001 per share (the "Series A Preferred Stock"), on the terms and subject to the conditions set forth in this Agreement.

The Parties agree as follows:

**ARTICLE I**
**SALE AND PURCHASE OF SECURITIES**

**Section 1.1 Sale and Purchase of Securities**.

(a) Sale and Purchase. Subject to all of the terms and conditions of this Agreement, and in reliance on the representations, warranties, covenants and other agreements set forth herein, at the Closing, (i) the Company will issue and sell to the Purchaser an aggregate of 40,000 shares of Series A Preferred Stock (collectively, the "Series A Preferred Shares" and each, a "Series A Preferred Share") for $1,000.00 per Series A Preferred Share, representing 100.0% of the initial Stated Value of each Series A Preferred Share, and in aggregate, an amount of $40,000,000.00 (the "Purchase Price") and (ii) the Purchaser will purchase all of the Series A Preferred Shares and will cause Continental General Insurance Company to pay on behalf of the Purchaser all of the Purchase Price pursuant to the instructions and at the direction of the Purchaser and the Company by wire transfer in immediately available funds.

(b) Series A Preferred Shares. The Series A Preferred Shares will (A) be issued at the Closing to the Purchaser, fully paid, non-assessable and free and clear of any Encumbrances and otherwise in accordance with the terms of this Agreement, (B) be registered to the Purchaser in the Company's stock records, and (C) have the designations, rights, preferences, powers, qualifications, restrictions and limitations set forth in the Series A Certificate of Designation.

**Section 1.2 Closing**. The consummation of the sale and purchase of the Series A Preferred Shares in accordance with the terms of this Agreement (the "Closing") will take place at the offices of Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022 promptly following execution of this Agreement on the Closing Date.

**Section 1.3** **Funding Fee**. Within five (5) Business Days of the Closing Date, the Company shall pay to the Purchaser, a non-refundable closing fee equal to $400,000, which shall be deemed fully earned upon the Closing Date and shall not represent or be deemed to represent consideration for the Company's issuance of the Series A Preferred Shares pursuant to this Agreement.

## ARTICLE II
## REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company represents and warrants to the Purchaser as of the Closing Date that:

**Section 2.1** **Organization, Good Standing, Etc.** Each Group Company (i) is a corporation, limited liability company or limited partnership, as applicable, duly incorporated or formed, as applicable, validly existing and in good standing under the laws of the state or jurisdiction of its incorporation or formation, as applicable, (ii) has all requisite corporate, limited liability or limited partnership, as applicable, power and authority to conduct its business as now conducted and as presently contemplated and, in the case of the Company, to issue the Series A Preferred Shares hereunder, and to execute and deliver each Transaction Document to which it is a party, and to consummate the transactions contemplated thereby, and (iii) is duly qualified to do business and is in good standing in each jurisdiction in which the character of the properties owned or leased by it or in which the transaction of its business makes such qualification necessary, except (solely for the purposes of this clause (iii)) where the failure to be so qualified and in good standing could not reasonably be expected to have a Material Adverse Effect.

**Section 2.2** **Authorization; Etc.** The execution, delivery and performance by the Company of each Transaction Document to which it is or will be a party, (i) have been duly authorized by all necessary action, (ii) do not and will not contravene (A) any of its Governing Documents, (B) any applicable Requirements of Law or (C)(x) any Material Contract or (y) any other Contractual Obligation binding on or otherwise affecting it or any of its properties, (iii) do not and will not result in or require the creation of any Lien (other than as permitted under the Financing Agreement) upon or with respect to any of its properties, and (iv) do not and will not result in any default, noncompliance, suspension, revocation, impairment, forfeiture or nonrenewal of any permit, license, authorization or approval applicable to its operations or any of its properties, except, in the case of clauses (ii)(B), (ii)(C)(y) and (iv), to the extent where such contravention, default, noncompliance, suspension, revocation, impairment, forfeiture or nonrenewal could not reasonably be expected to have a Material Adverse Effect.

**Section 2.3** **Governmental Approvals.** No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority is required in connection with the due execution, delivery and performance by the Company of any Transaction Document to which it is or will be a party other than filings and recordings with the Delaware Secretary of State contemplated hereby.

**Section 2.4** **Enforceability of Transaction Documents.** This Agreement is, and each other Transaction Document to which the Company is or will be a party, when delivered hereunder,

will be, a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.

**Section 2.5 Litigation.** There is no pending or, to the knowledge of the Company, threatened action, suit or proceeding affecting any Group Company or any of its properties before any court or other Governmental Authority or any arbitrator that has not been disclosed to the Purchaser (i) if adversely determined, could reasonably be expected to have a Material Adverse Effect or (ii) relates to this Agreement or any other Transaction Document or any transactions consummated hereunder or thereunder.

**Section 2.6 Compliance with Laws, Etc.** No Group Company or any of its Subsidiaries is in violation of (i) any of its Governing Documents, (ii) any Requirements of Law, except where the failure to so comply could not reasonably be expected to have a Material Adverse Effect, or (iii) any term of any Contractual Obligation (including, without limitation, any Material Contract) binding on or otherwise affecting it or any of its properties, except where the failure to so comply could not reasonably be expected to have a Material Adverse Effect, and no default or event of default has occurred and is continuing thereunder.

**Section 2.7 ERISA.** Except as could not reasonably be expected to have a Material Adverse Effect: (i) each Employee Plan is in substantial compliance with ERISA and the Internal Revenue Code, (ii) no Termination Event has occurred nor is reasonably expected to occur with respect to any Employee Plan, (iii) the most recent annual report (Form 5500 Series) with respect to each Employee Plan, including any required Schedule B (Actuarial Information) thereto, copies of which have been filed with the Internal Revenue Service and will be delivered to the Purchaser, upon request, is complete and correct and fairly presents the funding status of such Employee Plan, and since the date of such report there has been no material adverse change in such funding status, (iv) copies of each agreement entered into with the PBGC, the U.S. Department of Labor or the Internal Revenue Service with respect to any Employee Plan have been delivered to the Purchaser, (v) no Employee Plan failed to satisfy the minimum funding standards (within the meaning of Sections 412 or 430 of the Internal Revenue Code or Section 302 of ERISA), whether or not waived, and (vi) no Lien imposed under the Internal Revenue Code or ERISA exists or is likely to arise on account of any Employee Plan within the meaning of Section 412 of the Internal Revenue Code. No Group Company or any of its ERISA Affiliates has incurred any withdrawal liability under ERISA with respect to any Multiemployer Plan, or is aware of any facts indicating that it or any of

its ERISA Affiliates may in the future incur any such withdrawal liability, except as could not reasonably be expected to have a Material Adverse Effect. Except as could not reasonably be expected to have a Material Adverse Effect, no Group Company or any of its ERISA Affiliates nor any fiduciary of any Employee Plan has (i) engaged in a nonexempt prohibited transaction described in Sections 406 of ERISA or 4975 of the Internal Revenue Code, (ii) failed to pay any required installment or other payment required under Section 430(j) of the Internal Revenue Code on or before the due date for such required installment or payment, (iii) engaged in a transaction within the meaning of Section 4069 of ERISA or (iv) incurred any liability to the PBGC which remains outstanding other than the payment of premiums, and there are no premium payments which have become due which are unpaid. Except as could not reasonably be expected to have a Material Adverse Effect, there are no pending or, to the best knowledge of any Group Company, threatened claims, actions, proceedings or lawsuits (other than claims for benefits in the normal course) asserted or instituted against (i) any Employee Plan or its assets, (ii) any fiduciary with respect to any Employee Plan, or (iii) any Group Company or any of its ERISA Affiliates with respect to any Employee Plan. Except as required by Section 4980B of the Internal Revenue Code or as could not reasonably be expected to have a Material Adverse Effect, no Group Company or any of its ERISA Affiliates maintains an employee welfare benefit plan (as defined in Section 3(1) of ERISA) which provides health or welfare benefits (through the purchase of insurance or otherwise) for any retired or former employee of any Group Company or any of its ERISA Affiliates or coverage after a participant's termination of employment.

**Section 2.8** **Taxes, Etc.** (i) All foreign, federal and material state and local Tax returns and other reports required by applicable Requirements of Law to be filed by any Group Company have been filed, or extensions have been obtained, and (ii) all Taxes, assessments and other governmental charges imposed upon any Group Company or any property of any Group Company and which have become due and payable on or prior to the date hereof have been paid, except to the extent contested in good faith by proper proceedings which stay the imposition of any penalty, fine or Lien resulting from the non-payment thereof and with respect to which adequate reserves have been set aside for the payment thereof on the Financial Statements in accordance with GAAP.

**Section 2.9** **Regulations T, U and X**. No Group Company is or will be engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation T, U or X), and no proceeds of any Series A Preferred Share 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, or is inconsistent with, the provisions of Regulation T, U and X.

**Section 2.10** **Nature of Business.**

(a) No Group Company is engaged in any business other than as set forth in Schedule 6.01(l) to the Financing Agreement.

(b) The Company does not have any material liabilities (other than liabilities arising under the Loan Documents (as defined in the Financing Agreement), the Working Capital Loan Documents (as defined in the Financing Agreement), liabilities imposed by law, including tax liabilities, obligations under any employment agreement, stock option plan or other benefit plan for management or employees of the Company and its Subsidiaries, obligations under its Governing Documents, and other liabilities incidental to its existence and permitted business and activities as a holding company for a consolidated group), own any material assets (other than the Equity Interests of its Subsidiaries and cash and Permitted Investments (as defined in the Financing Agreement)) or engage in any operations or business (other than the ownership of its Subsidiaries and activities incidental thereto, including corporate maintenance activities (including the payment of expenses) associated with being a holding company for a consolidated group).

**Section 2.11** **Adverse Agreements, Etc**. No Group Company or any of its Subsidiaries is a party to any Contractual Obligation or subject to any restriction or limitation in any Governing

Document or any judgment, order, regulation, ruling or other requirement of a court or other Governmental Authority, which (either individually or in the aggregate) has, or in the future could reasonably be expected (either individually or in the aggregate) to have, a Material Adverse Effect.

**Section 2.12** **Permits, Etc**. Each Group Company has, and is in compliance with, all permits, licenses, authorizations, approvals, entitlements and accreditations required for such Person lawfully to own, lease, manage or operate, or to acquire, each business and Facility (as defined in the Financing Agreement) currently owned, leased, managed or operated, or to be acquired, by such Person, except to the extent the failure to have or be in compliance therewith could not reasonably be expected to have a Material Adverse Effect. No condition exists or event has occurred which, in itself or with the giving of notice or lapse of time or both, would result in the suspension, revocation, impairment, forfeiture or non-renewal of any such permit, license, authorization, approval, entitlement or accreditation, and there is no claim that any thereof is not in full force and effect, except where such suspension, revocation, impairment, forfeiture or non-renewal could not reasonably be expected to have a Material Adverse Effect.

**Section 2.13** **Properties**. Each Group Company has good and marketable title to, valid leasehold interests in, or valid licenses to use, all tangible property and assets material to its business, free and clear of all Liens, except Permitted Liens (as defined in the Financing Agreement). All such tangible properties and assets are in good working order and condition, ordinary wear and tear and casualty events excepted.

**Section 2.14** **Employee and Labor Matters**. Except as could not reasonably be expected to have a Material Adverse Effect, there is (i) no unfair labor practice complaint pending or, to the best knowledge of the Company, threatened against any Group Company before any Governmental Authority and no grievance or arbitration proceeding pending or threatened against any Group Company which arises out of or under any collective bargaining agreement, (ii) no strike, labor dispute, slowdown, stoppage or similar action or grievance pending or threatened against any Group Company or (iii) to the best knowledge of the Company, no union representation questions existing with respect to the employees of any Group Company and no union organizing activity taking place with respect to any of the employees of any Group Company. No Group Company or any of its ERISA Affiliates has incurred any liability or obligation under the Worker Adjustment and Retraining Notification Act ("WARN") or similar state law, which remains unpaid or unsatisfied. The hours worked and payments made to employees of any Group Company 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 have a Material Adverse Effect. All payments due from any Group Company 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 such Group Company, except where the failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The consummation of the Graywolf Acquisition and the transactions contemplated hereby will not give rise to any right of termination or right of renegotiation on the part of any union under any collective bargaining agreement to which any Group Company or any of their respective Subsidiaries is bound.

**Section 2.15** **Environmental Matters**. (i) The operations of each Group Company are in compliance with all Environmental Laws, except for any non-compliance that could not reasonably be expected to have a Material Adverse Effect; (ii) there has been no Release at any of the properties owned or operated by any Group Company or a predecessor in interest, or at any disposal or treatment facility which received Hazardous Materials generated by any Group Company or any predecessor in interest which could reasonably be expected to have a Material Adverse Effect; (iii) no Environmental Action has been asserted against any Group Company or any predecessor in interest nor does the Company have knowledge or notice of any threatened or pending Environmental Action against any Group Company or any predecessor in interest which could reasonably be expected to have a Material Adverse Effect; (iv) no Environmental Actions have been asserted against any facilities that may have received Hazardous Materials generated by any Group Company or any predecessor in interest which could reasonably be expected to have a Material Adverse Effect; (v) no property now or, to the knowledge of the Company, formerly owned or operated by a Group Company has been used as a treatment or disposal site for any Hazardous Material; (vi) no Group Company has failed to report to the proper Governmental Authority any Release which is required to be so reported by any Environmental Laws which could reasonably be expected to have a Material Adverse Effect; (vii) each Group Company holds all licenses, permits and approvals required under any Environmental Laws in connection with the operation of the business carried on by it, except for such licenses, permits and approvals as to which a Group Company's failure to maintain or comply with could not reasonably be expected to have a Material Adverse Effect; and (viii) no Group Company has received any notification pursuant to any Environmental Laws that (A) any work, repairs, construction or Capital Expenditures (as defined in the Financing Agreement) are required to be made in respect as a condition of continued compliance with any Environmental Laws, or any license, permit or approval issued pursuant thereto or (B) any license, permit or approval referred to above is about to be reviewed, made, subject to limitations or conditions, revoked, withdrawn or terminated, in each case, except as could not reasonably be expected to have a Material Adverse Effect.

**Section 2.16** **Insurance**. Each Group Company maintains the insurance and required services and financial assurance as required by law and as required by Section 7.01(h) of the Financing Agreement. Schedule 6.01(r) to the Financing Agreement sets forth a list of all insurance maintained by each Group Company on the Effective Date (as defined in the Financing Agreement).

**Section 2.17** **Use of Proceeds**. The proceeds of the Series A Preferred Shares shall be used to partially fund the Graywolf Acquisition.

**Section 2.18** **Solvency**. After giving effect to the transactions contemplated by this Agreement and the other Transaction Documents, the Group Companies on a consolidated basis are Solvent. No transfer of property is being made by any Group Company and no obligation is being incurred by any Group Company in connection with the transactions contemplated by this Agreement or the other Transaction Documents with the intent to hinder, delay, or defraud either present or future creditors of such Group Company.

**Section 2.19** **Intellectual Property**. Each Group Company owns or licenses or otherwise has the right to use all Intellectual Property (as defined in the Financing Agreement) rights that are

necessary for the operation of its business, free and clear of all Liens, except Permitted Liens (as defined in the Financing Agreement). To the knowledge of the Company, no trademark or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by any Group Company infringes upon or misappropriates any rights owned by any other Person, and no claim or litigation regarding any of the foregoing is pending or, to the knowledge of the Company, threatened, except for such infringements and misappropriates which could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

**Section 2.20** **Material Contracts**. Each Material Contract (i) is in full force and effect and is binding upon and enforceable against each Group Company that is a party thereto and, to the best knowledge of such Group Company, all other parties thereto in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity, and (ii) is not in default due to the action of any Group Company or, to the best knowledge of the Company, any other party thereto.

**Section 2.21** **Investment Company Act**. None of the Group Companies is an "investment company" or an "affiliated person" or "promoter" of, or "principal underwriter" of or for, an "investment company", as such terms are defined in the Investment Company Act of 1940, as amended.

**Section 2.22** **Customers and Suppliers**. There exists no actual or threatened termination, cancellation or limitation of, or modification to or change in, the business relationship between (i) any Group Company, on the one hand, and any customer or any group thereof, on the other hand, whose agreements with any Group Company are individually or in the aggregate material to the business or operations of the Group Companies taken as a whole, or (ii) any Group Company, on the one hand, and any supplier or any group thereof, on the other hand, whose agreements with any Group Company are individually or in the aggregate material to the business or operations of the Group Companies taken as a whole; and there exists no present state of facts or circumstances that could give rise to or result in any such termination, cancellation, limitation, modification or change.

**Section 2.23** **Anti-Money Laundering and Anti-Terrorism Laws**.

(a) None of the Group Companies, nor, to the knowledge of the Company, any Affiliate of any of the Group Companies, has violated or is in violation of any of the Anti-Money Laundering and Anti-Terrorism Laws or has engaged in or conspired to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the Anti-Money Laundering and Anti-Terrorism Laws.

(b) None of the Group Companies, nor, to the knowledge of the Company, any Affiliate of any of the Group Companies, or any officer, director or principal shareholder or owner of any of the Group Companies, is a Blocked Person (as defined in the Financing Agreement).

(c) None of the Group Companies (A) conducts any business with or for the benefit of any Blocked Person or engages in making or receiving any contribution of funds, goods

or services to, from or for the benefit of any Blocked Person, or (B) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked or subject to blocking pursuant to any OFAC Sanctions Programs in violation of any Requirements of Law.

**Section 2.24 Anti-Bribery and Anti-Corruption Laws**.

(a) The Group Companies are in compliance with the U.S. Foreign Corrupt Practices Act of 1977, as amended, and the anti-bribery and anti-corruption laws of those jurisdictions in which they do business (collectively, the "Anti-Corruption Laws").

(b) None of the Group Companies has at any time:

(i) offered, promised, paid, given, or authorized the payment or giving of any money, gift or other thing of value, directly or indirectly, to or for the benefit of any employee, official, representative, or other person acting on behalf of any foreign (i.e., non-U.S.) Governmental Authority thereof, or of any public international organization, or any foreign political party or official thereof, or candidate for foreign political office (collectively, "Foreign Official"), for the purpose of: (1) influencing any act or decision of such Foreign Official in his, her, or its official capacity; or (2) inducing such Foreign Official to do, or omit to do, an act in violation of the lawful duty of such Foreign Official, or (3) securing any improper advantage, in order to obtain or retain business for, or with, or to direct business to, any Person; or

(ii) acted or attempted to act in any manner which would subject any of the Group Companies to liability under any Anti-Corruption Law.

(c) There are, and have been, no allegations, investigations or inquiries with regard to a potential violation of any Anti-Corruption Law by any of the Group Companies or, to the knowledge of the Company, any of the current or former directors, officers, employees, stockholders or agents of any of the Group Companies.

(d) The Group Companies have adopted, implemented and maintain anti-bribery and anti-corruption policies and procedures that are reasonably designed to ensure compliance with the Anti-Corruption Laws.

**Section 2.25 Transactions with Affiliates**. Set forth on Schedule 6.01(aa) of the Financing Agreement is a complete and accurate list as of the Effective Date (as defined in the Financing Agreement) of all transactions by and between any Group Company or any of its Subsidiaries and any Affiliate thereof.

**Section 2.26 Default of Indebtedness**. Neither any Group Company nor any Subsidiary thereof is in default in the payment of the principal of or interest on any Indebtedness (as defined in the Financing Agreement) or under any instrument or agreement under or subject to which any Indebtedness has been issued and no event has occurred under the provisions of any such instrument or agreement which with or without the lapse of time or the giving of notice, or both, constitutes

an event of default thereunder, except with respect to immaterial amounts of Indebtedness, the failure of which to timely discharge would not reasonably be expected to materially adversely affect any Group Company.

**Section 2.27 Conflicting Agreements**. No provision of any Parent Debt Document (as defined in the Financing Agreement) conflicts with, or requires any consent which has not already been obtained to, or would in any way prevent the execution, delivery or performance of, the terms of this Agreement or the other Transaction Documents. No provision of any other mortgage, indenture, contract, lease, agreement, judgment, decree or order binding on, or otherwise applicable to, any Group Company nor any Subsidiary thereof or affecting any such Person's Collateral (as defined in the Financing Agreement) conflicts, in any material respect, with, or requires any consent which has not already been obtained to, or would in any way prevent the execution, delivery and performance of this Agreement or the other Transaction Documents.

**Section 2.28 Bonding Capacity**. The Group Companies and their Subsidiaries have available bonding capacity under or more Bonding Agreements in an amount sufficient to operate their respective businesses in the ordinary course. The Group Companies and their Subsidiaries are in compliance in all material respects with all terms and conditions set forth in each Bonding Agreement and no default has occurred thereunder.

**Section 2.29 Immaterial Subsidiaries**. The Immaterial Subsidiaries (as defined in the Financing Agreement) do not (a) own any assets (other than assets of a de minimis nature), (b) have any liabilities (other than liabilities of a de minimis nature) or (c) engage in any business activity.

**Section 2.30 Third-Party Leases**. All third-party leases with respect to real property of the Group Companies owned in fee by such Group Companies are set forth on Schedule 6.01(ll) of the Financing Agreement.

**Section 2.31 Private Offering; No General Solicitation.**

(a) Subject to compliance by the Purchaser with the representations and warranties set forth in Article III, it is not necessary in connection with the issuance of the Series A Preferred Shares to the Purchaser in the manner contemplated by this Agreement, to register the Series A Preferred Shares under the Securities Act.

(b) None of the Company or its Affiliates or any Person acting on any of their behalf (other than the Purchaser and its Affiliates, as to whom the Company makes no representation or warranty) directly or indirectly, has offered, sold or solicited any offer to buy and will not, directly or indirectly, offer, sell or solicit any offer to buy, any security of a type or in a manner which would be integrated with the issuance of the Series A Preferred Shares and require the Series A Preferred Shares to be registered under the Securities Act. None of the Company or its Affiliates or any Person acting on any of their behalf (other than the Purchaser and its Affiliates, as to whom the Company makes no representation or warranty) has engaged or will engage in any form of general solicitation or general advertising (within the meaning of Rule 502(c) under the Securities Act) in connection with the offering of the Series A Preferred Shares.

(c) The Series A Preferred Shares will not, on the date they are issued, be of the same class as securities listed on a national securities exchange registered under Section 6 of the Exchange Act or quoted on a U.S. automated interdealer quotation system.

**Section 2.32 No Broker's Fees.** No Group Company is a party to any contract, agreement or understanding with any Person that would give rise to a valid claim against it or the Purchaser for a brokerage commission, finder's fee or like payment in connection with the issuance of the Series A Preferred Shares pursuant to this Agreement.

## ARTICLE III
## REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

The Purchaser represents and warrants to the Company as of the Closing Date that:

**Section 3.1 Existence.** The Purchaser is a corporation duly incorporated and organized, validly existing and in good standing (to the extent such concept exists) under the laws of the jurisdiction of its incorporation.

**Section 3.2 Power; Authorization.** The Purchaser has all requisite corporate power, capacity and authority, and the legal right, to execute, deliver and perform under each of the Transaction Documents to which it is a party. The Purchaser has taken all necessary corporate action to authorize the execution, delivery and performance of each of the Transaction Documents to which it is a party. Each of the Transaction Documents to which it is a party has been duly executed and delivered on behalf of the Purchaser. Each of the Transaction Documents to which it is a party constitutes a legal, valid and binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, examinership, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

**Section 3.3 Consents.** No Governmental Approval or consent or authorization of, filing with, notice to or other act by or in respect of, any other Person is required in connection with the execution, delivery, performance, validity or enforceability of each of the Transaction Documents to which the Purchaser is a party by the Purchaser, except Governmental Approvals, consents, authorizations, filings and notices that have been obtained or made and are in full force and effect. No Governmental Approval or consent or authorization of, filing with, notice to or other act by or in respect of, any other Person is required in connection with the consummation of the Transactions by the Purchaser, except (a) Governmental Approvals, consents, authorizations, filings and notices that have been obtained or made and are in full force and effect and (b) those, the failure of which to obtain or make would not reasonably be expected to have a material adverse effect on the Purchaser's ability to perform its obligations hereunder.

**Section 3.4 No Legal Bar.** The execution, delivery and performance by the Purchaser of each of the Transaction Documents to which the Purchaser is a party will not violate (a) any Law or any Contractual Obligation of the Purchaser, except as would not reasonably be expected to have

a material adverse effect on the Purchaser's ability to perform its obligations hereunder or (b) the Governing Documents of the Purchaser.

**Section 3.5 Investment Matters.**

(a) The Purchaser is, and was at the time the Purchaser was offered the Series A Preferred Shares, (i) a qualified institutional buyer, (ii) an institutional accredited investor (as such term is defined in Rule 501(a)(1), (2), (3), (7) or (8) of Regulation D of the Securities Act) or (iii) a non-U.S. Person (as such term is defined in Regulation S of the Securities Act) and will not acquire the Series A Preferred Shares for the account or benefit of any U.S. Person.

(b) The Purchaser is acquiring the Series A Preferred Shares for its own account, for investment purposes only and not with a view to any distribution thereof that would not otherwise comply with the Securities Act.

(c) The Purchaser understands that (i) the Series A Preferred Shares have not been registered under the Securities Act and the Series A Preferred Shares are being issued by the Company in transactions exempt from the registration requirements of the Securities Act and (ii) all or any part of the Series A Preferred Shares may not be offered or sold except pursuant to effective registration statements under the Securities Act or pursuant to applicable exemptions from registration under the Securities Act and in compliance with applicable state Laws.

(d) The Purchaser understands that the exemption from registration afforded by Rule 144 promulgated under the Securities Act ("Rule 144") (the provisions of which are known to the Purchaser) depends on the satisfaction of various conditions, and that, if applicable, Rule 144 may afford the basis for sales only in limited amounts.

(e) The Purchaser did not employ any broker or finder in connection with the transactions contemplated in this Agreement and no fees or commissions are payable to the Purchaser, except as otherwise expressly provided for in this Agreement.

(f) No portion of the funds or assets that will be used by the Purchaser to pay the Purchase Price or to acquire or hold the Series A Preferred Shares, constitute or will constitute the assets of any (i) employee benefit plan subject to Title I of ERISA, (ii) plan described in and subject to Section 4975 of the Internal Revenue Code (each such employee benefit plan and plan described in clauses (i) and (ii) referred to herein as an "ERISA Plan"), (iii) plan, account or other arrangement subject to provisions under any other federal, state, local, non-U.S. or other laws or regulations that are similar to the fiduciary responsibility or prohibited transaction provisions of Title I of ERISA or Section 4975 of the Internal Revenue Code that could cause the underlying assets of the Company to be treated as assets of such plan, account or arrangement (a "Similar Law Plan") or (iv) entity whose underlying assets are deemed to include "plan assets" of any such ERISA Plan or Similar Law Plan pursuant to Section 3(42) of ERISA and any regulations that may be promulgated thereunder or otherwise.

(g) The Purchaser (i) is, and for so long as it holds any Series A Preferred Shares, will be, a "venture capital operating company" or wholly owned by a "venture capital operating

company" or (ii) does not have, and for so long as it holds any Series A Preferred Shares, will not have, "significant equity participation" by benefit plan investors. The term "venture capital operating company" has the meaning assigned to such term in the Department of Labor Regulation Section 2510.3-101.

(h) The Purchaser has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the Series A Preferred Shares and has so evaluated the merits and risks of such investment. The Purchaser understands that it must bear the economic risk of its investment in the Series A Preferred Shares indefinitely and is able to bear such risk and is able to afford a complete loss of such investment.

(i) The Purchaser acknowledges that it has reviewed all materials the Purchaser deemed necessary for the purpose of making an investment decision with respect to the Series A Preferred Shares, including information regarding the Transactions, and the Purchaser has evaluated the risks of investing in the Series A Preferred Shares and understands there are substantial risks of loss incidental to the investment and has determined that it is a suitable investment for the Purchaser.

## ARTICLE IV
## ADDITIONAL COVENANTS

**Section 4.1** **Expenses**. The Company hereby agrees to pay all reasonable out-of-pocket costs and expenses (including the reasonable costs and expenses of Latham & Watkins LLP (as counsel to the Purchaser), attorneys, accountants and consultants) of the Purchaser in connection with the preparation, negotiation, execution and delivery of this Agreement, the Series A Certificate of Designation and the documents and instruments referred to herein and therein and the consummation of the transactions contemplated hereby and thereby in an aggregate amount not to exceed $125,000.00.

**Section 4.2** **Further Assurances.** Following the Closing, the Parties shall execute and deliver such documents and other papers and take such further actions as may be reasonably required or desirable to carry out the provisions hereof and the transactions contemplated hereby.

**Section 4.3** **Compliance with Laws.** The Group Companies agree to conduct their business in compliance in all material respects with all Anti-Corruption Laws, Anti-Money Laundering and Anti-Terrorism Laws and Global Trade Control Laws, and not to take any action that would cause the Purchaser to be in violation of any Anti-Corruption Laws, Anti-Money Laundering and Anti-Terrorism Laws, or Global Trade Control Laws.

**Section 4.4** **Securities Act.** For so long as any of the Series A Preferred Shares remain outstanding and constitute "restricted securities" within the meaning of the Securities Act, the Company will make available at the Company's expense, upon request, to any holder of Series A Preferred Shares, and any prospective purchasers thereof, the information specified in Rule 144A(d)(4) under the Securities Act, unless the Company is then subject to Section 13 or 15(d) of the Exchange Act.

**Section 4.5 [RESERVED]**.

**Section 4.6 Transfer of Series A Preferred Shares**.

(a) No Purchaser (which, for purposes of this Section 4.6 shall include any successor or permitted assign of a Purchaser) may Transfer any shares of Series A Preferred Stock other than (i) with the prior written consent of the Company, not to be unreasonably withheld, conditioned or delayed, (ii) upon, if requested by the Company, the provision by the proposed transferee of one or more shares of Series A Preferred Stock of a written opinion of a nationally recognized legal counsel addressed to the Company that such Transfer will not violate applicable securities or other applicable Laws, and (iii) pursuant to a Transfer that the Company determines will not result in a violation of the terms, conditions or covenants of or constitute an event of default under, the Financing Agreement, the Loan Documents (as defined in the Financing Agreement), the Working Capital Loan Documents (as defined in the Financing Agreement) or any other or successor debt or credit facility agreement of the Group Companies. In the event of any Transfer of shares of Series A Preferred Stock in accordance with this Section 4.6, the transferee shall become a party to this Agreement by execution of a joinder hereto in a form and substance determined to be reasonably acceptable to the Company. The foregoing prior written consent of, request by, and determination of the Company will be made solely by the Independent Committee.

(b) In the event of any Transfer of shares of Series A Preferred Stock in in accordance with Section 4.6(a), the Company shall execute and deliver to the transferor a stock certificate or certificates evidencing the shares of Series A Preferred Stock so Transferred, which such execution and delivery will be made without charge to the Purchaser; provided, however, that the Company will pay or be required to pay for any documentary, stamp and similar issuance or transfer tax in respect of the preparation, execution and delivery of such new certificates pursuant to this Section 4.5(b). All Transfers of shares of Series A Preferred Stock in accordance with Section 4.5(a), will be made promptly by direct registration on the books and records of the Company and the Company shall take all such other lawful actions as may be required to reflect Transfers of shares of Series A Preferred Stock in accordance with Section 4.5(a).

(c) Upon receipt of evidence reasonably satisfactory to the Company (it being understood that an affidavit of the registered holder will be satisfactory) of the ownership and the loss, theft or destruction of any certificate evidencing shares of Series A Preferred Stock, and upon receipt of a bond sufficient to indemnify the Company against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of a new certificate, the Company will execute and deliver in lieu of such certificate a new certificate of like kind representing the shares of Series A Preferred Stock represented by such lost, stolen or destroyed certificate and dated the date of such lost, stolen or destroyed certificate.

(d) Unless otherwise agreed to by the Company and the applicable Holder, each certificate representing a share of Series A Preferred Stock will bear a restrictive legend substantially in the form set forth below, and, in addition, each such certificate may have notations, additional legends or endorsements required by Law, stock exchange rules, agreements to which the Company and the Purchaser are subject, if any.

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") AND MAY NOT BE TRANSFERRED, SOLD OR OTHERWISE DISPOSED OF EXCEPT WHILE A REGISTRATION STATEMENT RELATING THERETO IS IN EFFECT UNDER THE SECURITIES ACT OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT.

THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE ALSO SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFERS SET FORTH IN THE SECURITIES A PURCHASE AGREEMENT, DATED AS OF NOVEMBER 30, 2018, BY AND BETWEEN DBM GLOBAL INTERMEDIATE HOLDCO INC. AND THE COMPANY, AS THE SAME MAY BE AMENDED OR AMENDED AND RESTATED FROM TIME TO TIME (THE "PURCHASE AGREEMENT"). NO TRANSFER, SALE, ASSIGNMENT, PLEDGE, HYPOTHECATION OR OTHER DISPOSITION OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE MAY BE MADE EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF THE PURCHASE AGREEMENT. A COPY OF THE PURCHASE AGREEMENT WILL BE FURNISHED WITHOUT CHARGE BY THE COMPANY TO THE HOLDER UPON REQUEST."

**Section 4.7 Provision of Financial Information**.

(a) The Company will deliver to the Purchaser within thirty (30) days of the end of each of the first three fiscal quarters of each Fiscal Year commencing on the first fiscal quarter of the Company and its Subsidiaries ending after the Closing Date, unaudited consolidated and consolidating balance sheets, statements of operations and retained earnings and statements of cash flows of the Company and its Subsidiaries for the period ended and as of the last date of such quarter.

(b) The Company will deliver to the Purchaser within one hundred twenty (120) days after the end of each Fiscal Year commencing on the first Fiscal Year ending after the Closing Date, unaudited consolidated and consolidating balance sheets, statements of operations and retained earnings and statements of cash flows of the Company and its Subsidiaries for the period ended and as of the last date of such Fiscal Year.

(c) The Company will provide such other information reasonably relating to the financial performance of the Company as the Purchaser may from time to time reasonably request in a writing delivered to the Company in accordance with Section 6.8.

(d) In no event will the Company be required by this Section 4.7 to provide or disclose third party confidential information or information protected by the attorney-client, work product or similar protection or privilege.

**Section 4.8 Confidentiality**.

(a) The Purchaser shall and shall cause its Representatives to keep confidential and not divulge any information (including all budgets, business plans, forecasts and analyses) concerning the Company or its Subsidiaries, including their assets, business, operations, financial condition or prospects (collectively, "Confidential Information"), and to use Confidential Information solely and exclusively in connection with the business of the Company and its Subsidiaries and the Purchaser's ownership of Series A Preferred Shares; provided, that nothing herein shall prevent the Purchaser and its Representatives from disclosing such Confidential Information (i) upon the order of any court or administrative agency, (ii) upon the request or demand of any regulatory agency or authority having jurisdiction over the Purchaser or its Representatives, (iii) to the extent compelled by legal process or required or requested pursuant to subpoena, interrogatories or other discovery requests, (iv) to the extent necessary in connection with the exercise of any remedy under this Agreement, (v) to any other Purchaser, (vi) to the directors, officers, employees or agents of the Company and its Subsidiaries, and (vii) to such Representatives of the Purchaser that, in the reasonable judgment of the Purchaser, need to know such Confidential Information; provided, further, that in the case of clause (i), (ii) or (iii), the Purchaser shall notify the Company of the proposed disclosure as far in advance of such disclosure as practicable and use reasonable efforts to ensure that any Confidential Information so disclosed is accorded confidential treatment. For the avoidance of doubt, nothing contained herein shall preclude or restrict in any manner any Representative of the Purchaser who is a director, officer, employee or authorized agent of the Company and/or one or more of its Subsidiaries from disclosing Confidential Information to any Person in the normal course of business of the Company and its Subsidiaries in such Representative's capacity as a director, officer, employee or authorized agent or shall restrict the disclosure of information to the agent or lenders under the Financing Agreement, the Working Capital Credit Agreement (as defined in the Financing Agreement) or other Indebtedness of the Company and its Subsidiaries.

(b) The restrictions of this Section 4.8 shall not apply to Confidential Information that: (i) is or becomes generally available to the public other than as a result of a disclosure by the Purchaser or the Purchaser's Representatives in violation of this Section 4.8; (ii) is or becomes available to the Purchaser or the Purchaser's Representatives on a non-confidential basis prior to its disclosure to the Purchaser or the Purchaser's Representatives; (iii) is or has been independently developed or conceived by the Purchaser or the Purchaser's Representatives without use of the Confidential Information; or (iv) becomes available to the Purchaser or the Purchaser's Representatives on a non-confidential basis from a source other than the Company, any Subsidiary of the Company, the Purchaser or any of the Representatives of the Purchaser; provided, that such source is not known by the recipient of the Confidential Information to be bound by a confidentiality agreement or to be bound by any other confidentiality obligation (whether legal, fiduciary or contractual).

## ARTICLE V
## CONDITIONS PRECEDENT

(a) The Company shall have furnished or caused to be furnished to the Purchaser a stock certificate or certificates evidencing the Series A Preferred Shares.

(b) The Company shall have furnished or caused to be furnished to the Purchaser such further certificates and documents as the Purchaser or its counsel shall have reasonably requested.

(c) No action shall have been taken and no statute, rule, regulation or order shall have been enacted, adopted or issued by any federal or state governmental or regulatory authority that would, as of the Closing Date, prevent the issuance or sale of the Series A Preferred Shares by the Company in the United States; and no injunction or order of any federal or state court shall have been issued that would, as of the Closing Date, prevent the issuance or sale of the Series A Preferred Shares by the Company in the United States.

(d) The Series A Certificate of Designation shall have been filed on or before the Closing Date with the Secretary of State of the State of Delaware.

(e) Substantially concurrently with the execution of this Agreement, the Financing Agreement shall have been duly executed and delivered by a duly authorized officer of each of the parties thereto.

(f) Substantially concurrently with the execution of this Agreement, the Company, DBM Merger Sub, Inc., CB-Horn Holdings, Inc. and the Stockholders' Representative (as defined in the Graywolf Acquisition Agreement) shall have fully performed all of the respective obligations to be performed by it thereunder in order to consummate the Graywolf Acquisition.

(g) Prior to the Closing Date, the Purchaser shall have received (i) all documentation and other information about the Group Companies and their Subsidiaries that shall have been reasonably requested by the Purchaser prior to the Closing Date and that the Purchaser reasonably determines is required by applicable regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the USA PATRIOT Act and (ii) a Beneficial Ownership Certification in relation to the Company.

## ARTICLE VI
## MISCELLANEOUS

**Section 6.1** **Survival**. All covenants of the Company and the Purchaser in this Agreement, shall survive the execution and delivery of this Agreement and shall continue in full force and effect for so long as the Purchaser holds any Series A Preferred Shares after the date hereof. All covenants made herein shall survive the Closing according to their respective terms.

**Section 6.2** **Entire Agreement; Parties in Interest** This Agreement (including the exhibits hereto) and the Series A Certificate of Designation constitute the entire agreement, and supersede all other prior agreements and understandings, both written and oral, between the Parties with respect to the subject matter hereof. This Agreement will be binding upon and inure solely to the benefit of each Party and such Party's respective successors, legal representatives and permitted assigns, and nothing in this Agreement, express or implied, is intended to or will confer upon any other Person any rights, benefits or remedies of any nature whatsoever under or by reason of this

Agreement except for the provisions of Section 6.3 which will be enforceable by the applicable Related Parties.

**Section 6.3 No Recourse.** Notwithstanding anything to the contrary in this Agreement, this Agreement may only be enforced by a Party against another Party, and any Proceedings that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement, may only be made by such Party against, another Party or, if applicable, such other Party's permitted transferees that become party to this Agreement, and no current, former or future Affiliates of a Party or any of the foregoing Persons' respective Representatives (collectively, the "Related Parties") will have any Liability for any Liabilities of such Party for any claim (whether in tort, contract or otherwise) based on, in respect of, or by reason of, the purchase of the Series A Preferred Shares hereunder, the Graywolf Acquisition or the other Transactions or in respect of any oral representations made or alleged to be made in connection herewith or therewith. In no event will a Party or any of its Affiliates, and each Party agrees not to and to cause its Affiliates not to, seek to enforce this Agreement against, make any claims for breach of this Agreement against, or seek to recover losses or other damages in connection therewith from, any Related Party.

**Section 6.4 Governing Law.** This Agreement shall be governed by, and construed in accordance with, the Laws of the State of Delaware applicable to contracts made and to be performed in the State of Delaware, without regard to conflict of laws principles.

**Section 6.5 Jurisdiction.** Any Proceeding arising out of or relating to this Agreement, the other Transaction Documents or the Transactions shall be brought exclusively in, and each Party hereby submits to the exclusive jurisdiction of the federal and state courts in the State of Delaware, in each case, located in the City of Wilmington, in each case, to the fullest extent permitted by applicable Law. Each Party hereby irrevocably waives, to the fullest extent permitted by applicable Law, any objection which it may now or hereafter have to the laying of venue of any Proceeding brought in any such court and any claim that any such Proceeding has been brought in an inconvenient forum. Each Party hereby agrees that service of summons, complaint or other process in connection with any Proceedings contemplated hereby may be made by registered or certified mail addressed to such Party at the address specified pursuant to Section 6.8, or in such other manner permitted by applicable Law.

**Section 6.6 Waiver of Jury Trial**. EACH OF THE PARTIES IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY PROCEEDING BETWEEN OR AMONG THE PARTIES ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS OR THE TRANSACTIONS TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (a) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF LEGAL ACTION, (b) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (c) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (d) SUCH PARTY HAS BEEN INDUCED TO

ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 6.6.

**Section 6.7 Remedies**.

(a) Except as otherwise provided herein, all remedies available under this Agreement, at law or otherwise, will be deemed cumulative and not alternative or exclusive of other remedies. The exercise by any Party of a particular remedy will not preclude the exercise of any other remedy to the fullest extent permitted by applicable Law.

(b) Each Party hereby acknowledges and agrees that the other Party would be damaged irreparably in the event any of the provisions of this Agreement are not performed in accordance with their specific terms, and that monetary damages alone would not be adequate to compensate such other Parties not in default or in breach. Accordingly, each Party agrees that the other Parties will, to the fullest extent permitted by applicable Law, be entitled to an injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce specifically the terms and provisions of this Agreement in addition to any other remedy to which they may be entitled, at law or in equity. The Parties waive, to the fullest extent permitted by applicable Law, any defense that a remedy at law is adequate and any requirement to prove special damages, post bond or provide similar security in connection with actions instituted for injunctive relief or specific performance of this Agreement.

**Section 6.8 Notice**.

(a) Except as otherwise expressly provided in this Agreement, any notice or other communication required or permitted to be delivered to any Party under this Agreement will be in writing and delivered by (i) email or (ii) registered mail via a national courier service to the following email address or physical address, as applicable:

If to the Company:

DBM Global Inc.
3020 E. Camelback Road, Suite 100
Phoenix, Arizona 85016
Attention: Scott D. Sherman, Vice-President and General Counsel
Telephone: 602 452-4480
Telecopier: 602 744-0321
Email: scott.sherman@dbmglobal.com

with a copy (which will not constitute notice) to:

Greenberg Traurig, LLP
2375 East Camelback Road, Suite 700
Phoenix, Arizona 85016
Attention: Robert Kant
E-mail: kantr@gtlaw.com

If to the Purchaser (as applicable):

DBM Global Intermediate Holdco Inc.
450 Park Avenue, 30th Floor
New York, New York 10022
Attention: Michael J. Sena, CFO
E-mail: msena@hc2.com

with a copy (which will not constitute notice) to:

Latham & Watkins LLP
885 Third Avenue
New York, New York 10022-4834
Attention: Senet S. Bischoff
Telephone: +1.212.906.1834
Telecopier: +1.212.751.4864
Email: senet.bischoff@lw.com

(b) Notice or other communication pursuant to Section 6.8(a) will be deemed given or received when delivered, except that any notice or communication received by email transmission on a non-Business Day or on any Business Day after 5:00 p.m. addressee's local time or overnight delivery on a non-Business Day will be deemed to have been given and received at 9:00 a.m. addressee's local time on the next Business Day. Any Party may specify a different address, by written notice to the other Parties. The change of address will be effective upon the other Parties' receipt of the notice of the change of address.

**Section 6.9 Amendments; Waivers**. Any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and signed, in the case of an amendment, by the holders of a majority of the Series A Preferred Shares at that time in issue and the Company (by the Independent Committee), or in the case of a waiver, by the Party (if the Company, by the Independent Committee) against whom the waiver is to be effective. No knowledge, investigation or inquiry, or failure or delay by the Company or the Purchaser in exercising any right hereunder will operate as a waiver thereof nor will any single or partial exercise thereof preclude any other or further exercise of any other right hereunder. No waiver of any right or remedy hereunder will be deemed to be a continuing waiver in the future or a waiver of any rights or remedies arising thereafter.

**Section 6.10 Counterparts**. This Agreement may be executed in two or more counterparts, each of which constitutes an original, and all of which taken together constitute one instrument. A signature delivered by facsimile or other electronic transmission (including e-mail) will be considered an original signature. Any Person may rely on a copy of this Agreement.

**Section 6.11 Assignment**. This Agreement will be binding upon and will inure to the benefit of the Parties and their respective successors and permitted assigns. Neither this Agreement

nor any of the rights, interests or obligations hereunder may be assigned by any of the Parties without the prior written consent of the other Parties, except that the Purchaser may, solely in connection with a Transfer of shares of Series A Preferred Stock in accordance with Section 4.6, assign all or a portion of its rights, interests and obligations hereunder to one or more Persons; provided that any such assignment will not relieve the Purchaser of any of its funding obligations hereunder on the Closing Date. In the event of any Transfer of such rights, interests and obligations in accordance with this Section 6.11, the transferee shall become a party to this Agreement by execution of a joinder hereto in form and substance determined (by the Independent Committee) to be reasonably acceptable to the Company. Any assignment or transfer in violation of this Section 6.11 shall, to the fullest extent permitted by applicable Law, be null and void.

**Section 6.12 Severability**. In the event that any provision of this Agreement, or the application thereof becomes or is declared by a court of competent jurisdiction to be illegal, void, invalid or unenforceable, the remainder of this Agreement will continue in full force and effect and the application of such provision to other Persons or circumstances will be interpreted so as reasonably to effect the intent of the Parties. The Parties further agree to negotiate in good faith to replace such illegal, void, invalid or unenforceable provision of this Agreement with a legal, valid and enforceable provision that achieves, to the extent possible, the economic, business and other purposes of such illegal, void, invalid or unenforceable provision.

**Section 6.13 Certain Company Acknowledgements**. The Company acknowledges on its behalf and on behalf of its Subsidiaries that the Purchaser and its Affiliates are involved in a broad range of transactions and may have economic interests that conflict with those of the Company and its Subsidiaries. The Purchaser is and will act under this Agreement as an independent contractor. Nothing in this Agreement or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty of the Purchaser to the Company, any of its Subsidiaries or any Affiliate or equity holder thereof. The transactions contemplated by this Agreement are agreed by the Parties to be arm's-length commercial transactions between the Purchaser, on the one hand, and the Company, on the other hand. In connection with the Transactions and with the process leading to the Transactions the Purchaser is acting solely as a principal and not as agent or fiduciary of the Company or any of its Subsidiaries or member of management, equity holders or creditors thereof or any other Person to the fullest extent permitted by applicable Law. The Purchaser has not assumed an advisory or fiduciary responsibility or any other obligation in favor of the Company or any of its Subsidiaries with respect to the Transactions or the process leading thereto, except for the obligations expressly set forth in this Agreement. The Company has consulted its own legal, tax, accounting, regulatory and financial advisors to the extent it has deemed appropriate. The Company is responsible for making its own independent judgment with respect to the Transactions and the process leading thereto.

**Section 6.14 PATRIOT Act**. The Purchaser hereby notifies the Company that, pursuant to the requirements of the USA PATRIOT Act, the Purchaser may be required to obtain, verify and record information that identifies the Company, including its name, address and other information that will allow the Purchaser to identify, the Company in accordance with the USA PATRIOT Act.

**Section 6.15 Rights of Third Parties**. Except as expressly stated in this Agreement, this Agreement does not confer any rights on any Person other than the Parties.

**Section 6.16 Termination; Effect of Termination.**

(a) This Agreement shall terminate upon the earliest to occur of: (i) the date on which the Purchaser no longer holds any shares of Series A Preferred Stock; and (ii) the dissolution of the Company.

(b) The termination of this Agreement shall terminate all rights and obligations of the Company and the Purchasers under this Agreement except that such termination shall not effect: (i) The legal existence of the Company under applicable Law; (ii) The obligation of any Party to pay any amounts (including damages and reasonable attorneys' fees) arising on or incurred prior to the date of termination, or as a result of or in connection with such termination; (iii) The rights which any stockholder of the Company may have by operation of law as a stockholder of the Company; or (iv) The rights contained herein which, by their express terms are intended to survive termination of this Agreement.

(c) The following provisions shall survive the termination of this Agreement: This Section 6.16 and Sections 6.1 (including any other provisions implicated by such section) 6.4, 6.5, 6.6 and 6.8.

## ARTICLE VII
## DEFINITIONS

**Section 7.1 Certain Definitions**. The following words and phrases have the meanings specified in this Section 7.1:

"Affiliate" means, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" of a Person means the power, directly or indirectly, either to (a) vote 10% or more of the Equity Interests having ordinary voting power for the election of members of the Board of Directors of such Person or (b) direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

"Anti-Corruption Laws" has the meaning specified therefor in Section 2.24.

"Anti-Money Laundering and Anti-Terrorism Laws" means any Requirements of Law relating to terrorism, economic sanctions or money laundering, including, without limitation, (a) the Money Laundering Control Act of 1986 (*i.e.*, 18 U.S.C. §§ 1956 and 1957), (b) the Bank Secrecy Act of 1970 (31 U.S.C. §§ 5311-5330 and 12 U.S.C. §§ 1818(s), 1820(b) and 1951-1959), and the implementing regulations promulgated thereunder, (c) the USA PATRIOT Act and the implementing regulations promulgated thereunder, (d) the laws, regulations and Executive Orders administered by the United States Department of the Treasury's Office of Foreign Assets Control ("OFAC"), (e) any law prohibiting or directed against terrorist activities or the financing or support of terrorist

activities (*e.g.*, 18 U.S.C. §§ 2339A and 2339B), and (f) any similar laws enacted in the United States or any other jurisdictions in which the parties to this Agreement operate, as any of the foregoing laws have been, or shall hereafter be, amended, renewed, extended, or replaced and all other present and future legal requirements of any Governmental Authority governing, addressing, relating to, or attempting to eliminate, terrorist acts and acts of war and any regulations promulgated pursuant thereto.

"Authorized Officer" means, as applied to any Person, any individual (a) holding the position of chairman of the board (if an officer), chief executive officer, president, vice president (or the equivalent thereof), chief financial officer or treasurer of such Person and (b) with respect to which the secretary or assistant secretary of such Person has delivered an incumbency certificate to the Purchaser as to the authority of such individual in such position.

"Beneficial Ownership Certification" means a certification regarding beneficial ownership required by the Beneficial Ownership Regulation, which certification shall be substantially similar in form and substance to the form of Certification Regarding Beneficial Owners of Legal Entity Customers published jointly, in May 2018, by the Loan Syndication and Trading Association and Securities Industry and Financial Markets Association.

"Beneficial Ownership Regulation" means 31 C.F.R. § 1010.230.

"Board" means the Board of Governors of the Federal Reserve System of the United States.

"Board of Directors" means with respect to (a) any corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board, (b) a partnership, the board of directors of the general partner of the partnership, (c) a limited liability company, the managing member or members or any controlling committee or board of directors of such company or the sole member or the managing member thereof, and (d) any other Person, the board or committee of such Person serving a similar function.

"Bonding Agreement" means any agreement evidencing or relating to any performance bonds, construction bonds or similar obligations issued by a surety or other bonding party (or any designee on its behalf) for the benefit of customers of any Group Company and/or their Subsidiaries between such surety or other bonding party and such Group Company or Group Companies and/or their Subsidiaries.

"Business Day" means any day that is not a Saturday or Sunday or a legal holiday in New York, New York.

"Capitalized Lease" means, with respect to any Person, any lease of (or other arrangement conveying the right to use) real or personal property by such Person as lessee that is required under GAAP to be capitalized on the balance sheet of such Person.

"Closing Date" means the date of this Agreement.

"Company" has the meaning specified in the Opening Paragraph.

"Confidential Information" has the meaning set forth in Section 4.8.

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

"Employee Plan" means an employee benefit plan (other than a Multiemployer Plan) covered by Title IV of ERISA and maintained (or that was maintained at any time during the 6 calendar years preceding the date of this Agreement) for employees of any Group Company or any of its ERISA Affiliates.

"Encumbrance" means all security interests, mortgages, charges, options, equities, claims, or other third party rights (including rights of pre-emption) of any nature whatsoever.

"Environmental Actions" means any complaint, summons, citation, notice, directive, order, claim, litigation, investigation, judicial or administrative proceeding, judgment, letter or other communication from any Person or Governmental Authority involving violations of Environmental Laws or Releases of Hazardous Materials (a) from any assets, properties or businesses owned or operated by any Group Company or any of its Subsidiaries or any predecessor in interest; (b) from adjoining properties or businesses; or (c) onto any facilities which received Hazardous Materials generated by any Group Company or any of its Subsidiaries or any predecessor in interest.

"Environmental Laws" means the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. § 1801, et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901, et seq.), the Federal Clean Water Act (33 U.S.C. § 1251 et seq.), the Clean Air Act (42 U.S.C. § 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.) and the Occupational Safety and Health Act (29 U.S.C. § 651 et seq.), as such laws may be amended or otherwise modified from time to time, and any other Requirements of Law, permit, license or other binding determination of any Governmental Authority imposing liability or establishing standards of conduct for protection of the environment or other government restrictions relating to the protection of the environment or the Release, deposit or migration of any Hazardous Materials into the environment.

"Equity Interests" means (a) all shares of capital stock (whether denominated as common stock or preferred stock), equity interests, beneficial, partnership or membership interests, joint venture interests, participations or other ownership or profit interests in or equivalents (regardless of how designated) of or in a Person (other than an individual), whether voting or non-voting and (b) all securities convertible into or exchangeable for any of the foregoing and all warrants, options or other rights to purchase, subscribe for or otherwise acquire any of the foregoing, whether or not presently convertible, exchangeable or exercisable.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and any successor statute of similar import, and regulations thereunder, in each case, as in effect from time to time. References to sections of ERISA shall be construed also to refer to any successor sections.

"ERISA Affiliate" means, with respect to any Person, any trade or business (whether or not incorporated) which is a member of a group of which such Person is a member and which would be deemed to be a "controlled group" within the meaning of Sections 414(b), (c), (m) and (o) of the Internal Revenue Code.

"ERISA Plan" has the meaning specified in Section 3.5(f).

"Exchange Act" means the U.S. Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

"Executive Order No. 13224" means the Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

"Financial Statements" means (a) the audited consolidated balance sheet of the Company and its Subsidiaries for the Fiscal Year ended December 30, 2017, and the related consolidated statement of operations, shareholders' equity and cash flows for the Fiscal Year then ended, and (b) the unaudited consolidated balance sheet of the Company and its Subsidiaries for the fiscal-year-to-date period ended September 30, 2018, and the related consolidated statement of operations, shareholder's equity and cash flows for the fiscal-year-to-date period then ended.

"Financing Agreement" means that certain Financing Agreement, dated as of the Closing Date, by and among the Company and the Subsidiary Borrowers, as borrowers, the Subsidiary Guarantors, as guarantors, the lenders from time to time party thereto, as lenders, and TCW Asset Management Company LLC, as collateral and administrative agent.

"Fiscal Year" means the fiscal year of the Company and its Subsidiaries ending on December 31st of each calendar year.

"Foreign Official" has the meaning specified in Section 2.4(b)(i).

"GAAP" means generally accepted accounting principles in effect from time to time in the United States, applied on a consistent basis.

"Global Trade Control Laws" means any laws, regulations or conventions in any part of the world related to import transactions, export transactions, or economic sanctions, including the U.S. Export Administration Regulations; the U.S. International Traffic in Arms Regulations; the economic sanctions rules and regulations implemented under statutory authority or the U.S. President's Executive Orders and administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or U.S. Department of State; European Union Council Regulations on export controls, including Nos. 428/2009, 267/2012; other E.U. Council sanctions regulations, as implemented in E.U. Member States; United Nations sanctions policies; economic sanctions administered by Her Majesty's Treasury of the United Kingdom; and all relevant regulations made under any of the foregoing.

"Governing Documents" means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization, and the limited liability company or operating agreement; (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture, declaration or other applicable agreement or documentation evidencing or otherwise relating to its formation, governance and capitalization; and (d) with respect to any of the entities described above, any other agreement, instrument, filing or notice with respect thereto filed in connection with its formation or incorporation, as applicable, with the applicable Governmental Authority in the jurisdiction of its formation or incorporation, as applicable.

"Governmental Approval" means any consent, authorization, approval, order, license, franchise, permit, certificate, accreditation, registration, filing or notice, of, issued by, from or to, or other act by or in respect of, any Governmental Authority.

"Governmental Authority" means any nation or government, any foreign, federal, state, territory, provincial, city, town, municipality, county, local or other political subdivision thereof or thereto and any department, commission, board, bureau, instrumentality, agency or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"Graywolf Acquisition" means the transactions contemplated by the Graywolf Acquisition Agreement.

"Graywolf Acquisition Agreement" means that certain Agreement and Plan of Merger, dated as of October 10, 2018, by and among the Company, DBM Merger Sub, Inc., CB-Horn Holdings, Inc. and Charlesbank Equity Fund VI, Limited Partnership, as stockholders' representative, as amended, attached hereto as Exhibit B.

"Group Companies" means the Company, the Subsidiary Borrowers and the Subsidiary Guarantors, and "Group Company" means any one of the foregoing.

"Hazardous Material" means (a) any element, compound or chemical that is defined, listed or otherwise classified as a contaminant, pollutant, toxic pollutant, toxic or hazardous substance, extremely hazardous substance or chemical, hazardous waste, special waste, or solid waste under Environmental Laws or that is likely to cause immediately, or at some future time, harm to or have an adverse effect on, the environment or risk to human health or safety, including, without limitation, any pollutant, contaminant, waste, hazardous waste, toxic substance or dangerous good which is defined or identified in any Environmental Law and which is present in the environment in such quantity or state that it contravenes any Environmental Law; (b) petroleum and its refined products; (c) polychlorinated biphenyls; (d) any substance exhibiting a hazardous waste characteristic, including, without limitation, corrosivity, ignitability, toxicity or reactivity as well as any radioactive or explosive materials; and (e) any raw materials, building components (including, without limitation, asbestos-containing materials) and manufactured products containing hazardous substances listed or classified as such under Environmental Laws.

"Independent Committee" means a duly designated and empowered committee of the Board of Directors of the Company comprised solely of directors of the Company who are independent from the Purchaser and its Affiliates (other than the Company and its Subsidiaries).

"Internal Revenue Code" means the Internal Revenue Code of 1986, as amended (or any successor statute thereto) and the regulations thereunder.

"Law" means any applicable U.S. or foreign, federal, state, provincial, municipal or local law (including common law), statute, ordinance, rule, regulation, code, policy, directive, standard, license, treaty, judgment, order, injunction, decree or agency requirement of or undertaking to or agreement with any Governmental Authority.

"Liability" means any indebtedness, loss, damage, claim, fines, penalties, liability or obligation (whether direct or indirect, known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, matured or unmatured, determined or determinable, disputed or undisputed, liquidated or unliquidated, or due or to become due, and whether in contract, tort, strict liability or otherwise), and including all costs and expenses relating thereto (including all fees, disbursements and expenses of legal counsel, experts, engineers and consultants and costs of investigation).

"Lien" means any mortgage, deed of trust, pledge, lien (statutory or otherwise), security interest, charge or other encumbrance or security or preferential arrangement of any nature, including, without limitation, any conditional sale or title retention arrangement, any Capitalized Lease and any assignment, deposit arrangement or financing lease intended as, or having the effect of, security.

"Material Adverse Effect" means a material adverse effect on (i) the business or financial condition or results of operations, in each case, of the Group Companies, taken as a whole, and (ii) the material rights and remedies (taken as a whole) of the Purchaser under this Agreement and the Series A Certificate of Designation.

"Material Contract" has the meaning specified therefor in the Financing Agreement.

"Multiemployer Plan" means a "multiemployer plan" as defined in Section 4001(a)(3) of ERISA to which any Group Company or any of its ERISA Affiliates has contributed, or has been obligated to contribute, to at any time during the preceding 6 years.

"OFAC Sanction Program" means (a) the Requirements of Law and Executive Orders administered by OFAC, including, without limitation, Executive Order No. 13224, and (b) the SDN List, in each case, as renewed, extended, amended, or replaced.

"Parties" and "Party" have the meanings specified in the Opening Paragraph.

"PBGC" means the Pension Benefit Guaranty Corporation or any successor thereto.

"Person" means an individual, a corporation, a partnership, a limited liability company, an exempted company, an association, a trust or any other entity, group (as such term is used in

Section 13 of the Exchange Act) or organization, including a Governmental Authority, and any successors and permitted assigns of such Person.

"Proceeding" means any claim, action, arbitration, mediation, audit, hearing, investigation, proceeding, litigation or suit (whether civil, criminal, administrative, investigative or informal) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Authority or arbitrator or mediator.

"Purchase Price" has the meaning specified in Section 1.1(a).

"Purchaser" has the meanings specified in the Opening Paragraph.

"Regulation T", "Regulation U" and "Regulation X" mean, respectively, Regulations T, U and X of the Board or any successor, as the same may be amended or supplemented from time to time.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, seeping, migrating, dumping or disposing of any Hazardous Material (including the abandonment or discarding of barrels, containers and other closed receptacles containing any Hazardous Material) into the indoor or outdoor environment, including, without limitation, the movement of Hazardous Materials through or in the ambient air, soil, surface or ground water, or property.

"Reportable Event" means an event described in Section 4043 of ERISA (other than an event not subject to the provision for 30-day notice to the PBGC under the regulations promulgated under such Section).

"Related Parties" has the meaning specified in Section 6.3.

"Representatives" means, with respect to any Person, any and all directors, managers, general partners, trustees, executors, officers, employees, consultants, financial advisors, counsel, accountants and other agents or shareholders, stockholders, members, partners, beneficiaries or Affiliates of such Person.

"Requirements of Law" means, with respect to any Person, collectively, the common law and all federal, state, provincial, local, foreign, multinational or international laws, statutes, codes, treaties, standards, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities) and the interpretation or administration thereof by, and other determinations, directives, requirements or requests of, any Governmental Authority, in each case that are applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Rule 144" has the meaning specified in Section 3.5(d).

"SEC" means the Securities and Exchange Commission or any similar or successor agency of the Federal government administering the Securities Act.

"Securities Act" means the U.S. Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

"Series A Certificate of Designation" means that certain Certificate of Designation of Series A Fixed-to-Floating Perpetual Preferred Stock of the Company as filed with the Secretary of State of the State of Delaware on the Closing Date.

"Series A Preferred Share" and "Series A Preferred Shares" have the meanings specified in Section 1.1(a).

"Series A Preferred Stock" has the meaning specified in the Preliminary Statement.

"Similar Law Plan" has the meaning specified in Section 3.5(f).

"Solvent" means, with respect to any Person on a particular date, that on such date (a) the fair value of the property of such Person is not less than the total amount of the liabilities of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its existing debts as they become absolute and matured, (c) such Person is able to realize upon its assets and pay its debts and other liabilities, contingent obligations and other commitments as they mature in the normal course of business, (d) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay as such debts and liabilities mature, and (e) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property would constitute unreasonably small capital.

"Stated Value" shall have the meaning given in the Series A Certificate of Designation.

"Subsidiary" means, with respect to any Person at any date, any corporation, limited or general partnership, limited liability company, trust, estate, association, joint venture or other business entity (a) the accounts of which would be consolidated with those of such Person in such Person's consolidated financial statements if such financial statements were prepared in accordance with GAAP or (b) of which more than 50% of (i) the outstanding Equity Interests having (in the absence of contingencies) ordinary voting power to elect a majority of the Board of Directors of such Person, (ii) in the case of a partnership or limited liability company, the interest in the capital or profits of such partnership or limited liability company or (iii) in the case of a trust, estate, association, joint venture or other entity, the beneficial interest in such trust, estate, association or other entity business is, at the time of determination, owned or controlled directly or indirectly through one or more intermediaries, by such Person. References to a Subsidiary shall mean a Subsidiary of the Company unless the context expressly provides otherwise.

"Subsidiary Borrowers" means Schuff Steel Company, Schuff Steel Atlantic, LLC, Aitken Manufacturing Inc., DBM Global – North America Inc., CB-Horn Holdings, Inc., Graywolf Industrial, Inc., Titan Contracting & Leasing Company, Inc., Titan Fabricators, Inc., M. Industrial Mechanical, Inc., Milco National Constructors, Inc. and Inco Services, Inc.

"Subsidiary Guarantors" means On-Time Steel Management Holding, Inc., Schuff Steel Management Company – Southwest, Inc., Schuff Premier Services LLC, DBM Global Holdings Inc., PDC Services (USA) Inc. and Midwest Environmental, Inc.

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

"Termination Event" means (a) a Reportable Event with respect to any Employee Plan, (b) any event that causes any Group Company or any of its ERISA Affiliates to incur liability under Section 4062, 4063, 4064, 4069, 4201, 4204 or 4212 of ERISA or Section 4971 of the Internal Revenue Code, (c) the filing of a notice of intent to terminate an Employee Plan or the treatment of an Employee Plan amendment as a termination under Section 4041 of ERISA, (d) the institution of proceedings by the PBGC to terminate an Employee Plan, or (e) any other event or condition that could reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Employee Plan.

"Transaction Documents" means, collectively, this Agreement and all documents, instruments or certificates contemplated hereby or delivered in connection herewith.

"Transactions" means the transactions contemplated by this Agreement and the other Transaction Documents.

"Transfer" means to, directly or indirectly, sell, assign, transfer, pledge, encumber, hypothecate or otherwise dispose of, whether voluntarily or involuntarily, or enter into any agreement, arrangement or understanding with respect to the sale, assignment, transfer, pledge, encumbrance, hypothecation or other disposition.

"U.S." means the United States of America.

"USA PATRIOT Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (PATRIOT) Act of 2001 (Title III of Pub. L. 107-56, Oct. 26, 2001) as amended by the USA Patriot Improvement and Reauthorization Act of 2005 (Pub. L. 109-177, March 9, 2006) and as the same may have been or may be further renewed, extended, amended, or replaced.

"WARN" has the meaning specified in Section 2.14.

**Section 7.2 Construction**. The Parties intend that each representation, warranty, covenant and agreement contained in this Agreement will have independent significance. The headings are for convenience only and will not be given effect in interpreting this Agreement. References to sections, articles or exhibits are to the sections, articles and exhibits contained in, referred to by or attached to this Agreement, unless otherwise specified. The words "hereof," "herein" and "hereunder" and words of similar import, when used in this Agreement, refer to this Agreement as a whole and not to any particular provision of this Agreement. The words "include," "includes" and "including" in this Agreement mean "include/includes/including without limitation."

All references to $, currency, monetary values and dollars set forth herein mean U.S. dollars. The use of the masculine, feminine or neuter gender or the singular or plural form of words will not limit any provisions of this Agreement. References to a Person also include its permitted assigns and successors. A statement that an item is listed, disclosed or described means that it is correctly listed, disclosed or described, and a statement that a copy of an item has been delivered means a correct and accurate copy of such item has been delivered. Any reference to a statute refers to the statute, any amendments or successor legislation and all rules and regulations promulgated under or implementing the statute, as in effect at the relevant time. The word “extent” in the phrase “to the extent” will mean the degree to which a subject or other thing extends, and such phrase will not mean simply “if.” All references to the knowledge of the Company or any Subsidiary of the Company or facts known by any such Person shall mean actual knowledge of any Authorized Officer of such Person. Whenever this Agreement refers to a number of days, such number will refer to calendar days unless Business Days are specified. Whenever any action must be taken hereunder on or by a day that is not a Business Day, then such action may be validly taken on or by the next day that is a Business Day. Any reference herein to any Law, contract, agreement or other instrument, including the Governing Documents of any Person, will be construed as referring to such Law, contract, agreement or instrument as amended or modified or, in the case of a Law, codified or reenacted, in each case, in whole or in part, and as in effect from time to time. The Parties acknowledge and agree that (a) each Party and its counsel has reviewed, or has had the opportunity to review, the terms and provisions of this Agreement, (b) any rule of construction to the effect that any ambiguities are resolved against the drafting Party will not be used to interpret this Agreement and (c) the provisions of this Agreement will be construed fairly as to all Parties and not in favor of or against any Party, regardless of which Party was generally responsible for the preparation of this Agreement and no presumption or burden of proof will arise favoring or disfavoring any Party by virtue of such previous drafts of this Agreement or the fact that any clauses have been added, deleted or otherwise modified from any prior drafts of this Agreement.

*[Remainder of page intentionally left blank]*

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be duly executed and delivered as of the date first above written.

**THE COMPANY:**

DBM GLOBAL INC.

By: /s/Michael Hill
Name: Michael Hill
Title: VP & CFO

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be duly executed and delivered as of the date first above written.

**PURCHASER:**

DBM GLOBAL INTERMEDIATE HOLDCO INC.

By: /s/Michael J. Sena
Name: Michael J. Sena
Title: Chief Financial Officer

**CERTIFICATE OF DESIGNATION**

**OF**

**SERIES A FIXED-TO-FLOATING RATE PERPETUAL PREFERRED STOCK**

**OF**

**DBM GLOBAL INC.**

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Pursuant to Section 151 of the General Corporation Law of the State of Delaware

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DBM Global Inc., a corporation organized and existing under the General Corporation Law of the State of Delaware (the "Company"), hereby certifies that the following resolution was duly adopted by the Board of Directors of the Company (or a duly authorized committee thereof) as required by Section 151 of the General Corporation Law of the State of Delaware:

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the authority expressly granted to and vested in the Board of Directors of the Company (or a duly authorized committee thereof) in accordance with the provisions of the certificate of incorporation of the Company (as amended, restated supplemented or otherwise modified from time to time, the "Certificate of Incorporation"), there is hereby created and provided out of the authorized but unissued shares of Preferred Stock, par value $0.001 per share, of the Company (the "Preferred Stock"), a new series of Preferred Stock, and there is hereby established and fixed the number of shares constituting such series and the designation of such series and the powers (including voting powers), if any, of such series and the preferences and relative, participating, optional, special or other rights, if any, and the qualifications, limitations or restrictions, if any, of such series as follows:

ARTICLE I

DESIGNATION AND NUMBER; DEFINITIONS; RULES OF CONSTRUCTION

SECTION 1.01. Designation and Number. The shares of such series shall be designated as "Series A Fixed-to-Floating Rate Perpetual Preferred Shares," par value $0.001 per share, of the Company (the "Series A Preferred Stock"), and the number constituting such series shall be Five Hundred Thousand (500,000).

SECTION 1.02. Definitions. As used in this Certificate of Designation (as defined below), the following capitalized terms will have the following meanings:

"Affiliate" means, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" of a Person means the power, directly or indirectly, either to (a) vote 10% or more of the Equity Interests having ordinary voting power for the election of members of the Board of Directors of such Person or (b) direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

"Board of Directors" means with respect to (a) any corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board, (b) a partnership, the

board of directors of the general partner of the partnership, (c) a limited liability company, the managing member or members or any controlling committee or board of directors of such company or the sole member or the managing member thereof, and (d) any other Person, the board or committee of such Person serving a similar function.

"Business Day" means any day that is not a Saturday or Sunday or a legal holiday in New York, New York.

A "Change of Control" shall be deemed to have occurred if:

(a) the Permitted Holders cease to beneficially and of record own and control, directly or indirectly, at least 51% on a fully diluted basis of the aggregate outstanding voting or economic power of the Equity Interests of Parent; or

(b) Parent ceases to beneficially and of record own and control at least 51% on a fully diluted basis of the aggregate outstanding voting or economic power of the Equity Interests of the Company.

"Certificate of Designation" means this Certificate of Designation of Series A Fixed-to-Floating Rate Perpetual Preferred Shares, as amended, restated supplemented or otherwise modified from time to time.

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

"Common Stock" means the Common Stock, par value $0.001 per share, of the Company.

"consolidated" when used with respect to any Person refers to such Person consolidated with its restricted subsidiaries.

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

"DGCL" means the General Corporation Law of the State of Delaware.

"Dividend" means a dividend to be made by the Company in respect of the Series A Preferred Shares in accordance with Section 2.01(a).

"Dividend Period" means, subject to the definition of "LIBOR Successor Rate Conforming Changes", the period from the Issue Date to the first Quarterly Date, and thereafter, the period from the first day of April, July and October, applicable to the immediately following Quarterly Date; provided, however, that if any Dividend Period would end on a day that is not a Business Day, such Dividend Period shall be extended to the next succeeding Business Day, unless such Business Day falls in another calendar month, in which case such Dividend Period shall end on the next preceding Business Day.

"Dividend Rate" means, (a) for the first five years following the Issue Date, (i) 9.00% per annum if dividends are paid in additional Series A Preferred Shares or (ii) 8.25% per annum if dividends are paid in cash and (b) starting on the fifth anniversary of the Issue Date, (i) a rate per annum equal to the LIBOR Rate per annum, plus 0.75% if dividends are paid in additional Series A Preferred Shares or (b) the LIBOR Rate per annum in the case of dividends paid in cash; provided, however, that if a Trigger Event occurs and is

continuing the Dividend Rate will increase by 2.00% until the cure or waiver of such Trigger Event. If accrued but unpaid dividends with respect to any Quarterly Date are not paid to the Holders entitled thereto either in cash or in additional Series A Preferred Shares (as determined in accordance with Section 2.01(b)), then the Dividend Rate on such accrued and unpaid dividends shall be the rate set forth in the foregoing clause (a)(i) or clause (b)(i), as applicable, in each case, subject to the foregoing proviso (where applicable).

"Equity Interests" means (a) all shares of capital stock (whether denominated as common stock or preferred stock), equity interests, beneficial, partnership or membership interests, joint venture interests, participations or other ownership or profit interests in or equivalents (regardless of how designated) of or in a Person (other than an individual), whether voting or non-voting and (b) all securities convertible into or exchangeable for any of the foregoing and all warrants, options or other rights to purchase, subscribe for or otherwise acquire any of the foregoing, whether or not presently convertible, exchangeable or exercisable.

"Exchange Act" means the U.S. Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

"Financing Agreement" means that certain Financing Agreement, dated as of the Closing Date, by and among the Company and the Subsidiary Borrowers (as defined in the Series A Securities Purchase Agreement), as borrowers, the Subsidiary Guarantors (as defined in the Series A Securities Purchase Agreement), as guarantors, the lenders from time to time party thereto, as lenders, and TCW Asset Management Company LLC, as collateral and administrative agent.

"Fiscal Year" means the fiscal year of the Company and its Subsidiaries ending on December 31st of each calendar year.

"GAAP" means generally accepted accounting principles in effect from time to time in the United States, applied on a consistent basis.

"Governmental Authority" means any nation or government, any foreign, federal, state, territory, provincial, city, town, municipality, county, local or other political subdivision thereof or thereto and any department, commission, board, bureau, instrumentality, agency or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"Holder" means a holder of a Series A Preferred Share and "Holders" means more than one holder of Series A Preferred Shares.

"Independent Committee" means a duly designated and empowered committee of the Board of Directors of the Company comprised solely of directors of the Company who are independent from the Holders and their Affiliates (other than the Company and its Subsidiaries).

"Issue Date" means the date the Series A Preferred Shares are issued on the Closing Date (as defined in the Series A Securities Purchase Agreement).

"Law" means any applicable U.S. or foreign, federal, state, provincial, municipal or local law (including common law), statute, ordinance, rule, regulation, code, policy, directive, standard, license, treaty, judgment, order, injunction, decree or agency requirement of or undertaking to or agreement with any Governmental Authority.

"LIBOR" means, the offered rate for deposits in U.S. dollars having an index maturity of three months, in amounts of at least $1,000,000, as such rate appears on the Reuters screen "LIBOR01" at approximately 11:00 a.m., London time, on the date that is two business days preceding the first day of each Dividend Period. If on an interest determination date, such rate does not appear on the Reuters screen "LIBOR01" as of 11:00 a.m., London time, or if the Reuters screen "LIBOR01" is not available on such date, the calculation agent will obtain such rate from Bloomberg L.P.'s page "BBAM.", which determination shall be conclusive absent manifest error. Notwithstanding anything herein to the contrary, if "LIBOR" shall be less than zero, such rate shall be deemed to be zero for purposes of this Certificate of Designation.

Notwithstanding anything to the contrary in this Certificate of Designation, if the Company reasonably determines, that adequate and reasonable means do not exist for ascertaining LIBOR for any requested Dividend Period and such circumstances are unlikely to be temporary, or a Governmental Authority has made a public statement identifying a specific date after which LIBOR shall no longer be made available, or used for determining the interest rate of loans (such specific date, the "Scheduled Unavailability Date"), or syndicated loans currently being executed, or that include language similar to that contained herein, are being executed or amended (as applicable) to incorporate or adopt a new benchmark interest rate to replace LIBOR, then "LIBOR" shall mean the alternate benchmark rate (including any mathematical or other adjustments to the benchmark (if any) incorporated therein) reasonably determined by the Company giving due consideration to any evolving or then existing convention for similar U.S. dollar denominated syndicated credit facilities for such alternative benchmarks (any such proposed rate, a "LIBOR Successor Rate"), together with any proposed LIBOR Successor Rate Conforming Changes.

"LIBOR Rate" means LIBOR, plus a spread of 5.85%.

"LIBOR Successor Rate Conforming Changes" means, with respect to any proposed LIBOR Successor Rate, any conforming changes to the definition of, Dividend Period, timing and frequency of determining rates and making payments of interest and other administrative matters as may be appropriate, in the discretion of the Company, to reflect the adoption of such LIBOR Successor Rate and to permit the administration thereof by the Company in a manner substantially consistent with market practice.

"Liquidation Preference" means, with respect to each outstanding Series A Preferred Share at any time, the sum of (i) the Stated Value thereof, plus (ii) all accrued, accumulated and unpaid Dividends thereon.

"Parent" means HC2 Holdings, Inc., a Delaware corporation.

"Permitted Holders" means:

(a) Harbinger Group, Inc. and Philip A. Falcone;

(b) any Controlled Investment Affiliate of any Person specified in clause (a), other than another portfolio company thereof (which means a company actively engaged in providing good and services to unaffiliated customers) or a company controlled by a "portfolio company"; or

(c) any Person both the Equity Interests and voting capital stock of which (or in the case of a trust, the beneficial interests in which) are owned 50% or more by Persons specified in clauses (a) or (b) or any group in which the Persons specified in clauses (a) and (b) own more than a majority of the voting capital stock and Equity Interests held by such group.

"Person" means any individual, corporation, limited liability company, partnership, (including a limited partnership) joint venture, association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

"Quarterly Date" means March 31, June 30, September 30 and December 31, of each year, commencing on and including December 31, 2018; provided that, if any Quarterly Date is not a Business Day, the Quarterly Date will be the immediately following Business Day.

"Redemption Date" means the date of redemption of any redemption of any Series A Preferred Share pursuant to Article IV, as fixed by the Company (solely and exclusively by the Independent Committee).

"Redemption Price" means, with respect to any Series A Preferred Share at any Redemption Date, an amount per share equal to the Liquidation Preference as of such Redemption Date.

"SEC" means the Securities and Exchange Commission or any similar or successor agency of the Federal government administering the Securities Act.

"Securities Act" means the U.S. Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

"Series A Preferred Share" means one share of Series A Preferred Stock and "Series A Preferred Shares" means one or more shares of Series A Preferred Stock.

"Series A Securities Purchase Agreement" means that certain Series A Securities Purchase Agreement, dated as of November 30, 2018, by and among DBM Global Intermediate Holdco Inc. and the Company, as amended, restated supplemented or otherwise modified from time to time.

"Stated Value" means, at any date of determination, and with respect to each outstanding Series A Preferred Share, $1,000 (adjusted as appropriate in the event of any stock dividend, stock split, stock distribution, recapitalization or combination with respect to the Series A Preferred Shares).

"Subsidiary" means, with respect to any Person at any date, any corporation, limited or general partnership, limited liability company, trust, estate, association, joint venture or other business entity (a) the accounts of which would be consolidated with those of such Person in such Person's consolidated financial statements if such financial statements were prepared in accordance with GAAP or (b) of which more than 50% of (i) the outstanding Equity Interests having (in the absence of contingencies) ordinary voting power to elect a majority of the Board of Directors of such Person, (ii) in the case of a partnership or limited liability company, the interest in the capital or profits of such partnership or limited liability company or (iii) in the case of a trust, estate, association, joint venture or other entity, the beneficial interest in such trust, estate, association or other entity business is, at the time of determination, owned or controlled directly or indirectly through one or more intermediaries, by such Person. References to a Subsidiary shall mean a Subsidiary of the Company unless the context expressly provides otherwise.

"Trigger Event" means for so long as any Obligation (as defined in the Financing Agreement) shall remain unpaid (other than Contingent Indemnity Obligations (as defined in the Financing Agreement)), a breach by the Company or its Subsidiaries that is not directly or indirectly caused (as reasonably determined solely and exclusively by the Independent Committee) by the Holders or any of their Affiliates (other than the Company and its Subsidiaries) of any of the provisions set forth in Sections 7.01(c)-(g), (i), (j), (n), Section 7.02 or Section 7.03 of the Financing Agreement (as amended, restated or supplemented from time to time), after giving effect to applicable grace periods and cure provisions; provided that any provisions thereof requiring notice to TCW Asset Management Company LLC (as administrative agent for the lenders

under the Financing Agreement, in such capacity, together with its successors and assigns) shall be given to the Purchaser. For the avoidance of doubt, the term "Trigger Event" (including any other provisions implicated by such term) shall cease to apply at any time that there are no Obligations (as defined in the Financing Agreement) that remain unpaid (other than Contingent Indemnity Obligations (as defined in the Financing Agreement)).

"Working Capital Credit Agreement" shall mean the Fourth Amended and Restated Credit and Security Agreement, dated as of the Issue Date, by and amog the Company, the other Subsidiaries of Company party thereto, and Wells Fargo Bank, N.A., as amended, amended and restated, replaced, refinanced or otherwise modified from time to time.

"U.S." means the United States of America.

SECTION 1.03. Rules of Construction. Unless the context otherwise requires:

(a) a term has the meaning assigned to it;

(b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(c) "or" is not exclusive;

(d) the words "including," "includes" and similar words shall be deemed to be followed by without limitation;

(e) words in the singular include the plural, and in the plural include the singular;

(f) "will" shall be interpreted to express a command;

(g) provisions apply to successive events and transactions;

(h) references to sections of, or rules under, the Securities Act or the Exchange Act shall be deemed to include substitute, replacement or successor sections or rules adopted by the SEC from time to time;

(i) unless the context otherwise requires, any reference to an "Article," "Section" or "clause" refers to an Article, Section or clause, as the case may be, of this Certificate of Designation;

(j) the words "herein," "hereof" and "hereunder" and other words of similar import refer to this Certificate of Designation as a whole and not any particular Article, Section, clause or other subdivision;

(k) words used herein implying any gender shall apply to both genders; and

(l) in the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including"; the words "to" and "until" each mean "to but excluding"; and the word "through" means "to and including".

ARTICLE II

DIVIDENDS

SECTION 2.01. Dividends.

(a) From and after the date of issuance of each Series A Preferred Share and for so long as any Series A Preferred Shares shall be outstanding, the Holders shall be entitled to receive in respect of each Series A Preferred Share, as, when and if declared by the Board of Directors of the Company, from time to time, and in preference and priority to the declaration and payment of dividends on shares of Common Stock or shares of any other class or series of capital stock of the Company ranking junior to shares of Series A Preferred Stock as to dividends and *pari passu* to the declaration and payment of dividends on shares of any class or series of capital stock of the Company ranking on parity with the Series A Preferred Shares as to dividends, dividends accruing on a daily basis at the Dividend Rate on the Liquidation Preference of such Series A Preferred Share, payable quarterly in arrears on each Quarterly Date, which dividends shall cumulate as of a Quarterly Date if not paid.

(b) The Dividends shall be paid in either (i) cash or (ii) additional Series A Preferred Shares, as determined solely and exclusively by the Independent Committee.

SECTION 2.02. Rank. For the avoidance of doubt, so long as any Series A Preferred Shares shall remain outstanding, the Series A Preferred Shares shall rank senior to shares of Common Stock or shares of any other class or series of capital stock of the Company ranking junior to shares of Series A Preferred Stock as to dividends and *pari passu* to shares of any class or series of capital stock of the Company ranking on parity with the Series A Preferred Shares as to dividends.

ARTICLE III

LIQUIDATION, DISSOLUTION AND WINDING UP

SECTION 3.01. Liquidation, Dissolution and Winding Up. So long as any Series A Preferred Shares shall remain outstanding, in the event of any dissolution, liquidation or winding up of the Company, in preference and priority to shares of Common Stock or shares of any other class or series of capital stock of the Company ranking junior to shares of Series A Preferred Stock upon the dissolution, liquidation or winding up of the Company and *pari passu* to shares of any class or series of capital stock of the Company ranking on parity with the Series A Preferred Shares upon the dissolution, liquidation or winding up of the Company, each Holder shall be entitled to receive with respect to each Series A Preferred Share owned by such Holder out of the assets of the Company available for distribution to its stockholders, the then applicable Liquidation Preference. A merger or consolidation of the Company with or into another corporation or other entity, or a sale of all or any part of the assets of the Company (which shall not in fact result in the dissolution, liquidation or winding up of the Company and the distribution of its assets to its stockholders) shall not be deemed a liquidation, dissolution or winding up of the Company within the meaning of this Section 3.01.

ARTICLE IV

REDEMPTION

SECTION 4.01. Optional Redemption.

(a) At any time from and after the Issue Date, the then outstanding Series A Preferred Shares shall be redeemable, in whole or in part, at the option of the Company exercisable at any time or from time to time solely and exclusively by the Independent Committee and upon provision of the notice described in Section 4.02, at the Redemption Price, which Redemption Price shall be paid in cash. Such redemption may, at the option of the Company (determined by the Independent Committee), be subject to satisfaction of one or more conditions precedent.

(b) If fewer than all of the then outstanding Series A Preferred Shares are to be redeemed pursuant to this Article IV, the Company shall redeem a portion of Series A Preferred Shares held by each Holder on a pro rata basis based on the number of Series A Preferred Shares held by each Holder.

(c) From and after the Redemption Date, so long as the applicable Redemption Price with respect to the Series A Preferred Shares being redeemed has been paid in full or a sum sufficient to redeem such Series A Preferred Shares has been irrevocably deposited or set aside to pay the Redemption Price with respect to each such Series A Preferred Share, dividends on each Series A Preferred Share called for redemption shall cease to accrue, such Series A Preferred Share shall no longer be deemed to be outstanding, and all rights in respect of such Series A Preferred Share shall cease, except the right to receive the Redemption Price.

(d) Nothing in this Article IV shall prevent the Company from, at any time and from time to time, purchasing Series A Preferred Shares from an individual Holder with the consent or approval of such Holder.

SECTION 4.02. Notice of Redemption. Notice of a redemption pursuant to this Article IV shall be furnished to each Holder at the address shown in the books and records of the Company for such Holder by registered mail via national courier service, not more than 60 days before the Redemption Date, and shall set forth:

(a) The aggregate number of Series A Preferred Shares to be redeemed:

(b) The Redemption Date;

(c) The Redemption Price;

(d) A statement that the certificate representing the Series A Preferred Shares called for redemption must be surrendered to the Company to collect the Redemption Price; and

(e) Any conditions precedent to such redemption.

SECTION 4.03. Effect of Notice of Redemption. The notice, if delivered in the manner provided in Section 4.02, shall be conclusively presumed to have been given, whether or not the Holder receives such notice.

SECTION 4.04. Certificates Evidencing Series A Preferred Shares Redeemed in Part. Upon surrender of a certificate representing Series A Preferred Shares that are redeemed in part, pursuant to this

Article IV, the Company shall issue a new certificate representing the unredeemed Series A Preferred Shares formerly represented thereby.

ARTICLE V

CONVERSION

SECTION 5.01. No Conversion. The Series A Preferred Shares shall not be convertible into any other securities of the Company.

ARTICLE VI

VOTING

SECTION 6.01. Generally. Except as provided by this Certificate of Designation or applicable law, each Holder, as such, shall not be entitled to vote and shall not be entitled to any voting powers in respect thereof.

SECTION 6.02. Protective Provisions. For so long as any Series A Preferred Shares shall be outstanding, the Company shall not, at any time or from time to time after the Issue Date, without the prior vote or written consent of the Holders of at least a majority of the Series A Preferred Shares then outstanding, voting separately as a single class:

(a) Pay dividends on account of, or redeem or repurchase, shares of Common Stock (other than dividends payable in additional shares of Common Stock) or other series of Preferred Stock ranking junior to the Series A Preferred Shares as to dividends at any time there are accrued and unpaid dividends on the Series A Preferred Shares;

(b) Create and issue any series of Preferred Shares ranking senior to or *pari passu* with the Series A Preferred Stock as to dividends and upon a dissolution, winding up or liquidation of the Company;

(c) Enter into a Change of Control, merger, consolidation and sale of all or substantially all of the assets of the Company; and

(d) Amend the Certificate of Incorporation to increase the authorized number of shares of Series A Preferred Stock or alter or change the powers, preferences or special rights of the Series A Preferred Shares so as to affect them adversely (including by way or merger or consolidation or otherwise).

ARTICLE VII

WAIVER

SECTION 7.01. Waiver of Certificate of Designation Provisions. The powers (including voting powers), if any, of such series and the preferences and relative, participating, optional, special or other rights, if any, and the qualifications, limitations or restrictions, if any, of the Series A Preferred Stock may be waived as to all Series A Preferred Stock Shares in any instance (without the necessity of calling, noticing or holding a meeting of stockholders) by the written consent or agreement of the Holders of at least a majority of the Series A Preferred Shares then outstanding, consenting or agreeing separately as a single class.

SECTION 7.02. Waiver of Trigger Event; Remedies Limitation. Any Trigger Event and its consequences hereunder may be waived as to all Series A Preferred Shares in any instance (without the necessity of calling, noticing or holding a meeting of stockholders) by the written consent or agreement of the Holders of at least a majority of the Series A Preferred Shares then outstanding, consenting or agreeing separately as a single class. Upon any such waiver, such Trigger Event shall be deemed to have been cured for every purpose herein; but no such waiver shall extend to any subsequent or other Trigger Event or impair any right consequent thereon. The increase in the Dividend Rate as provided in the definition thereof in this Certificate of Designation is the sole remedy of the Holders with respect to any Trigger Event and no Holder shall have any other right or remedy of any nature against the Company, any of its Subsidiaries or any of their respective creditors (including the lenders and agents under the Financing Agreement, the Working Capital Credit Agreement or any other Indebtedness of the Company and its Subsidiaries) as a result of any Trigger Event or any other matter arising directly or indirectly under or as a result of the Financing Agreement, the Working Capital Credit Agreement or any other Indebtedness of the Company and its Subsidiaries.

## ARTICLE VIII

## STATUS OF REDEEMED OR REPURCHASED SERIES A PREFERRED SHARES

SECTION 8.01. Retirement and Cancellation. If any Series A Preferred Share is redeemed, repurchased or otherwise acquired by the Company in any manner whatsoever, the Series A Preferred Share so acquired shall, to the fullest extent permitted by Law, be retired and cancelled upon such acquisition.

SECTION 8.02. No Reissuance of the Series A Preferred Shares. If any Series A Preferred Share is redeemed, repurchased or otherwise acquired by the Company in any manner whatsoever, the Series A Preferred Share so acquired shall not be reissued as a share of Series A Preferred Stock.

SECTION 8.03. Undesignated Shares of Preferred Stock. Any Series A Preferred Share that is redeemed, repurchased or otherwise acquired by the Company in any manner whatsoever shall, upon its retirement and cancellation, and upon the taking of any action required by applicable Law, become authorized but unissued shares of Preferred Stock, subject to the conditions and restrictions in the Certificate of Incorporation or imposed by the DGCL.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the Company has caused this Certificate of Designation to be signed by a duly authorized officer this 30th day of November, 2018.

**THE COMPANY:**

DBM GLOBAL INC.

By: /s/Michael Hill
Name: Michael Hill
Title: Vice President & Chief Financial Officer

***Execution Version***

**FINANCING AGREEMENT**

**Dated as of November 30, 2018**

**by and among**

**DBM GLOBAL INC. ("DBM")**
**as a Borrower,**

**EACH SUBSIDIARY OF DBM**
**LISTED AS A BORROWER ON THE SIGNATURE PAGES HERETO,**
**as Borrowers,**

**EACH SUBSIDIARY OF DBM**
**LISTED AS A GUARANTOR ON THE SIGNATURE PAGES HERETO,**
**as Guarantors,**

**THE LENDERS FROM TIME TO TIME PARTY HERETO,**
**as Lenders,**

**and**

**TCW ASSET MANAGEMENT COMPANY LLC,**
**as Collateral Agent and Administrative Agent**

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SCHEDULE AND EXHIBITS

**FINANCING AGREEMENT**

Financing Agreement, dated as of November 30, 2018, by and among DBM Global Inc., a Delaware corporation ("DBM" or the "Company"), each subsidiary of DBM listed as a "Borrower" on the signature pages hereto (together with DBM and each other Person that executes a joinder agreement and becomes a "Borrower" hereunder, each a "Borrower" and collectively, the "Borrowers"), each subsidiary of DBM listed as a "Guarantor" on the signature pages hereto (together with each other Person that executes a joinder agreement and becomes a "Guarantor" hereunder, each a "Guarantor" and collectively, the "Guarantors"), the lenders from time to time party hereto (each a "Lender" and collectively, the "Lenders"), TCW Asset Management Company LLC ("TCW"), as collateral agent for the Secured Parties (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent"), and TCW, as administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent" and together with the Collateral Agent, each an "Agent" and collectively, the "Agents").

**RECITALS**

The Borrowers have asked the Lenders to extend credit to the Borrowers consisting of term loans in the aggregate principal amount of $80,000,000, (the "Term Loans"). The proceeds of the Term Loans shall be used to (a) partially fund the Graywolf Acquisition, (b) refinance and replace the Existing Graywolf Credit Facilities which were assumed at the time of the Graywolf Acquisition (the "Graywolf Refinancing"), and (c) pay the costs, fees and expenses relating to the term loan, the Graywolf Refinancing and the transactions contemplated hereby. The Lenders are severally, and not jointly, willing to extend such credit to the Borrowers subject to the terms and conditions hereinafter set forth.

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

**ARTICLE I**

**DEFINITIONS; CERTAIN TERMS**

Section 1.01 Definitions. As used in this Agreement, the following terms shall have the respective meanings indicated below:

"ABL Priority Collateral" means "ABL Priority Collateral" as defined in the Intercreditor Agreement.

"Account Debtor" means, with respect to any Person, each debtor, customer or obligor in any way obligated on or in connection with any Account of such Person.

"Acquisition" means the acquisition (whether by means of a merger, consolidation or otherwise) of all of the Equity Interests of any Person or all or substantially all of the assets of (or any division or business line of) any Person.

"Action" has the meaning specified therefor in Section 12.12.

"Additional Amount" has the meaning specified therefor in Section 2.09(a).

"Administrative Agent" has the meaning specified therefor in the preamble hereto.

"Administrative Agent's Account" means an account at a bank designated by the Administrative Agent from time to time as the account into which the Loan Parties shall make all payments to the Administrative Agent for the benefit of the Agents and the Lenders under this Agreement and the other Loan Documents.

"Administrative Borrower" has the meaning specified therefor in Section 4.05.

"Affiliate" means, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" of a Person means the power, directly or indirectly, either to (a) vote 10% or more of the Equity Interests having ordinary voting power for the election of members of the Board of Directors of such Person or (b) direct or cause the direction of the management and policies of such Person whether by contract or otherwise. Notwithstanding anything herein to the contrary, in no event shall any Agent or any Lender be considered an "Affiliate" of any Loan Party.

"Agent" has the meaning specified therefor in the preamble hereto.

"Agreement" means this Financing Agreement, including all amendments, modifications and supplements and any exhibits or schedules to any of the foregoing, and shall refer to the Agreement as the same may be in effect at the time such reference becomes operative.

"Anti-Corruption Laws" has the meaning specified therefor in Section 6.01(z).

"Anti-Money Laundering and Anti-Terrorism Laws" means any Requirement of Law relating to terrorism, economic sanctions or money laundering, including, without limitation, (a) the Money Laundering Control Act of 1986 (*i.e.*, 18 U.S.C. §§ 1956 and 1957), (b) the Bank Secrecy Act of 1970 (31 U.S.C. §§ 5311-5330 and 12 U.S.C. §§ 1818(s), 1820(b) and 1951-1959), and the implementing regulations promulgated thereunder, (c) the USA PATRIOT Act and the implementing regulations promulgated thereunder, (d) the laws, regulations and Executive Orders administered by the United States Department of the Treasury's Office of Foreign Assets Control ("OFAC"), (e) any law prohibiting or directed against terrorist activities or the financing or support of terrorist activities (*e.g.*, 18 U.S.C. §§ 2339A and 2339B), and (f) any similar laws enacted in the United States or any other jurisdictions in which the parties to this Agreement operate, as any of the foregoing laws have been, or shall hereafter be, amended, renewed, extended, or replaced and all other present and future legal requirements of any Governmental Authority governing, addressing, relating to, or attempting to eliminate, terrorist acts and acts of war and any regulations promulgated pursuant thereto.

"Applicable Margin" means, as of any date of determination, with respect to the interest rate of (a) any Reference Rate Loan or any portion thereof, 4.85%, and (b) any LIBOR Rate Loan or any portion thereof, 5.85%.

"Applicable Premium" means

(a) as of the date of the occurrence of an Applicable Premium Trigger Event specified in clause (a) of the definition thereof:

(i) during the period from and after the Effective Date up to and including the date that is the first anniversary of the Effective Date, an amount equal to 2.0% times the amount of the Term Loans being paid on such date;

(ii) during the period from and after the date that is the first anniversary of the Effective Date up to an including the date that is the second anniversary of the Effective Date, an amount equal to 1.0% times the amount of the Term Loans being paid on such date; and

(iii) thereafter, zero; and

(b) as of the date of the occurrence of an Applicable Premium Trigger Event specified in clause (b), (c) or (d) of the definition thereof:

(i) during the period from and after the Effective Date up to and including the date that is the first anniversary of the Effective Date, an amount equal to 2.0% times the aggregate amount of all Term Loans outstanding on the date of such Applicable Premium Trigger Event;

(ii) during the period from and after the date that is the first anniversary of the Effective Date up to an including the date that is the second anniversary of the

Effective Date, an amount equal to 1.0% times the aggregate amount of all Term Loans outstanding on the date of such Applicable Premium Trigger Event; and

(iii) thereafter, zero.

"Applicable Premium Trigger Event" means

(a) any payment by any Loan Party of all, or any part, of the principal balance of the Term Loan for any reason (including, without limitation, any optional prepayment or mandatory prepayment, but excluding any quarterly installment of principal pursuant to Section 2.03(a) and any mandatory prepayment pursuant to Section 2.05(b)(iii)) whether before or after (i) the occurrence of an Event of Default, or (ii) the commencement of any Insolvency Proceeding, and notwithstanding any acceleration (for any reason) of the Obligations;

(b) the acceleration of the Obligations for any reason, including, without limitation, acceleration in accordance with Section 9.01, including as a result of the commencement of an Insolvency Proceeding;

(c) the satisfaction, release, payment, restructuring, reorganization, replacement, reinstatement, defeasance or compromise of any of the Obligations in any Insolvency Proceeding, foreclosure (whether by power of judicial proceeding or otherwise) or deed in lieu of foreclosure or the making of a distribution of any kind in any Insolvency Proceeding to the Collateral Agent, for the account of the Lenders in full or partial satisfaction of the Obligations; or

(d) the termination of this Agreement for any reason.

"Assignment and Acceptance" means an assignment and acceptance entered into by an assigning Lender and an assignee, and accepted by the Administrative Agent in accordance with Section 12.07 hereof and substantially in the form of Exhibit B hereto or such other form acceptable to the Administrative Agent.

"Authorized Officer" means, with respect to any Person, the president, chief executive officer, chief financial officer, general counsel, manager, secretary, treasurer, assistant treasurer or vice president of such Person.

"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" means Title 11 of the United States Code, as amended from time to time and any successor statute or any similar federal or state law for the relief of debtors.

"Beneficial Ownership Certification" means a certification regarding beneficial ownership required by the Beneficial Ownership Regulation, which certification shall be substantially similar in form and substance to the form of Certification Regarding Beneficial Owners of Legal Entity Customers published jointly, in May 2018, by the Loan Syndication and Trading Association and Securities Industry and Financial Markets Association.

"Beneficial Ownership Regulation" means 31 C.F.R.§ 1010.230.

"Benefit Plan" means any of (a) an "employee benefit plan" (as defined in ERISA) that is subject to Title I of ERISA, (b) a "plan" as defined in and subject to Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such "employee benefit plan" or "plan".

"Blocked Person" means any Person:

(a) that (i) is identified on the list of "Specially Designated Nationals and Blocked Persons" ("SDN List") published by OFAC; (ii) resides, is organized or chartered, or has a place of business in a country or territory that is the subject of an OFAC Sanctions Program; or (iii) with whom a United States Person is prohibited from dealing or transacting under any of the Anti-Money Laundering and Anti-Terrorism Laws; or

(b) that is owned or controlled by, or that owns or controls, or that is acting for or on behalf of, any Person described in clause (a) above.

"Board" means the Board of Governors of the Federal Reserve System of the United States (or any successor).

"Board of Directors" means with respect to (a) any corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board, (b) a partnership, the board of directors of the general partner of the partnership, (c) a limited liability company, the managing member or members or any controlling committee or board of directors of such company or the sole member or the managing member thereof, and (d) any other Person, the board or committee of such Person serving a similar function.

"Bonding Agreement" means any agreement evidencing or relating to any performance bonds, construction bonds or similar obligations issued by a surety or other bonding party (or any designee on its behalf) for the benefit of customers of any Loan Party and/or their Subsidiaries between such surety or other bonding party and such Loan Party or Loan Parties and/or their Subsidiaries.

"Borrower" has the meaning specified therefor in the preamble hereto.

"Business Day" means (a) for all purposes other than as described in clause (b) below, any day other than a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required to close, and (b) with respect to the borrowing, payment or continuation

of, or determination of interest rate on, LIBOR Rate Loans, any day that is a Business Day described in clause (a) above and on which dealings in Dollars may be carried on in the interbank eurodollar markets in New York City and London.

"Capital Expenditures" means, with respect to any Person for any period, the aggregate of all expenditures by such Person and its Subsidiaries during such period that in accordance with GAAP are or should be included in "property, plant and equipment" or in a similar fixed asset account on its balance sheet, whether such expenditures are paid in cash or financed, including all Capitalized Lease Obligations, obligations under synthetic leases and capitalized software costs that are paid or due and payable during such period, provided, however, that the following shall not constitute Capital Expenditures: (i) expenditures to the extent that they are made with the Net Cash Proceeds reinvested pursuant to Section 2.05(b)(iv), (ii) expenditures to the extent that they are made to effect leasehold improvements to any property leased by such Person as lessee, to the extent that such expenses have been reimbursed in cash by the landlord that is not a Loan Party or a Subsidiary thereof, and (iii) expenditures to the extent that they are actually paid for by a third party (excluding any Loan Party or any Subsidiary thereof) and for which no Loan Party or any Subsidiary thereof has provided or is required to provide or incur, directly or indirectly, any consideration or monetary obligation to such third party or any other person (whether before, during or after such period).

"Capitalized Lease" means, with respect to any Person, any lease of (or other arrangement conveying the right to use) real or personal property by such Person as lessee that is required under GAAP to be capitalized on the balance sheet of such Person.

"Capitalized Lease Obligations" means, with respect to any Person, obligations of such Person and its Subsidiaries under Capitalized Leases, and, for purposes hereof, the amount of any such obligation shall be the capitalized amount thereof determined in accordance with GAAP.

"Cash Equivalents" means (a) marketable direct obligations issued or unconditionally guaranteed by the United States Government or issued by any agency thereof and backed by the full faith and credit of the United States, in each case, maturing within twelve (12) months from the date of acquisition thereof; (b) marketable direct obligations of any State of the United States or any political subdivision of any such State, within twelve (12) months from the date of acquisition thereof rated P-1 by Moody's or A-1 by Standard & Poor's; (c) commercial paper, maturing not more than 270 days after the date of issue rated P-1 by Moody's or A-1 by Standard & Poor's; (d) certificates of deposit maturing not more than 12 months after the date of issue, issued by commercial banking institutions and money market or demand deposit accounts maintained at commercial banking institutions, each of which is a member of the Federal Reserve System and has a combined capital and surplus and undivided profits of not less than $500,000,000; (e) repurchase agreements having maturities of not more than ninety (90) days from the date of acquisition which are entered into with major money center banks included in the commercial banking institutions described in clause (c) above and which are secured by readily marketable direct obligations of the United States Government or any agency thereof; (f) money market accounts maintained with mutual funds having assets in excess of $500,000,000, which assets are primarily comprised of Cash Equivalents described in another clause of this definition; and (g) marketable

tax exempt securities rated A or higher by Moody's or A+ or higher by Standard & Poor's, in each case, maturing within twelve (12) months from the date of acquisition thereof.

"Cash Management Accounts" means the bank accounts of each Loan Party maintained at one or more Cash Management Banks listed on Schedule 8.01.

"Cash Management Bank" has the meaning specified therefor in Section 8.01(a).

"CFC" means a controlled foreign corporation within the meaning of Section 957 of the Internal Revenue Code.

"Change in Law" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation, judicial ruling, judgment or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives 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.

"Change of Control" means each occurrence of any of the following:

(a) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of DBM and its Subsidiaries, in each case taken as a whole, to any ‘‘person’’ (as that term is used in Section 13(d)(3) of the Exchange Act);

(b) the Permitted Holders cease to beneficially and of record own and control, directly or indirectly, at least 51% on a fully diluted basis of the aggregate outstanding voting or economic power of the Equity Interests of Parent;

(c) Parent ceases to beneficially and of record own and control at least 51% on a fully diluted basis of the aggregate outstanding voting or economic power of the Equity Interests of DBM;

(d) DBM shall cease to have beneficial ownership (as defined in Rule 13d-3 under the Exchange Act) of 100% of the aggregate voting or economic power of the Equity Interests of each other Loan Party and each of its Subsidiaries (other than in connection with any transaction permitted pursuant to Section 7.02(c)(i)), free and clear of all Liens (other than Permitted Specified Liens); or

(e) a "Change of Control" (or any comparable term or provision) under or with respect to any of the Equity Interests or Working Capital Indebtedness of DBM or any of its Subsidiaries or under any Parent Debt Document.

"Collateral" means all of the property and assets and all interests therein and proceeds thereof now owned or hereafter acquired by any Person upon which a Lien is granted or purported to be granted by such Person as security for all or any part of the Obligations.

"Collateral Agent" has the meaning specified therefor in the preamble hereto.

"Collateral Agent Advances" has the meaning specified therefor in Section 10.08(a).

"Collections" means all cash, checks, notes, instruments, and other items of payment (including insurance proceeds, proceeds of cash sales, rental proceeds, and tax refunds).

"Commitments" means, with respect to each Lender, such Lender's Term Loan Commitment.

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

"Compliance Certificate" has the meaning assigned to such term in Section 7.01(a)(iv).

"Consolidated EBITDA" means, with respect to any Person for any period:

(a) the Consolidated Net Income of such Person for such period,

plus

(b) without duplication, the sum of the following amounts for such period, and, other than as expressly contemplated in the definition of Pro Forma EBITDA in connection with an adjustment pursuant to clause (xiii) or as expressly agreed in writing by the Administrative Agent in connection with an adjustment pursuant to clause (xii) below, to the extent deducted in the calculation of Consolidated Net Income for such period:

(i) any provision for United States federal income taxes or other taxes measured by net income,

(ii) Consolidated Net Interest Expense,

(iii) any depreciation and amortization expense,

(iv) any aggregate net loss on the Disposition of property (other than accounts and Inventory) outside the ordinary course of business,

(v) all costs and expenses incurred during such period in connection with the establishment and maintenance of, or any amendment or extension of, the Obligations and the Working Capital Indebtedness,

(vi) reasonable and documented out-of-pocket fees, costs and expenses incurred before, on or after (but not later than 120 days after) the Effective Date in connection with the execution and delivery of the Transaction Documents in an amount not to exceed $5,000,000,

(vii) to the extent paid to any Person that is not an Affiliate of DBM or any of its Subsidiaries, non-recurring transaction costs, expenses or charges incurred during such period in connection with any Permitted Acquisition (excluding for avoidance of doubt the Graywolf Acquisition) in an aggregate amount with respect to any single Acquisition not to exceed the higher of $750,000 and 3.5% of the Purchase Price for such Acquisition,

(viii) non-cash losses and expenses due to the application of FASB ASC 815-10 regarding hedging activity, FASB ASC 350 regarding the impairment of good will, FASB ASC 480-10 regarding accounting for financial instruments with debt and equity characteristics or FASB ASC 820 regarding the measurement of fair value,

(ix) non-cash expenses in connection with any Equity Issuance of Qualified Equity Interests permitted hereunder to employees, officers or directors of DBM or any of its Subsidiaries,

(x) any other unusual or extraordinary non-cash expenditure, charge or loss for such period (other than any non-cash expenditure, charge or loss relating to write-offs, write-downs or reserves with respect to accounts and Inventory) in an aggregate amount not to exceed $2,000,000 during any Fiscal Year; provided that any impairment of goodwill permitted by this clause (x) shall not be subject to, or taken into account as part of, the $2,000,000 limitation in this clause (x),

(xi) any non-recurring factually supported executive severance costs for senior level executive employees who are not then employed or engaged by Parent or any of its Affiliates in an aggregate amount not to exceed $1,700,000 during any Fiscal Year and $5,000,000 during the term of this Agreement, commencing with the 2019 Fiscal Year,;

(xii) any adjustments agreed to in a writing expressly referring to this clause (xii) by the Administrative Agent and the Administrative Borrower,

(xiii) Pro Forma EBITDA from Permitted Acquisitions,

(xiv) any non-recurring restructuring expenses or charges incurred on or after (but not later than 18 months after) the Effective Date in connection with the Graywolf Acquisition in an aggregate amount not to exceed $3,000,000 for such 18 month period, and

(xv) any non-recurring factually supported fees, costs, expenses and charges related to (A) restructuring, integration, business optimization, consolidation, rationalization and similar initiatives (excluding for the avoidance of doubt amounts added back pursuant to clause (xiv) in connection with the Graywolf Acquisition), (B) consulting services, (C) facility openings, including construction of new facilities and other pre-opening expenses, (D) the closing of existing facilities and moving corporate facilities, including any one-time costs in connection with consolidations with respect to such closed or new facilities; provided that the aggregate amount added back to Consolidated EBITDA pursuant to this clause (xv) for any twelve month period shall not exceed $5,000,000 of Consolidated EBITDA, commencing with the 2019 Fiscal Year,

minus

(c) without duplication, the sum of the following amounts for such period to the extent included in the calculation of such Consolidated Net Income for such period:

(i) any credit for United States federal, state and local and income Taxes,

(ii) any aggregate net gain from the Disposition of property (other than accounts and Inventory) outside the ordinary course of business,

(iii) non-cash gains and income due to the application of FASB ASC 815-10 regarding hedging activity, FASB ASC 350 regarding the impairment of good will or FASB ASC 480-10 regarding accounting for financial instruments with debt and equity characteristics, and

(iv) any other non-cash gain, including any reversal of a charge referred to in clause (b)(x) above by reason of a decrease in the value of any Equity Interest;

in each case, determined on a consolidated basis in accordance with GAAP.

Notwithstanding the foregoing, Consolidated EBITDA for the fiscal periods set forth in Schedule 1.01(D) shall be deemed to be in the amounts set forth therein for such fiscal periods.

"Consolidated Net Income" means, with respect to any Person, for any period, the consolidated Net Income (or Net Loss) of such Person and its Subsidiaries for such period; provided, however, that the following shall be excluded: (a) the Net Income of any other Person in which such Person or one of its Subsidiaries has a joint interest with a third-party (which interest does not cause the Net Income of such other Person to be consolidated into the Net Income of such Person), except to the extent of the amount of dividends or distributions paid to such Person or Subsidiary, (b) the Net Income of any Subsidiary of such Person that is, on the last day of such period, subject to any contractual restriction or limitation on the payment of dividends or the making of other distributions, to the extent of such restriction or limitation, and (c) the Net Income of any other Person arising prior to such other Person becoming a Subsidiary of such Person or merging or consolidating into such Person or its Subsidiaries (other than Pro Forma EBITDA).

"Consolidated Net Interest Expense" means, with respect to any Person for any period, (a) gross interest expense of such Person and its Subsidiaries for such period determined on a consolidated basis and in accordance with GAAP (including, without limitation, interest expense paid to Affiliates of such Person), less (b) interest income for such period, in each case, determined on a consolidated basis and in accordance with GAAP.

"Contingent Indemnity Obligations" means any Obligation constituting a contingent, unliquidated indemnification obligation of any Loan Party, in each case, to the extent (a) such obligation has not accrued and is not yet due and payable and (b) no claim has been made with respect thereto.

"Contingent Obligation" means, with respect to any Person, any obligation of such Person guaranteeing or intending to guarantee any Indebtedness, leases, dividends or other obligations ("primary obligations") of any other Person (the "primary obligor") in any manner, whether directly or indirectly, including, without limitation, (a) the direct or indirect guaranty, endorsement (other than for collection or deposit in the ordinary course of business), co-making, discounting with recourse or sale with recourse by such Person of the obligation of a primary obligor, (b) the obligation to make take-or-pay or similar payments, if required, regardless of nonperformance by any other party or parties to an agreement, (c) any obligation of such 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, assets, 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 holder of such primary obligation against loss in respect thereof; provided, however, that the term "Contingent Obligation" shall not include any product warranties extended in the ordinary course of business. The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determinable amount of the primary obligation with respect to which such Contingent Obligation is made (or, if less, the maximum amount of such primary obligation for which such Person may be liable pursuant to the terms of the instrument evidencing such Contingent Obligation) or, if not stated or determinable, the maximum reasonably anticipated liability with respect thereto (assuming such Person is required to perform thereunder), as determined by such Person in good faith.

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

"Control Agreement" means, with respect to any deposit account, any securities account, commodity account, securities entitlement or commodity contract, an agreement, in form and substance reasonably satisfactory to the Collateral Agent, among the Collateral Agent, the financial institution or other Person at which such account is maintained or with which such entitlement or contract is carried and the Loan Party maintaining such account, effective to grant "control" (as defined under the applicable UCC) over such account to the Collateral Agent.

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

"Current Value" has the meaning specified therefor in Section 7.01(m).

"DBM Facilities" means any real property (whether fee or leasehold) identified on Schedule 1.01(B), including, without limitation, the land on which each such facility is located, all buildings and other improvements thereon, and all fixtures located thereat or used in connection therewith.

"Debtor Relief Law" means the Bankruptcy Code and any other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief law of the United States or other applicable jurisdiction from time to time in effect.

"Default" means an event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

"Defaulting Lender" means any Lender that (a) has failed to (i) fund all or any portion of its Loans within two (2) Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Administrative 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, or (ii) pay to the Administrative Agent or any Lender any other amount required to be paid by it hereunder within two (2) Business Days of the date when due, (b) has notified the Administrative Borrower or the Administrative Agent in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three (3) Business Days after written request by the Administrative Agent or the Administrative Borrower, to confirm in writing to the Administrative Agent and the Administrative Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Administrative Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity or (iii) become the subject of a Bail-in Action. Notwithstanding anything to the contrary herein, a Lender shall not be a Defaulting

Lender solely by virtue of the ownership or acquisition of any Equity Interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permits such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender upon delivery of written notice of such determination to the Administrative Borrower and each Lender.

"Disposition" means any transaction, or series of related transactions, pursuant to which any Person or any of its Subsidiaries sells, assigns, transfers, leases, licenses (as licensor) or otherwise disposes of any property or assets (whether now owned or hereafter acquired) to any other Person, in each case, whether or not the consideration therefor consists of cash, securities or other assets owned by the acquiring Person. For purposes of clarification, "Disposition" shall include (a) the sale or other disposition for value of any contracts, and (b) the early termination or modification of any contract resulting in the receipt by any Loan Party of a cash payment or other consideration in exchange for such event (other than payments in the ordinary course for accrued and unpaid amounts due through the date of termination or modification).

"Disqualified Equity Interests" means any Equity Interest that, by its terms (or by the terms of any security or other Equity Interest into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition, (a) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations and the termination of the Commitments), (b) is redeemable at the option of the holder thereof, in whole or in part, (c) provides for the scheduled payments of dividends or distributions in cash, or (d) is convertible into or exchangeable for (i) Indebtedness or (ii) any other Equity Interests that would constitute Disqualified Equity Interests, in each case of clauses (a) through (d), prior to the date that is nine months after the Final Maturity Date. For the avoidance of doubt, the Effective Date Preferred Equity (as in effect pursuant to the Effective Date Preferred Equity Issuance Documents on the Effective Date) does not constitute Disqualified Equity Interests.

"Disqualified Institution" means, on any date, (a) any Person set forth on Schedule 12.07 including the Specified Disqualified Institutions, (b) any other Person that is an actual competitor (as described below) of DBM or its Subsidiaries and is identified by the Administrative Borrower in writing to the Administrative Agent and the Lenders by legal name for inclusion on Schedule 12.07 not less than five (5) Business Days prior to such date or (c) any Affiliate of any Person identified in clause (a) or (b) of this definition that is either (x) identified by the Administrative Borrower in writing to the Administrative Agent and the Lenders by legal name not less than five (5) Business Days prior to such date or (y) clearly identifiable as an Affiliate on the basis of its name (other than bona fide debt funds that purchase commercial loans in the ordinary course of business, other than such debt funds excluded pursuant to clause (a) or (b) of this definition); provided that "Disqualified Institutions" shall exclude any Person that the Administrative Borrower has

designated as no longer being a "Disqualified Institution" by written notice delivered to the Administrative Agent and the Lenders from time to time. For purposes hereof, "competitor" means a Person who is engaged in the business of detailing, modeling, erecting and fabricating structural steel and heavy plate or industrial services focusing on highly complex, labor-intensive specialty maintenance, repair and installation services.

"Dollar," "Dollars" and the symbol "$" each means lawful money of the United States of America.

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

"DQ List" has the meaning specified in Section 12.07(m)(iv).

"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.

"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.

"Effective Date" has the meaning specified therefor in Section 5.01.

"Effective Date Closing Fee" has the meaning specified therefor in Section 2.06(a).

"Effective Date Preferred Equity" means the Series A fixed-to-floating rate perpetual preferred stock of DBM Global Inc. issued on the Effective Date pursuant to the Effective Date Preferred Equity Issuance Documents.

"Effective Date Preferred Equity Issuance" means the issuance of the Effective Date Preferred Equity by DBM on or prior to the Effective Date.

"Effective Date Preferred Equity Issuance Documents" means the Effective Date Preferred Purchase Agreement and the Certificate of Designation for the Effective Date Preferred Equity, in each case, as in effect on the Effective Date.

"Effective Date Preferred Purchase Agreement" means that certain Series A Securities Purchase Agreement, dated as of November 30, 2018, by and between DBM Global Inc. and DBM Global Intermediate Holdco, Inc., as purchaser of the Effective Date Preferred Equity, as in effect on the Effective Date.

"Employee Plan" means an employee benefit plan (other than a Multiemployer Plan) covered by Title IV of ERISA and maintained (or that was maintained at any time during the 6 calendar years preceding the date of any borrowing hereunder) for employees of any Loan Party or any of its ERISA Affiliates.

"Environmental Actions" means any complaint, summons, citation, notice, directive, order, claim, litigation, investigation, judicial or administrative proceeding, judgment, letter or other communication from any Person or Governmental Authority involving violations of Environmental Laws or Releases of Hazardous Materials (a) from any assets, properties or businesses owned or operated by any Loan Party or any of its Subsidiaries or any predecessor in interest; (b) from adjoining properties or businesses; or (c) onto any facilities which received Hazardous Materials generated by any Loan Party or any of its Subsidiaries or any predecessor in interest.

"Environmental Laws" means the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. § 1801, et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901, et seq.), the Federal Clean Water Act (33 U.S.C. § 1251 et seq.), the Clean Air Act (42 U.S.C. § 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.) and the Occupational Safety and Health Act (29 U.S.C. § 651 et seq.), as such laws may be amended or otherwise modified from time to time, and any other Requirement of Law, permit, license or other binding determination of any Governmental Authority imposing liability or establishing standards of conduct for protection of the environment or other government restrictions relating to the protection of the environment or the Release, deposit or migration of any Hazardous Materials into the environment.

"Environmental Liabilities and Costs" means all liabilities, monetary obligations, Remedial Actions, losses, damages, punitive damages, consequential damages, treble damages, costs and expenses (including all reasonable fees, disbursements and expenses of counsel, experts and consultants and costs of investigations and feasibility studies), fines, penalties, sanctions and interest incurred as a result of any claim or demand by any Governmental Authority or any third party, and which relate to any environmental condition or a Release of Hazardous Materials from or onto (a) any property presently or formerly owned by any Loan Party or any of its Subsidiaries or (b) any facility which received Hazardous Materials generated by any Loan Party or any of its Subsidiaries.

"Environmental Lien" means any Lien in favor of any Governmental Authority for Environmental Liabilities and Costs.

"Equity Interests" means (a) all shares of capital stock (whether denominated as common stock or preferred stock), equity interests, beneficial, partnership or membership interests, joint venture interests, participations or other ownership or profit interests in or equivalents (regardless of how designated) of or in a Person (other than an individual), whether voting or non-

voting and (b) all securities convertible into or exchangeable for any of the foregoing and all warrants, options or other rights to purchase, subscribe for or otherwise acquire any of the foregoing, whether or not presently convertible, exchangeable or exercisable.

"Equity Issuance" means either (a) the sale or issuance by any Loan Party or any of its Subsidiaries of any shares of its Equity Interests or (b) the receipt by DBM of any cash capital contributions.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and any successor statute of similar import, and regulations thereunder, in each case, as in effect from time to time. References to sections of ERISA shall be construed also to refer to any successor sections.

"ERISA Affiliate" means, with respect to any Person, any trade or business (whether or not incorporated) which is a member of a group of which such Person is a member and which would be deemed to be a "controlled group" within the meaning of Sections 414(b), (c), (m) and (o) of the Internal Revenue Code.

"Event of Default" has the meaning specified therefor in Section 9.01.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Excluded Account" means (a) any deposit account specifically and exclusively used for payroll, payroll taxes and other employee wage and benefit payments to or for the benefit of any Loan Party's employees, so long as the funds held or maintained in any such deposit account do not exceed the amounts expected to be used for current requirements for such purpose and (b) any Petty Cash Accounts.

"Excluded Equity Issuance" means (a) in the event that DBM or any of its Subsidiaries forms any Subsidiary in accordance with this Agreement, the issuance by such Subsidiary of Equity Interests to DBM or such Subsidiary, as applicable, (b) the issuance of Equity Interests (other than Disqualified Equity Interests) by DBM to any Person that is an equity holder of DBM or a Controlled Investment Affiliate of such an equity holder (an "Equity Holder") so long as (i) such Equity Holder did not acquire any Equity Interests of DBM so as to become an Equity Holder concurrently with, or in contemplation of, the issuance of such Equity Interests to such Equity Holder and (ii) the proceeds of the issuance of such Equity Interests shall be used by DBM concurrently upon the receipt thereof to fund the Purchase Price (or reasonable fees and expenses related thereto) under a Permitted Acquisition, (c) the issuance of Equity Interests (other than Disqualified Equity Interests) of DBM to directors, officers and employees of DBM and its Subsidiaries pursuant to employee stock option plans (or other employee incentive plans or other compensation arrangements) approved by the Board of Directors of DBM, (d) the issuance of Equity Interests (other than Disqualified Equity Interests) by a Subsidiary of DBM to its parent or member in connection with the contribution by such parent or member to such Subsidiary of the proceeds of an issuance described in clauses (a) – (c) above, and (e) the Effective Date Preferred Equity Issuance.

"Excluded Foreign Subsidiary" means (a) any Foreign Subsidiary of DBM that is a CFC to the extent that the provision of a guaranty by such Subsidiary of the Obligations could reasonably be expected to have material adverse tax consequences to DBM and its Subsidiaries or the Parent, (b) any Domestic Subsidiary of DBM whose only asset (directly or indirectly) is the Equity Interests (and Indebtedness and Equity Interests) of a CFC to the extent that the provision of a guaranty by such Subsidiary of the Obligations could reasonably be expected to have material adverse tax consequences to DBM and its Subsidiaries or the Parent and (c) any Subsidiary of a CFC to the extent that the provision of a guaranty by such Subsidiary of the Obligations could reasonably be expected to have material adverse tax consequences to DBM and its Subsidiaries or the Parent.

"Excluded Subsidiary" means (a) any Excluded Foreign Subsidiary, (b) any other Foreign Subsidiary unless the Administrative Agent requests that such Foreign Subsidiary cease being an Excluded Subsidiary and (c) any Immaterial Subsidiary. Notwithstanding anything to contrary in this Agreement or any other Loan Document, no Subsidiary which is a borrower or a guarantor under the Working Capital Credit Agreement shall be an Excluded Subsidiary hereunder.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on or in respect of amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 2.12(b)) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.09, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient's failure to comply with Section 2.09(f) and (d) any Taxes imposed under FATCA.

"Executive Order No. 13224" means the Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

"Existing Agents" means Wilmington Trust, National Association, as administrative and collateral agent under the term loan Existing Graywolf Credit Facilities and PNC Bank, National Association, as administrative and collateral agent under the revolving Existing Graywolf Credit Facilities.

"Existing Graywolf Credit Facilities" means (a) the $90,000,000 term loan Credit Agreement, dated as of October 2, 2013, among Graywolf, as borrower, the financial institutions from time to time party thereto as lenders, and Wilmington Trust, National Association, as administrative and collateral agent for the lenders, as amended; and (b) the $25,000,000 Revolving

Credit Agreement, dated as of October 2, 2013, among Graywolf, as borrower, the financial institutions from time to time party thereto as lenders, and PNC Bank, National Association, as administrative and collateral agent for the lenders, as amended.

"Extraordinary Receipts" means any cash received by DBM or any of its Subsidiaries, not in the ordinary course of business (and not consisting of proceeds described in Section 2.05(b)(i) or (iii) hereof), including, without limitation, (a) proceeds of insurance, (b) judgments, proceeds of settlements or other consideration of any kind in connection with any cause of action, (c) condemnation awards (and payments in lieu thereof), (d) indemnity payments (other than those required to be paid over to a third party who is not an Affiliate of DBM) and (e) representation and warranty insurance proceeds; for the avoidance of doubt, Extraordinary Receipts shall not include (a) any tax refunds, (b) proceeds of business interruption insurance of less than $1,000,000 in the aggregate or (c) working capital adjustments in connection with Permitted Acquisitions.

"Facility" means any DBM Facility, any Graywolf Facility and any New Facility hereafter acquired by DBM or any of its Subsidiaries, including, without limitation, the land on which each such facility is located, all buildings and other improvements thereon, and all fixtures located thereat or used in connection therewith.

"FASB ASC" means the Accounting Standards Codification of the Financial Accounting Standards Board.

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

"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 the Administrative Agent from three major banks of recognized standing selected by it.

"Final Maturity Date" means the earliest of (a) November 30, 2023, (b) the maturity date of the Working Capital Loan and (c) 60 days prior to the earliest maturity date of any of the Parent Notes.

"Financial Statements" means (a) the audited consolidated balance sheet of DBM and its Subsidiaries for the Fiscal Year ended December 30, 2017, and the related consolidated statement of operations, shareholders' equity and cash flows for the Fiscal Year then ended, and (b) the unaudited consolidated balance sheet of DBM and its Subsidiaries for the fiscal-year-to-date

period ended September 30, 2018, and the related consolidated statement of operations, shareholder's equity and cash flows for the fiscal-year-to-date period then ended.

"Fiscal Quarter" means each fiscal quarter of DBM and its Subsidiaries.

"Fiscal Year" means the fiscal year of DBM and its Subsidiaries ending on the Saturday closest to December 31st of each calendar year.

"Fixed Charge Coverage Ratio" means, with respect to any Person for any period, the ratio of (a) the result of (i) Consolidated EBITDA of such Person and its Subsidiaries for such period minus (ii) Capital Expenditures made by such Person and its Subsidiaries during such period (excluding Capital Expenditures to the extent financed through the incurrence of Indebtedness (other than Working Capital Indebtedness permitted hereunder) or through an Equity Issuance (other than a Disqualified Equity Interest) by DBM), to (b) the sum of, without duplication, (i) all principal of Indebtedness of such Person and its Subsidiaries scheduled to be paid during such period, plus (ii) Consolidated Net Interest Expense paid or payable in cash by such Person and its Subsidiaries for such period, plus (iii) income taxes paid or payable by such Person and its Subsidiaries during such period, including, without limitation, any payments under the Tax Sharing Agreement, plus (iv) cash dividends or distributions paid, or the purchase, redemption or other acquisition or retirement for value (including in connection with any merger or consolidation), by such Person or any of its Subsidiaries, in respect of the Equity Interests of such Person or any of its Subsidiaries (other than dividends or distributions paid by a Loan Party to any other Loan Party) during such period, including any Restricted Payments made pursuant to clause (e) of the definition of Permitted Restricted Payments and including any amounts paid under sub-clause (II)(ii) of Section 7.02(v) in connection with the Shareholder Litigation Settlement, plus (v), all management, consulting, monitoring, and advisory fees paid by such Person or any of its Subsidiaries to any of its Affiliates during such period, plus (vi) without duplication of the foregoing, the cash portion of all items added back to Consolidated EBITDA of such Person and its Subsidiaries during such period pursuant to clauses (b)(v), (b)(vii), (b)(xi), (b)(xii), (b)(xiii) and b(xv) of the definition of Consolidated EBITDA (excluding any such items to the extent financed through the incurrence of Indebtedness (other than Working Capital Indebtedness permitted hereunder) or through an Equity Issuance). Notwithstanding the foregoing, (x) Capital Expenditures described in clause (a) of the definition of Fixed Charge Coverage Ratio for any of the following periods included in the 4 Fiscal Quarter period ending on such measurement date shall be deemed to be equal to the following amounts for such period: (1) $1,493,768 for the Fiscal Quarter ended March 31, 2018, (2) $2,861,222 for the Fiscal Quarter ended June 30, 2018, and (3) $6,743,553 for the Fiscal Quarter ended September 30, 2018, (y) the sum described in clause (b) of the definition of Fixed Charge Coverage Ratio for any of the following periods included in the 4 Fiscal Quarter period ending on such measurement date shall be deemed to be equal to the following amounts for such period: (1) $8,657,050 for the Fiscal Quarter ended March 31, 2018, (2) $6,409,879 for the Fiscal Quarter ended June 30, 2018, and (3) $6,513,716 for the Fiscal Quarter ended September 30, 2018, and (z) clause (b)(i) and (b)(ii) of the definition of Fixed Charge Coverage Ratio shall be deemed to be equal to $ 2,191,714 and $1,000,000, respectively, for the Fiscal Quarter ended December 31, 2018. Notwithstanding the foregoing, Restricted Payments made pursuant to clause (II) of the definition of Restricted Payment

Available Amount Conditions which reduce the Restricted Payment Available Amount shall be excluded from clause (b)(iv) above.

"Flood Hazard Property" shall mean any parcel of any owned Real Property with improvements located thereon located in the United States that is subject to a Mortgage in an area designated by the Federal Emergency Management Agency as having special flood or mudslide hazards.

"Flood Insurance Laws" shall mean, 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 and (iv) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto.

"Florida Real Property Purchase Agreement" means that certain Real Property Contract for Purchase and Sale dated as of September 1, 2018 between Graywolf, as seller, and Lamb Investors, LLC, as buyer.

"Florida Real Property" means the real property and any contract rights, guaranties, easements, privileges, servitudes, appurtenances and other rights pertaining thereto, and all property improvements of the real property owned by Graywolf as described in the Florida Real Property Purchase Agreement at the location having a street address of 3029 S. Suncoast Blvd., Homosassa, FL 34448.

"Foreign Official" has the meaning specified therefor in Section 6.01(z).

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

"Funding Losses" has the meaning specified therefor in Section 2.08.

"GAAP" means generally accepted accounting principles in effect from time to time in the United States, applied on a consistent basis, provided that for the purpose of Section 7.03 hereof and the definitions used therein, "GAAP" shall mean generally accepted accounting principles in effect on the date hereof and consistent with those used in the preparation of the Financial Statements, provided, further, that if there occurs after the date of this Agreement any change in GAAP that affects in any respect the calculation of any covenant contained in Section 7.03 hereof, the Collateral Agent and the Administrative Borrower shall negotiate in good faith amendments to the provisions of this Agreement that relate to the calculation of such covenant with the intent of having the respective positions of the Lenders and the Borrowers after such change in GAAP conform as nearly as possible to their respective positions as of the date of this Agreement and, until any such amendments have been agreed upon, the covenants in Section 7.03 hereof shall be calculated as if no such change in GAAP has occurred.

"Governing Documents" means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization, and the operating agreement; (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture, declaration or other applicable agreement or documentation evidencing or otherwise relating to its formation or organization, governance and capitalization; and (d) with respect to any of the entities described above, any other agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization.

"Governmental Authority" means any nation or government, any foreign, federal, state, territory, provincial, city, town, municipality, county, local or other political subdivision thereof or thereto and any department, commission, board, bureau, instrumentality, agency or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"Graywolf" means GrayWolf Industrial, Inc. (f/k/a Horn Intermediate Holdings, Inc.), a Delaware corporation.

"Graywolf Acquisition" means the Acquisition consummated pursuant to the Graywolf Acquisition Agreement.

"Graywolf Acquisition Agreement" means that certain Agreement and Plan of Merger, dated as of October 10, 2018, by and among DBM, DBM Merger Sub, Inc., CB-Horn Holdings, Inc. and Charlesbank Equity Fund VI, Limited Partnership, as stockholders' representative, as amended by that certain Amendment No. 1 to Agreement and Plan of Merger dated as of November 29, 2018 and as further amended with the consent of the Agent and all exhibits, schedules and annexes thereto.

"Graywolf Acquisition Documents" means the Graywolf Acquisition Agreement, the Escrow Agreement (as defined in the Graywolf Acquisition Agreement), the Transition Services Agreement (as defined in the Graywolf Acquisition Agreement), and all schedules, exhibits and annexes to the foregoing.

"Graywolf Facilities" means any real property (whether fee or leashold) identified on Schedule 1.01(C), including, without limitation, the land on which each such facility is located, all buildings and other improvements thereon, and all fixtures located thereat or used in connection therewith.

"Graywolf Sellers" means, collectively, the stockholders of CBN-Horn Holdings, Inc.

"Guaranteed Obligations" has the meaning specified therefor in Section 11.01.

"Guarantor" means (a) each Subsidiary of DBM listed as a "Guarantor" on the signature pages hereto, and (b) each other Person which guarantees, pursuant to Section 7.01(b) or otherwise, all or any part of the Obligations.

"Guaranty" means (a) the guaranty of each Guarantor party hereto contained in Article XI hereof and (b) each other guaranty, in form and substance reasonably satisfactory to the Collateral Agent, made by any other Guarantor in favor of the Collateral Agent for the benefit of the Agents and the Lenders guaranteeing all or part of the Obligations.

"Hazardous Material" means (a) any element, compound or chemical that is defined, listed or otherwise classified as a contaminant, pollutant, toxic pollutant, toxic or hazardous substance, extremely hazardous substance or chemical, hazardous waste, special waste, or solid waste under Environmental Laws or that is likely to cause immediately, or at some future time, harm to or have an adverse effect on, the environment or risk to human health or safety, including, without limitation, any pollutant, contaminant, waste, hazardous waste, toxic substance or dangerous good which is defined or identified in any Environmental Law and which is present in the environment in such quantity or state that it contravenes any Environmental Law; (b) petroleum and its refined products; (c) polychlorinated biphenyls; (d) any substance exhibiting a hazardous waste characteristic, including, without limitation, corrosivity, ignitability, toxicity or reactivity as well as any radioactive or explosive materials; and (e) any raw materials, building components (including, without limitation, asbestos-containing materials) and manufactured products containing hazardous substances listed or classified as such under Environmental Laws.

"Hedging Agreement" means any interest rate, foreign currency, commodity or equity swap, collar, cap, floor or forward rate agreement, or other agreement or arrangement designed to protect against fluctuations in interest rates or currency, commodity or equity values (including, without limitation, any option with respect to any of the foregoing and any combination of the foregoing agreements or arrangements), and any confirmation executed in connection with any such agreement or arrangement.

"Highest Lawful Rate" means, with respect to any Agent or any Lender, the maximum non-usurious interest rate, if any, that at any time or from time to time may be contracted for, taken, reserved, charged or received on the Obligations under laws applicable to such Agent or such Lender which are currently in effect or, to the extent allowed by law, under such applicable laws which may hereafter be in effect and which allow a higher maximum non-usurious interest rate than applicable laws now allow.

"Holdout Lender" has the meaning specified therefor in Section 12.02(b).

"Immaterial Subsidiary" means each of Addison Structural Services, Inc., Schuff Steel Management Company Southeast L.L.C., Schuff Steel Management Company Colorado, L.L.C., BDS Steel Detailers (USA) Inc, Quincy Joist Company and any other Subsidiary of any Loan Party formed after the Effective Date that does not (a) own any assets (other than assets of a de minimis nature), (b) have any liabilities (other than liabilities of a de minimis nature) and (c) engage in any business activity. Notwithstanding anything to contrary in this Agreement or any

other Loan Document, no Subsidiary which is a borrower or a guarantor under the Working Capital Credit Agreement shall be an Immaterial Subsidiary hereunder.

"Indebtedness" means, with respect to any Person, without duplication, (1) all indebtedness of such Person for borrowed money; (1) all obligations of such Person for the deferred purchase price of property or services (other than trade payables or other accounts payable incurred in the ordinary course of such Person's business and not outstanding for more than ninety (90) days after the date such payable was created and any earn-out, purchase price adjustment or similar obligation until such obligation appears in the liabilities section of the balance sheet of such Person); (1) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments or upon which interest payments are customarily made; (1) all reimbursement, payment or other obligations and liabilities of such Person created or arising under any conditional sales or other title retention agreement with respect to property used and/or acquired by such Person (other than such reimbursement, payment or other obligations and liabilities not outstanding for more than ninety (90) days after the date such obligation or liability was created), even though the rights and remedies of the lessor, seller and/or lender thereunder may be limited to repossession or sale of such property; (1) all Capitalized Lease Obligations of such Person; (1) all obligations and liabilities, contingent or otherwise, of such Person, in respect of letters of credit, acceptances and similar facilities; (1) all obligations and liabilities, calculated on a basis reasonably satisfactory to the Collateral Agent and in accordance with accepted practice, of such Person under Hedging Agreements; (1) all monetary obligations under any receivables factoring, receivable sales or similar transactions and all monetary obligations under any synthetic lease, tax ownership/operating lease, off-balance sheet financing or similar financing; (1) all Contingent Obligations; (1) all Disqualified Equity Interests; and (1) all obligations referred to in clauses (1) through (j) of this definition of another Person secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) a Lien upon property owned by such Person, even though such Person has not assumed or become liable for the payment of such Indebtedness. The Indebtedness of any Person shall include the Indebtedness of any partnership of or joint venture in which such Person is a general partner or a joint venturer (but solely to the extent that such joint venturer is liable therefor as a result of its ownership interest in such entity (it being understood that in the event that the terms of such Indebtedness expressly provide that such Person is not liable therefor, such Indebtedness shall not be considered Indebtedness of such Person)).

"Indemnified Matters" has the meaning specified therefor in Section 12.15.

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

"Indemnitees" has the meaning specified therefor in Section 12.15.

“Initial Restricted Payment Available Amount Conditions” means (A) both before and after giving effect to such Restricted Payment (i) Liquidity (after giving effect to all blocks on Working Capital Availability under the Working Capital Credit Agreement) is at least $10,000,000, (ii) no Default or Event of Default exists or would result from such Restricted Payment, (iii) the

Senior Leverage Ratio for the most recent trailing twelve month period calculated based on the most recent monthly financial statements required to have been delivered to the Administrative Agent pursuant to Section 7.01(a)(i) (or prior to the first such delivery, delivered to the Administrative Agent prior to the Effective Date) after giving pro forma effect to such Restricted Payment does not exceed 2.50:1.00 (it being understood for purposes of calculating the Senior Leverage Ratio for this clause (iii), the outstanding amount under the Working Capital Credit Agreement shall be deemed to be an amount equal to the average outstanding principal balance thereunder for the 30 day period most recently ended) and (B) prior to making such payment an Authorized Officer of the Administrative Borrower shall have delivered a certificate to the Administrative Agent and the Lenders certifying as to the foregoing conditions and attaching calculations reasonably satisfactory to the Administrative Agent in support thereof, including certifications and calculations as to the current Restricted Payment Available Amount.

"Insolvency Proceeding" means any proceeding commenced by or against any Person under any provision of any Debtor Relief Law.

"Intellectual Property" has the meaning specified therefor in the Security Agreement.

"Intercompany Subordination Agreement" means an Intercompany Subordination Agreement made by DBM and its Subsidiaries in favor of the Collateral Agent for the benefit of the Agents and the Lenders, in form and substance reasonably satisfactory to the Collateral Agent.

"Intercreditor Agreement" means the Intercreditor Agreement, dated as of the date hereof, by and among the Collateral Agent and the Working Capital Agent, and acknowledged by the Loan Parties.

“Interest Payment Date” means the last Business Day of each month.

"Interest Period" means, (i) with respect to each LIBOR Rate Loan made or converted other than on an Interest Payment Date, 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 Reference Rate Loan to a LIBOR Rate Loan) and ending on the next succeeding Interest Payment Date, and (ii) with respect to a LIBOR Rate Loan made, continued or converted on an Interest Payment Date, a period beginning on such Interest Payment Date and ending on the Interest Payment Date that is 1, 2 or 3 months thereafter; provided, however, that in the case of either clause (i) or (ii) of this definition, the Borrowers may not elect an Interest Period which will end after the Final Maturity Date.

"Internal Revenue Code" means the Internal Revenue Code of 1986, as amended (or any successor statute thereto) and the regulations thereunder.

"Inventory" means, with respect to any Person, all goods and merchandise of such Person leased or held for sale or lease by such Person, including, without limitation, all raw materials, work-in-process and finished goods, and all packaging, supplies and materials of every nature used or usable in connection with the shipping, storing, advertising or sale of such goods and merchandise,

whether now owned or hereafter acquired, and all such other property the sale or other disposition of which would give rise to an Account or cash.

"Investment" means, with respect to any Person, (a) any investment by such Person in any other Person (including Affiliates) in the form of loans, guarantees, advances or other extensions of credit (excluding Accounts arising in the ordinary course of business), capital contributions or acquisitions of Indebtedness (including, any bonds, notes, debentures or other debt securities), 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), (b) the purchase or ownership of any futures contract or liability for the purchase or sale of currency or other commodities at a future date in the nature of a futures contract, or (c) any investment in any other items that are or would be classified as investments on a balance sheet of such Person prepared in accordance with GAAP.

"Joinder Agreement" means a Joinder Agreement, substantially in the form of Exhibit A, duly executed by a Subsidiary of a Loan Party made a party hereto pursuant to Section 7.01(b)(i).

"Lender" has the meaning specified therefor in the preamble hereto.

"LIBOR" means, with respect to each day during each Interest Period pertaining to a LIBOR Rate Loan, the rate per annum rate appearing on the applicable Bloomberg (the "Service Page") page (or on any successor or substitute page of such Service, or any successor to or substitute for such Service), at approximately 11:00 a.m., London time, two Business Days prior to the beginning of such Interest Period, in an amount approximately equal to the principal amount of the LIBOR Rate Loan to which such Interest Period is to apply and for a period of time comparable to such Interest Period, which determination shall be conclusive absent manifest error. If such rate on the Service Page is not available at such time for such Interest Period (an "Impacted Interest Period") with respect to Dollars, then the LIBOR Rate shall be the Interpolated Rate at such time. "Interpolated Rate" means, at any time, the rate per annum determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the rate on the Service Page for the longest period (for which that rate on the Service Page is available in Dollars) that is shorter than the Impacted Interest Period and (b) the rate on the Service Page for the shortest period (for which that rate on the Service Page is available for Dollars) that exceeds the Impacted Interest Period, in each case, at such time. If at any time, for any reason, there no longer exists a rate on the Service Page or any Interpolated Rate for such Interest Period, the comparable replacement rate shall be the rate per annum determined by the Administrative Agent to be the rate per annum equal to the offered quotation rate to first class banks in the London interbank market for deposits (for delivery on the first day of the relevant period) in Dollars of amounts in same day funds comparable to the principal amount of the applicable LIBOR Rate Loan of 3 major London banks for which LIBOR is then being determined with maturities comparable to such Interest Period as of approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period. Notwithstanding anything herein to the contrary, if "LIBOR" shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"LIBOR Deadline" has the meaning specified therefor in Section 2.07(a).

"LIBOR Notice" means a written notice substantially in the form of Exhibit D.

"LIBOR Option" has the meaning specified therefor in Section 2.07(a).

"LIBOR Rate" means, for each Interest Period for each LIBOR Rate Loan, the greater of (a) the rate per annum determined by the Administrative Agent (rounded upwards if necessary, to the next 1/100%) by dividing (i) LIBOR for such Interest Period by (ii) 100% minus the Reserve Percentage and (b) 1.50%. The LIBOR Rate shall be adjusted on and as of the effective day of any change in the Reserve Percentage.

"LIBOR Rate Loan" means each portion of a Loan that bears interest at a rate determined by reference to the LIBOR Rate.

"LIBOR Successor Rate" has the meaning specified therefor in Section 2.11(c).

"LIBOR Successor Rate Conforming Changes" means, with respect to any proposed LIBOR Successor Rate, any conforming changes to the definition of Reference Rate, Interest Period, timing and frequency of determining rates and making payments of interest and other administrative matters as may be appropriate, in the discretion of the Administrative Agent, to reflect the adoption of such LIBOR Successor Rate and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent determines that adoption of any portion of such market practice is not administratively feasible or that no market practice for the administration of such LIBOR Successor Rate exists, in such other manner of administration as the Administrative Agent determines in consultation with the Administrative Borrower).

"Lien" means any mortgage, deed of trust, pledge, lien (statutory or otherwise), security interest, charge or other encumbrance or security or preferential arrangement of any nature, including, without limitation, any conditional sale or title retention arrangement, any Capitalized Lease and any assignment, deposit arrangement or financing lease intended as, or having the effect of, security.

"Liquidity" means, with reference to any period, the aggregate amount of Qualified Cash of the Loan Parties and Working Capital Availability.

"Loan" means a term loan made by a Lender to the Borrowers pursuant to Article II hereof.

"Loan Account" means an account maintained hereunder by the Administrative Agent on its books of account at the Payment Office, and with respect to the Borrowers, in which the Borrowers will be charged with all Loans made to, and all other Obligations incurred by, the Borrowers.

"Loan Document" means this Agreement, the R&W Insurance Collateral Assignment, any Control Agreement, any Guaranty, the Intercompany Subordination Agreement, the Intercreditor Agreement, any Joinder Agreement, the Mortgages, any Security Agreement, any

landlord waiver, any collateral access agreement, any Perfection Certificate and any other agreement, instrument, certificate, report and other document executed and delivered pursuant hereto or thereto or otherwise evidencing or securing any Loan or any other Obligation.

"Loan Party" means any Borrower and any Guarantor.

"Loan Servicing Fee" has the meaning specified therefor in Section 2.06(b).

"Material Adverse Effect" means a material adverse effect on any of (a) the operations, assets, liabilities or financial condition of the Loan Parties taken as a whole, (b) the ability of the Loan Parties taken as a whole to perform any of their obligations under any Loan Document, (c) the legality, validity or enforceability of this Agreement or any other Loan Document, (d) the rights and remedies of any Agent or any Lender under any Loan Document, or (e) the validity, perfection or priority of a Lien in favor of the Collateral Agent for the benefit of the Agents and the Lenders on a material portion of the Collateral.

"Material Contract" means, with respect to any Person, (a) the Graywolf Acquisition Agreement, (b) each Working Capital Loan Document, (c) the Tax Sharing Agreement, (d) the Parent Debt Documents, (e) each contract or agreement to which such Person or any of its Subsidiaries is a party involving aggregate consideration payable to or by such Person or such Subsidiary of $5,000,000 or more in any Fiscal Year (other than contracts that by their terms may be terminated by such Person or Subsidiary in the ordinary course of its business upon less than 60 days' notice without penalty or premium and revenue side construction contracts involving aggregate consideration of less than $40,000,000) and (f) each other contract or agreement as to which the breach, nonperformance, cancellation or failure to renew by any party thereto could reasonably be expected to have a Material Adverse Effect.

"Material Lease" means any lease of real property to which any Loan Party or any of its Subsidiaries is a party as lessor or lessee and which (a) is the chief executive office of any Loan Party, (b) is a location at which the books and records relating to the operation of the business of any Loan Party are stored, or (c) is a location at which assets of the Loan Parties with a fair market value in excess of $750,000 are located

“Material Real Property” shall mean each parcel of Real Property that is now or hereafter owned in fee by any Loan Party that (together with any other parcels constituting a single site or operating property) has a fair market value (as determined by the Borrowers in good faith) of at least $500,000.

"Moody's" means Moody's Investors Service, Inc. and any successor thereto.

"Mortgage" means a mortgage (including, subject to the last sentence of Section 7.01(m), a leasehold mortgage), deed of trust or deed to secure debt, in form and substance reasonably satisfactory to the Collateral Agent, made by a Loan Party in favor of the Collateral Agent for the benefit of the Agents and the Lenders, securing the Obligations and delivered to the Collateral Agent.

"Mortgaged Property" shall mean any Material Real Property of any Loan Party which will be encumbered (or required to be encumbered) by a Mortgage.

"Multiemployer Plan" means a "multiemployer plan" as defined in Section 4001(a)(3) of ERISA to which any Loan Party or any of its ERISA Affiliates has contributed, or has been obligated to contribute, to at any time during the preceding 6 years.

"Net Cash Proceeds" means, with respect to, any issuance or incurrence of any Indebtedness, any Equity Issuance, any Disposition or the receipt of any Extraordinary Receipts by any Person or any of its Subsidiaries, the aggregate amount of cash received (directly or indirectly) from time to time (whether as initial consideration or through the payment or disposition of deferred consideration) by or on behalf of such Person or such Subsidiary, in connection therewith after deducting therefrom only (a) in the case of any Disposition or the receipt of any Extraordinary Receipts consisting of insurance proceeds or condemnation awards, the amount of any Indebtedness secured by any Permitted Lien on any asset (other than Indebtedness assumed by the purchaser of such asset) which is required to be, and is, repaid in connection therewith (other than Indebtedness under this Agreement), (b) reasonable expenses related thereto incurred by such Person or such Subsidiary in connection therewith, (c) transfer taxes paid to any taxing authorities by such Person or such Subsidiary in connection therewith, and (d) net income taxes to be paid in connection therewith (after taking into account any tax credits or deductions and any tax sharing arrangements), in each case, to the extent, but only to the extent, that the amounts so deducted are (i) actually paid to a Person that is not an Affiliate of such Person or any of its Subsidiaries and (ii) properly attributable to such transaction or to the asset that is the subject thereof.

"Net Income" (or "Net Loss") means, with respect to any Person, the fiscal year-to-date after-tax net income (or net loss) from continuing operations as determined in accordance with GAAP.

"New Facility" has the meaning specified therefor in Section 7.01(m).

"Non-U.S. Lender" has the meaning specified therefor in Section 2.09(f).

"Notice of Borrowing" has the meaning specified therefor in Section 2.02(a).

"Obligations" means all present and future indebtedness, obligations, and liabilities of each Loan Party to the Agents and the Lenders arising under or in connection with this Agreement or any other Loan Document, whether or not the right of payment in respect of such claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, disputed, undisputed, legal, equitable, secured, unsecured, and whether or not such claim is discharged, stayed or otherwise affected by any proceeding referred to in Section 9.01. Without limiting the generality of the foregoing, the Obligations of each Loan Party under the Loan Documents include (a) the obligation (irrespective of whether a claim therefor is allowed in an Insolvency Proceeding) to pay principal, interest, charges, expenses, fees, premiums (including the Applicable Premium), attorneys' fees and disbursements, indemnities and other amounts payable by such Person under the Loan Documents, and (b) the obligation of such Person to reimburse any amount in respect of any of the foregoing

that any Agent or any Lender (in its reasonable discretion pursuant to the terms of this Agreement or any other Loan Document) may elect to pay or advance on behalf of such Person.

"OFAC Sanctions Programs" means (a) the Requirements of Law and Executive Orders administered by OFAC, including, without limitation, Executive Order No. 13224, and (b) the SDN List, in each case, as renewed, extended, amended, or replaced.

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

"Other Taxes" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.12(b)).

"Parent" means HC2 Holdings, Inc., a Delaware corporation.

"Parent Convertible Senior Notes" means those certain 7.5% Convertible Senior Notes due 2022 issued by the Parent pursuant to the Parent Convertible Senior Notes Indenture and any debt issued to replace or refinance any Parent Convertible Senior Notes.

"Parent Convertible Senior Notes Indenture" means that certain Indenture, dated as of November 20, 2018, among Parent, the guarantors party thereto and U.S. Bank National Association, as trustee, as amended, modified or supplemented from time to time and any other definitive documentation governing any Parent Convertible Senior Notes (including, for the avoidance of doubt, any definitive documentation governing any debt issued to replace or refinance any Parent Convertible Senior Notes).

"Parent Debt Documents" means the Parent Notes, the Parent Senior Secured Notes Indenture, the Parent Convertible Senior Notes Indenture, any documents related thereto including any guarantees or collateral documents and any other documentation related to any Parent Notes, and any documentation governing or related to any debt issued to replace or refinance any Parent Notes.

"Parent Notes" means the Parent Senior Secured Notes and the Parent Convertible Senior Notes or, in the event that either the Parent Senior Secured Notes or the Parent Convertible Secured Notes have been refinanced, any debt issued to replace or refinance any such indebtedness.

"Parent Senior Secured Notes" means those certain 11.500% Senior Secured Notes due 2021 issued by the Parent pursuant to the Parent Senior Secured Notes Indenture and any debt issued to replace or refinance any Parent Senior Secured Notes.

"Parent Senior Secured Notes Indenture" means that certain Indenture, dated as of November 20, 2018, among Parent, the guarantors party thereto and U.S. Bank National Association, as trustee, as amended, modified or supplemented from time to time and any other definitive documentation governing any Parent Senior Secured Notes (including, for the avoidance of doubt, any definitive documentation governing any debt issued to replace or refinance any Parent Senior Secured Notes).

"Participant Register" has the meaning specified therefor in Section 12.07(i).

"Payment Office" means the Administrative Agent's office located at 865 South Figueroa Street, Suite 1800, Los Angeles, CA 90017, or at such other office or offices of the Administrative Agent as may be designated in writing from time to time by the Administrative Agent to the Collateral Agent and the Administrative Borrower.

"PBGC" means the Pension Benefit Guaranty Corporation or any successor thereto.

"Perfection Certificate" means a certificate in form and substance reasonably satisfactory to the Collateral Agent providing information with respect to the property of each Loan Party.

"Permitted Acquisition" means any Acquisition by any Wholly-Owned Subsidiary of DBM consummated after the Effective Date to the extent that each of the following conditions shall have been satisfied:

(a) no Default or Event of Default shall have occurred and be continuing or would result from the consummation of the proposed Acquisition;

(b) to the extent that such Acquisition is consummated after the Effective Date and the Purchase Price payable in respect of such Acquisition or series of related Acquisitions is in excess of $10,000,000, the Senior Leverage Ratio of DBM and its Subsidiaries, as of the end of the most recently ended fiscal month for which financial statements have been delivered to the Agents in accordance with Section 7.01(a)(i), both before and after giving effect to such Acquisition, shall not exceed the least of (1) 2.00 to 1.00 (2) the Senior Leverage Ratio of the Parent and its Subsidiaries immediately prior to such Acquisition plus 0.50 to 1.00 and (3) the maximum Senior Leverage Ratio permitted under Section 7.03(b) for the most recently ended fiscal quarter minus 0.25 to 1.00;

(c) the Borrowers shall have furnished to the Agents at least 15 days prior to the consummation of such Acquisition (or such lesser time as agreed by the Agents) (i) an executed term sheet and/or commitment letter (setting forth in reasonable detail the terms and conditions of such Acquisition) and, at the request of any Agent, such other information and documents that any Agent may reasonably request, including, without limitation, executed counterparts of the respective

agreements, instruments or other documents pursuant to which such Acquisition is to be consummated (including, without limitation, any related management, non-compete, employment, option or other material agreements), any schedules to such agreements, instruments or other documents and all other material ancillary agreements, instruments or other documents to be executed or delivered in connection therewith, (ii) pro forma financial statements of DBM and its Subsidiaries after the consummation of such Acquisition, (iii) if obtained by or on behalf of any Loan Party and in any event upon the reasonable request therefor by any Agent with respect to any Acquisition for which the Purchase Price is equal to or exceeds $20,000,000, a quality of earnings report from a third party firm reasonably acceptable to such Agent, (iv) a certificate of the chief financial officer of DBM, demonstrating on a pro forma basis compliance, as at the end of the most recently ended fiscal quarter for which internally prepared financial statements are available, with all covenants set forth in Section 7.03 hereof after the consummation of such Acquisition, and (v) copies of such other agreements, instruments or other documents as any Agent shall reasonably request;

(d) the agreements, instruments and other documents referred to in paragraph (c) above shall provide that (i) neither the Loan Parties nor any of their Subsidiaries shall, in connection with such Acquisition, assume or remain liable in respect of any Indebtedness of the Seller or Sellers, or other obligation of the Seller or Sellers (except for Permitted Indebtedness), and (ii) all property to be so acquired in connection with such Acquisition shall be free and clear of any and all Liens, except for Permitted Liens (and if any such property is subject to any Lien not permitted by this clause (ii) then concurrently with such Acquisition such Lien shall be released);

(e) such Acquisition shall be effected in such a manner so that the acquired assets or Equity Interests are owned either by a Loan Party or a Wholly-Owned Subsidiary of a Loan Party and, if effected by merger or consolidation involving a Loan Party, such Loan Party shall be the continuing or surviving Person;

(f) the Borrowers shall have Working Capital Availability in an amount equal to or greater than $12,500,000 immediately after giving pro forma effect to the consummation of the proposed Acquisition;

(g) the assets being acquired or the Person whose Equity Interests are being acquired did not have Consolidated EBITDA of less than zero during the 12 consecutive month period most recently concluded prior to the date of the proposed Acquisition;

(h) the assets being acquired (other than a *de minimis* amount of assets in relation to the Loan Parties' and their Subsidiaries' total assets), or the Person whose Equity Interests are being acquired, are useful in or engaged in, as applicable, the business of the Loan Parties and their Subsidiaries or a business reasonably related thereto;

(i) either (i) the assets being acquired (other than a *de minimis* amount of assets in relation to the assets being acquired) are located within the United States or the Person whose Equity Interests are being acquired is organized in a jurisdiction located within the United States or (ii) the assets being acquired are located outside of the United States or the Person whose Equity Interests are being acquired is organized in a jurisdiction located outside of the United States

and the Purchase Price payable in respect of such Acquisition or Acquisitions shall not exceed $10,000,000 for a single Acquisition and $20,000,000 in the aggregate for all such Acquisitions described under this clause (ii) during the term of this Agreement;

(j) such Acquisition shall be consensual and shall have been approved by the board of directors of the Person whose Equity Interests or assets are proposed to be acquired and shall not have been preceded by an unsolicited tender offer for such Equity Interests by, or proxy contest initiated by, DBM or any of its Subsidiaries or any Affiliate thereof;

(k) such Acquisition and all transactions entered into in connection therewith shall be permitted under the Working Capital Loan Documents and the Parent Debt Documents; and

(l) any such Subsidiary (and its equityholders) shall execute and deliver the agreements, instruments and other documents required by Section 7.01(b) on or prior to the date of the consummation of such Acquisition;

"Permitted Disposition" means:

(a) sale of Inventory in the ordinary course of business;

(b) any Dispositions of obsolete or worn out machinery and equipment no longer used or useful in the conduct of the business of DBM or any of its Subsidiaries in the ordinary course of business;

(c) licensing, on a non-exclusive basis, Intellectual Property rights in the ordinary course of business;

(d) leasing or subleasing assets in the ordinary course of business;

(e) (i) the lapse of Registered Intellectual Property of DBM and its Subsidiaries to the extent not economically desirable in the conduct of their business or (ii) the abandonment of Intellectual Property rights in the ordinary course of business so long as (in each case under clauses (i) and (ii)), (A) with respect to copyrights, such copyrights are not material revenue generating copyrights, and (B) such lapse is not materially adverse to the interests of the Secured Parties;

(f) any involuntary loss, damage or destruction of property;

(g) any involuntary condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, or confiscation or requisition of use of property;

(h) transfers of assets (i) from DBM or any of its Subsidiaries to a Loan Party (other than DBM), and (ii) from any Subsidiary of DBM that is not a Loan Party to any other Subsidiary of DBM;

(i) any termination of a lease, sublease, license, sublicense, use agreement or similar agreement of real or personal property in the ordinary course of business which is otherwise permitted by this Agreement;

(j) the granting of a Permitted Lien;

(k) any termination of a Hedging Agreement;

(l) the making of any Permitted Restricted Payment;

(m) any disposition of cash, Cash Equivalents and marketable securities, and dispositions of overdue accounts receivable arising in the ordinary course of business for collection purposes that are not otherwise included in the Working Capital Borrowing Base; and

(n) any Disposition of property or assets not otherwise permitted in clauses (a) through (m) above for cash in an aggregate amount not less than the fair market value of such property or assets; provided that the aggregate fair market value of property or assets disposed of pursuant to this clause (n) shall not exceed (i) $6,000,000 in any Fiscal Year and (ii) $20,000,000 during the term of this Agreement.

"Permitted Holders" shall mean:

(a) Harbinger Group, Inc. and Philip A. Falcone;

(b) any Controlled Investment Affiliate of any Person specified in clause (a), other than another portfolio company thereof (which means a company actively engaged in providing good and services to unaffiliated customers) or a company controlled by a "portfolio company"; or

(c) any Person both the Equity Interests and voting capital stock of which (or in the case of a trust, the beneficial interests in which) are owned 50% or more by Persons specified in clauses (a) or (b) or any group in which the Persons specified in clauses (a) and (b) own more than a majority of the voting capital stock and Equity Interests held by such group.

"Permitted Indebtedness" means:

(a) any Indebtedness owing to any Agent or any Lender under this Agreement and the other Loan Documents;

(b) any other Indebtedness listed on Schedule 7.02(b), and any Permitted Refinancing Indebtedness in respect of such Indebtedness;

(c) Permitted Purchase Money Indebtedness and any Permitted Refinancing Indebtedness in respect of such Indebtedness;

(d) Permitted Intercompany Investments;

(e) Indebtedness incurred under performance, surety, statutory, bid, performance guarantees, appeal bonds, lien bonds or similar obligations incurred in the ordinary course of business;

(f) Indebtedness incurred in the ordinary course of business and owed in respect of any overdrafts not outstanding for more than three (3) Business Days and related liabilities arising from treasury, depository and cash management services or in connection with any automated clearing-house transfers of funds, in each case, in the ordinary course of business and not constituting Indebtedness for borrowed money;

(g) Indebtedness incurred in respect of workers' compensation, unemployment insurance, claims, health, disability or other employee benefits or other Indebtedness with respect to reimbursement-type obligations regarding workers' compensation claims;

(h) Indebtedness owed to any Person providing property, casualty, liability, or other insurance to the Loan Parties, 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 period in which such Indebtedness is incurred and such Indebtedness is outstanding only during such period;

(i) the incurrence by any Loan Party of Indebtedness under Hedging Agreements that are incurred for the bona fide purpose of hedging the interest rate, commodity, or foreign currency risks associated with such Loan Party's operations and not for speculative purposes; provided that Indebtedness under Hedging Agreements that are incurred for the purpose of hedging commodity risks shall not exceed $1,500,000 in the aggregate at any time outstanding;

(j) contingent liabilities in respect of any indemnification obligation, adjustment of purchase price, non-compete, or similar obligation of any Loan Party incurred in connection with the consummation of the Graywolf Acquisition in accordance with the Graywolf Acquisition Agreement or one or more Permitted Acquisitions;

(k) Indebtedness of a Person whose assets or Equity Interests are acquired by any Wholly-Owned Subsidiary of DBM in a Permitted Acquisition in an aggregate amount not to exceed $3,500,000 at any one time outstanding; provided, that such Indebtedness (i) is either Permitted Purchase Money Indebtedness or a Capitalized Lease with respect to equipment or mortgage financing with respect to a Facility, (ii) was in existence prior to the date of such Permitted Acquisition, and (iii) was not incurred in connection with, or in contemplation of, such Permitted Acquisition;

(l) Working Capital Indebtedness (including, without limitation, Indebtedness incurred in respect of Bank Product Obligations (as such term is defined in the Working Capital Credit Agreement)) and any Permitted Refinancing Indebtedness in respect of such Indebtedness, in an aggregate principal amount not exceeding the Working Capital Maximum Amount plus, in the case of Bank Product Obligations, the amount of any Permitted Bank Product Obligations (as such term is defined in the Intercreditor Agreement), so long as such Indebtedness is subject to the terms and conditions of the Intercreditor Agreement;

(m) guaranties by any Loan Party of operating leases of any other Loan Party in the ordinary course of business;

(n) broker's or finder's fees or commissions with respect to any Permitted Acquisition or Permitted Disposition payable in installments;

(o) unsecured Indebtedness owing to any Seller (other than the Graywolf Sellers) that is incurred by the applicable Loan Party in connection with the consummation of one or more Permitted Acquisitions (other than the Graywolf Acquisition) (including, without limitation, obligations under earn-out agreements and similar deferred purchase arrangements) in an aggregate principal amount for all such Indebtedness not to exceed $4,000,000 at any one time outstanding, so long as such Indebtedness (a) is subordinated to the Obligations on terms and conditions reasonably acceptable to the Collateral Agent and (b) is otherwise on terms and conditions reasonably acceptable to the Collateral Agent;

(p) Subordinated Indebtedness in an aggregate principal amount not exceeding $7,500,000 at any time outstanding;

(q) unsecured Indebtedness representing deferred compensation to directors, officers or employees of DBM and/or its Subsidiaries (other than directors, officers or employees who are also directors, officers or employees of Parent or any of its Affiliates (other than DBM and its Subsidiaries)) incurred in the ordinary course of business in an aggregate amount not to exceed $12,000,000 at any time outstanding;

(r) other (i) Contingent Obligations in an aggregate principal amount not exceeding $2,000,000 at any time outstanding and (ii) Indebtedness in an aggregate principal amount not exceeding $3,000,000 at any time outstanding; and

(s) all premiums, interest (including post-petition interest), fees, expenses, charges and additional contingent interest on obligations described in paragraphs (a) through (r) above.

"Permitted Intercompany Investments" means Investments made by (a) a Loan Party to or in another Loan Party (other than DBM), (b) a Subsidiary that is not a Loan Party to or in another Subsidiary that is not a Loan Party, (c) a Subsidiary that is not a Loan Party to or in a Loan Party, so long as, in the case of a loan or advance, the parties thereto are party to the Intercompany Subordination Agreement, and (d) a Loan Party to or in a Subsidiary that is not a Loan Party so long as (i) the aggregate amount of all such Investments made by the Loan Parties to or in Subsidiaries that are not Loan Parties does not exceed $2,000,000 at any time outstanding and (ii) no Default or Event of Default has occurred and is continuing either before or after giving effect to such Investment.

"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 in the ordinary course of business in the form of prepaid rent not exceeding two (2) months or security deposits securing rent obligations;

(d) advances made in connection with purchases of goods or services in the ordinary course of business;

(e) 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 or upon the foreclosure or enforcement of any Lien in favor of a Loan Party or its Subsidiaries;

(f) Investments existing on the date hereof, as set forth on Schedule 7.02(e) hereto, but not any increase in the amount thereof as set forth in such Schedule;

(g) Permitted Intercompany Investments;

(h) Permitted Acquisitions;

(i) Investments consisting of (i) lease, utility and other similar deposits made in the ordinary course of business and (ii) any deposit relating to the disposition of equipment to the extent constituting a Permitted Disposition;

(j) Hedging Agreements entered into in accordance with clause (i) of the definition of Permitted Indebtedness;

(k) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business and payable or dischargeable in accordance with customary trade terms, and Investments received in satisfaction or partial satisfaction thereof from financially troubled Account Debtors and other credits to suppliers in the ordinary course of business;

(l) loans or other advances of money to any officer or employee of any Loan Party for travel expenses, commissions and similar items in the ordinary course of business; provided that the aggregate amount of loans and other advances of money made pursuant to this clause (l) shall not exceed (i) with respect to all such loans and advances made to any Person, $25,000 at any time outstanding, and (ii) with respect to all such loans and advances, $250,000 at any time outstanding;

(m) the Graywolf Acquisition to the extent consummated in accordance with the Graywolf Acquisition Agreement; and

(n) so long as no Default or Event of Default has occurred and is continuing or would result therefrom, any other Investments in an aggregate amount not to exceed $3,000,000 at any time outstanding.

"Permitted Liens" means:

(a) Liens securing the Obligations;

(b) Liens for taxes, the payment of which is not required under Section 7.01(c)(ii);

(c) Liens imposed by law, such as carriers', warehousemen's, mechanics', materialmen's and other similar Liens arising in the ordinary course of business and securing obligations (other than Indebtedness for borrowed money) that are not overdue by more than 60 days or that are being contested in good faith and by appropriate proceedings promptly initiated and diligently conducted, and a reserve or other appropriate provision, if any, as shall be required by GAAP shall have been made therefor;

(d) Liens described on Schedule 7.02(a), provided that any such Lien shall only secure the Indebtedness that it secures on the Effective Date and any Permitted Refinancing Indebtedness in respect thereof;

(e) purchase money Liens on equipment acquired or held by any Loan Party or any of its Subsidiaries in the ordinary course of its business to secure Permitted Purchase Money Indebtedness so long as such Lien only (i) attaches to such property and proceeds thereof and (ii) secures the Indebtedness that was incurred to acquire such property or any Permitted Refinancing Indebtedness in respect thereof;

(f) deposits and pledges of cash securing (i) obligations incurred in respect of workers' compensation, unemployment insurance or other forms of governmental insurance or benefits, (ii) the performance of bids, tenders, leases, contracts (other than for the payment of money) and statutory obligations or (iii) obligations on surety or appeal bonds, but only to the extent such deposits or pledges are made or otherwise arise in the ordinary course of business and secure obligations not past due; provided that such Liens securing any of the foregoing obligations in the preceding clauses (i)-(iii) shall not exceed $5,000,000 in the aggregate;

(g) with respect to any Facility, easements, zoning restrictions and similar encumbrances on real property and minor irregularities in the title thereto that do not (i) secure obligations for the payment of money or (ii) materially impair the value of such property or its use by any Loan Party or any of its Subsidiaries in the normal conduct of such Person's business;

(h) Liens of landlords and mortgagees of landlords (i) arising by statute or under any lease or related Contractual Obligation entered into in the ordinary course of business, (ii) on fixtures and movable tangible property located on the real property leased or subleased from such landlord, or (iii) for amounts not yet due or that are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves or other appropriate provisions are maintained on the books of such Person in accordance with GAAP;

(i) the title and interest of a lessor or sublessor in and to personal property leased or subleased (other than through a Capitalized Lease), in each case extending only to such personal property;

(j) non-exclusive licenses of Intellectual Property rights in the ordinary course of business;

(k) judgment liens (other than for the payment of taxes, assessments or other governmental charges) securing judgments and other proceedings not constituting an Event of Default under Section 9.01(j);

(l) rights of set-off or bankers' liens upon deposits of cash in favor of banks or other depository institutions, solely to the extent incurred in connection with the maintenance of such deposit accounts in the ordinary course of business;

(m) 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 the definition of Permitted Indebtedness;

(n) Liens securing the Indebtedness permitted by clause (l) of the definition of Permitted Indebtedness, so long as such Liens are subject to the terms and conditions of the Intercreditor Agreement;

(o) the filing of UCC financing statements or any equivalent filings solely as a precautionary measure in connection with any operating lease;

(p) Liens solely on any cash earnest money deposits made by any Loan Party in connection with any letter of intent or purchase agreement with respect to a Permitted Acquisition;

(q) Liens in favor of customs and revenues authorities which secure payment of customs duties in connection with the importation of goods;

(r) Liens in favor of any Loan Party, so long as such Liens are subordinated to the Collateral Agent's Liens on terms and conditions, and pursuant to documentation, reasonably satisfactory to the Collateral Agent; and

(s) other Liens which do not secure Indebtedness for borrowed money or letters of credit and as to which the aggregate amount of the obligations secured thereby does not exceed $1,500,000.

"Permitted Purchase Money Indebtedness" means, as of any date of determination, Indebtedness (other than the Obligations, but including Capitalized Lease Obligations) incurred to finance the acquisition of any fixed assets secured by a Lien permitted under clause (e) of the definition of "Permitted Liens"; provided that (a) such Indebtedness is incurred within twenty (20) days after such acquisition, (b) such Indebtedness when incurred shall not exceed the purchase price of the asset financed and (c) the aggregate principal amount of all such Indebtedness (not including

any Indebtedness permitted under clause (k) of the definition of Permitted Indebtedness) shall not exceed $3,000,000 at any time outstanding.

"Permitted Refinancing Indebtedness" means the extension of maturity, refinancing or modification of the terms of Indebtedness so long as:

(a) after giving effect to such extension, refinancing or modification, the amount of such Indebtedness is not greater than the amount of Indebtedness outstanding immediately prior to such extension, refinancing or modification;

(b) such extension, refinancing or modification does not result in a shortening of the average weighted maturity (measured as of the extension, refinancing or modification) of the Indebtedness so extended, refinanced or modified;

(c) such extension, refinancing or modification is pursuant to terms that are not taken as a whole materially less favorable to the Loan Parties and the Lenders than the terms of the Indebtedness (including, without limitation, terms relating to the collateral (if any) and subordination (if any)) being extended, refinanced or modified; and

(d) the Indebtedness that is extended, refinanced or modified is not recourse to any Loan Party or any of its Subsidiaries that is liable on account of the obligations other than those Persons which were obligated with respect to the Indebtedness that was refinanced, renewed, or extended.

"Permitted Restricted Payments" means any of the following Restricted Payments made by:

(a) any Subsidiary of DBM to DBM in cash amounts necessary to pay, and DBM to pay, customary expenses (other than any expenses described in clause (d) below) in the ordinary course of business consistent with past practice as and when due and owing by DBM in the ordinary course of its business as a holding company (including franchise or other similar Taxes to maintain its existence and salaries and related reasonable and customary expenses incurred by employees of DBM),

(b) any Subsidiary of any Borrower (other than DBM) to such Borrower (other than DBM),

(c) DBM to pay dividends or distributions in the form of (or otherwise to issue) Qualified Equity Interests,

(d) any Subsidiary of DBM to DBM in cash amounts necessary to permit DBM, and that are substantially contemporaneously used by DBM, to pay reasonable fees, indemnities and reimbursements of out-of-pocket expenses to any director of DBM or any of its Subsidiaries in the ordinary course of business consistent with past practice in an aggregate amount not to exceed $500,000 in any Fiscal Year, and

(e) any Subsidiary of DBM to DBM and then by DBM, cash amounts no more frequently than once per fiscal quarter (unless otherwise agreed by the Administrative Agent in its sole discretion) not to exceed the Restricted Payment Available Amount, so long as (A) from the period from the Closing Date until delivery of the financial statements required by Section 7.01(a)(ii) for the Fiscal Quarter ended on or around March 31, 2019, the Initial Restricted Payment Available Amount Conditions are met at the time of the making of such Restricted Payment, and (B) thereafter, the Restricted Payment Available Amount Conditions are met at the time of the making of such Restricted Payment.

"Permitted Specified Liens" means Permitted Liens described (a) in all cases other than in the case of Section 7.01(b)(i), in clauses (a), (b), (c), (k) and (n) of the definition of Permitted Liens and (b) solely in the case of Section 7.01(b)(i), in clauses (a), (b) (c), (g), (h), (i), (k) and (n) of the definition of Permitted Liens.

"Person" means an individual, corporation, limited liability company, partnership, association, joint-stock company, trust, unincorporated organization, joint venture or other enterprise or entity or Governmental Authority.

"Petty Cash Accounts" means Cash Management Accounts with deposits at any time in an aggregate amount not in excess of $10,000 for any one account and $500,000 in the aggregate for all such accounts.

"Plan" means any Employee Plan or Multiemployer Plan.

"Post-Default Rate" means a rate of interest per annum equal to the rate of interest otherwise in effect from time to time pursuant to the terms of this Agreement plus 2.00%, or, if a rate of interest is not otherwise in effect, interest at the highest rate specified herein for any Loan then outstanding prior to an Event of Default plus 2.00%.

"Pro Forma EBITDA" means, with respect to (a) the Graywolf Acquisition, the amounts set forth in Schedule 1.01(E) for the fiscal periods set forth therein and (b) any assets acquired in a Permitted Acquisition, the amount of historical Consolidated EBITDA (with such historical pro forma adjustments for other unusual, non-operating or non-recurring expenses and losses set forth in a quality of earnings report prepared by a regional or national third party accounting firm reasonably acceptable to the Agents and delivered to the Agents in connection with such Permitted Acquisition or, if no such quality of earnings report, exists, without any historical pro forma adjustments for other unusual, non-operating or non-recurring expenses and losses unless agreed otherwise by Agents in writing in their sole discretion) that is attributable to such assets; provided that with respect to any Permitted Acquisition, Consolidated EBITDA may be further adjusted to effect pro forma adjustments to reflect the amount of “run rate” cost savings, operating expense reductions and synergies arising in respect of any transactional or restructuring or business optimization actions taken and projected by the Administrative Borrower in good faith to be realized no later than 18 months after the consummation thereof (as though such cost savings, operating expense reductions and synergies had been realized on the first day of the relevant period), net of the amount of actual benefits realized from such actions; provided that (A) such cost savings, operating reductions and synergies are factually supportable and approved in writing by the

Administrative Agent and (B) no such cost savings, operating expense reductions or synergies shall be included in the calculation of Consolidated EBITDA pursuant to this definition to the extent duplicative of any expenses or charges or other amounts otherwise included in the calculation of Consolidated EBITDA (it being understood and agreed that "run rate" shall mean the full recurring benefit that is associated with any action taken).

"Pro Rata Share" means, with respect to:

(a) a Lender's obligation to make the Term Loan and the right to receive payments of interest, fees, and principal with respect thereto, the percentage obtained by dividing (i) such Lender's Term Loan Commitment, by (ii) the Total Term Loan Commitment, provided that if the Total Term Loan Commitment has been reduced to zero, the numerator shall be the aggregate unpaid principal amount of such Lender's portion of the Term Loans and the denominator shall be the aggregate unpaid principal amount of the Term Loans, and

(b) all other matters (including, without limitation, the indemnification obligations arising under Section 10.05), the percentage obtained by dividing (i) the sum of such Lender's Term Loan Commitment and the unpaid principal amount of such Lender's portion of the Term Loans, by (ii) the sum of the Total Term Loan Commitment and the aggregate unpaid principal amount of the Term Loans.

"Projections" means financial projections of DBM and its Subsidiaries delivered pursuant to Section 6.01(g)(ii), as updated from time to time pursuant to Section 7.01(a)(v).

"PTE" means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

"Purchase Price" means, with respect to any Acquisition, an amount equal to the sum of (a) the aggregate consideration, whether cash, property or securities (including, without limitation, the fair market value of any Equity Interests of any Loan Party or any of its Subsidiaries issued in connection with such Acquisition), paid or delivered by a Loan Party or any of its Subsidiaries (whether as initial consideration or through the payment or disposition of deferred consideration, including, without limitation, in the form of seller financing, royalty payments, payments allocated towards non-compete covenants, payments to principals for consulting services or other similar payments) in connection with such Acquisition, plus (b) the aggregate amount of liabilities of the acquired business (net of current assets of the acquired business) that would be reflected on a balance sheet (if such were to be prepared) of DBM and its Subsidiaries after giving effect to such Acquisition.

"Qualified Cash" means, as of any date of determination, the aggregate amount of unrestricted cash on-hand of the Loan Parties maintained in deposit accounts in the name of a Loan Party in the United States as of such date, which deposit accounts are subject to Control Agreements.

"Qualified Equity Interests" means, with respect to any Person, all Equity Interests of such Person that are not Disqualified Equity Interests.

"R&W Insurance Collateral Assignment" means the Collateral Assignment of Representation and Warranty Insurance Policy as Collateral Security, dated as of the date hereof, and in form and substance satisfactory to the Collateral Agent, made by DBM in favor of the Collateral Agent.

"Real Property" of any Person shall mean, collectively, the right, title and interest of such Person (including, but not limited to, any fee, leasehold, mineral or other estate) in and to any and all land, improvements and fixtures owned, leased or operated by such Person, together with, in each case, all easements, hereditaments and appurtenances relating thereto, all improvements and appurtenant fixtures and equipment, all general intangibles and contract rights and other property and rights incidental to the ownership, lease or operation thereof.

"Real Property Deliverables" means each of the following agreements, instruments and other documents in respect of each Facility, each in form and substance reasonably satisfactory to the Collateral Agent:

(a) a Mortgage duly executed by the applicable Loan Party;

(b) evidence of the recording of each Mortgage in such office or offices as may be necessary to perfect the first-position Lien purported to be created thereby or otherwise to protect the rights of the Collateral Agent and the Lenders thereunder;

(c) a UCC-1 financing statement;

(d) a Title Insurance Policy or final marked title commitment/proforma for each Mortgage;

(e) a current ALTA survey and a surveyor's certificate, certified to the Collateral Agent and to the issuer of the Title Insurance Policy with respect thereto by a professional surveyor licensed in the state in which such Facility is located and reasonably satisfactory to the Collateral Agent or such other survey as is reasonably acceptable to the issuer of the Title Insurance Policy;

(f) in the case of a leasehold interest (to the extent the Working Capital Agent has requested and obtained or will obtain the same and subject to the last sentence of Section 7.01(m)), (i) a certified copy of the lease between the landlord and such Person with respect to such real property in which such Person has a leasehold interest, and the certificate of occupancy with respect thereto, and (ii) an attornment and nondisturbance agreement between the landlord (and any fee mortgagee) and the applicable Loan Party with respect to such leasehold interest and the Collateral Agent;

(g) a current zoning report or a current zoning verification letter;

(h) an opinion of counsel in the state where such Facility is located with respect to the enforceability of the Mortgage to be recorded;

(i) if requested by the Collateral Agent (which request may be made at any time before or after the delivery of any other Real Property Deliverable) an ASTM 1527 Phase I Environmental Site Assessment ("Phase I ESA") (and, if reasonably requested by the Collateral Agent based upon the results of such Phase I ESA an ASTM Phase II Environmental Site Assessment) of each Facility by an independent firm reasonably satisfactory to the Collateral Agent;

(j) with respect to each Facility, evidence of the insurance coverage required by Section 7.01 and the terms of the Security Agreement, with such endorsements as to the named insureds, mortgagees or lenders' loss payees thereunder as the Collateral Agent may reasonably request and providing that such policy may be terminated or canceled (by the insurer or the insured thereunder) only upon 30 days' (10 days' in the case of non-payment) prior written notice to the Collateral Agent and each such named insured or lenders loss payee, together with evidence of the payment of all premiums due in respect thereof for such period as the Collateral Agent may request;

(k) evidence as to (A) whether any Facility is a Flood Hazard Property and (B) if any Facility is a Flood Hazard Property, (x) whether the community in which such Facility is located is participating in the National Flood Insurance Program, (y) the applicable Loan Party's written acknowledgment of receipt of written notification from the Administrative Agent (I) as to the fact that such Facility is a Flood Hazard Property and (II) as to whether the community in which each such Flood Hazard Property is located is participating in the National Flood Insurance Program and (z) copies of insurance policies or certificates of insurance of the Loan Parties and their Subsidiaries evidencing flood insurance reasonably satisfactory to the Administrative Agent and naming the Collateral Agent as lenders loss payee on behalf of the Lenders; and

(l) such other agreements, instruments and other documents (including guarantees and opinions of counsel) as the Collateral Agent may reasonably require.

"Recipient" means any Agent or any Lender, as applicable.

"Reference Rate" means, for any period, the greatest of (a) 2.50% per annum, (b) the Federal Funds Rate plus 0.50% per annum, (c) the LIBOR Rate (which rate shall be calculated based upon an Interest Period of 1 month and shall be determined on a daily basis) plus 1.00% per annum, and (d) the rate last quoted by The Wall Street Journal as the "Prime Rate" in the United States or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as reasonably determined by the Administrative Agent) or any similar release by the Federal Reserve Board (as reasonably determined by the Administrative Agent). Each change in the Reference Rate shall be effective from and including the date such change is publicly announced as being effective.

"Reference Rate Loan" means each portion of a Loan that bears interest at a rate determined by reference to the Reference Rate.

"Refusal Option" has the meaning specified therefor in Section 2.05(f).

"Register" has the meaning specified therefor in Section 12.07(f).

"Registered Intellectual Property" means Intellectual Property that is issued by, registered with or the subject of a pending application filed with any Governmental Authority.

"Registered Loans" has the meaning specified therefor in Section 12.07(f).

"Regulation T", "Regulation U" and "Regulation X" mean, respectively, Regulations T, U and X of the Board or any successor, as the same may be amended or supplemented from time to time.

"Related Fund" means, with respect to any Person, an Affiliate of such Person, or a fund or account managed by such Person or an Affiliate of such Person.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, seeping, migrating, dumping or disposing of any Hazardous Material (including the abandonment or discarding of barrels, containers and other closed receptacles containing any Hazardous Material) into the indoor or outdoor environment, including, without limitation, the movement of Hazardous Materials through or in the ambient air, soil, surface or ground water, or property.

"Remedial Action" means all actions taken to (a) clean up, remove, remediate, contain, treat, monitor, assess, evaluate or in any other way address Hazardous Materials in the indoor or outdoor 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 indoor or outdoor environment; (c) perform pre-remedial studies and investigations and post-remedial operation and maintenance activities; or (d) perform any other actions authorized by 42 U.S.C. § 9601.

"Replacement Lender" has the meaning specified therefor in Section 12.02(b).

"Reportable Event" means an event described in Section 4043 of ERISA (other than an event not subject to the provision for 30-day notice to the PBGC under the regulations promulgated under such Section).

"Required Lenders" means Lenders whose Pro Rata Shares (calculated in accordance with clause (b) of the definition thereof) aggregate at least 50.1%.

"Required Prepayment Date" has the meaning specified therefor in Section 2.05(f).

"Requirements of Law" means, with respect to any Person, collectively, the common law and all federal, state, provincial, local, foreign, multinational or international laws, statutes, codes, treaties, standards, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities) and the interpretation or administration thereof by, and other determinations, directives, requirements or requests of, any Governmental Authority, in each case that are applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Reserve Percentage" means, on any day, for any Lender, the maximum percentage prescribed by the Board (or any successor Governmental Authority) for determining the reserve requirements (including any basic, supplemental, marginal, or emergency reserves) that are in effect on such date with respect to eurocurrency funding (currently referred to as "eurocurrency liabilities") of that Lender, but so long as such Lender is not required or directed under applicable regulations to maintain such reserves, the Reserve Percentage shall be zero.

"Restricted Payment" means (a) the declaration or payment of any dividend or other distribution, direct or indirect, on account of any Equity Interests of any Loan Party or any of its Subsidiaries, now or hereafter outstanding, (b) the making of any repurchase, redemption, retirement, defeasance, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any Equity Interests of any Loan Party or any direct or indirect parent of any Loan Party, now or hereafter outstanding, (c) the making of any payment to retire, or to obtain the surrender of, any outstanding warrants, options or other rights for the purchase or acquisition of shares of any class of Equity Interests of any Loan Party, now or hereafter outstanding, (d) the return of any Equity Interests to any shareholders or other equity holders of any Loan Party or any of its Subsidiaries, or make any other distribution of property, assets, shares of Equity Interests, warrants, rights, options, obligations or securities thereto as such, (e) the payment of any management, consulting, monitoring or advisory fees or any other fees or expenses (including the reimbursement thereof by any Loan Party or any of its Subsidiaries) pursuant to any management, consulting, monitoring, advisory or other services agreement to any of the shareholders or other equityholders of any Loan Party or any of its Subsidiaries or other Affiliates, or to any other Subsidiaries or Affiliates of any Loan Party or (f) any amounts paid under sub-clause (II)(ii) of Section 7.02(v) in connection with, or as contemplated by, any Shareholder Litigation Settlement.

"Restricted Payment Available Amount" means an amount equal to the sum of (a) $30,000,000 plus (b) the amount (which amount may be negative) of cash dividends or distributions by DBM, in respect of the Equity Interests of DBM which could have been made by DBM pursuant to clause (e) of the definition of Permitted Restricted Payments on the last day of a Fiscal Quarter occurring after the Effective Date after taking into account all amounts described in clause (b) of the definition of Fixed Charge Coverage Ratio during and for such Fiscal Quarter for which financial statements complying with Section 7.01(a)(ii) have been delivered (commencing with the Fiscal Quarter ended on or around December 29, 2018) in the amount that would cause the Fixed Charge Coverage Ratio to equal 1.00 to 1.00 for such Fiscal Quarter (calculated on a "stand-alone basis" for such Fiscal Quarter (i.e. not on a rolling four-quarter basis))(the "RP Adjustment Amount") (it being understood that the RP Adjustment Amount shall be a negative amount to the extent that the Fixed Charge Coverage Ratio for such Fiscal Quarter (calculated on a "stand-alone basis") would be less than 1.00 to 1.00 by an amount equal to the amount that could be added to clause (a)(i) of the Fixed Charge Coverage Ratio definition to cause the Fixed Charge Coverage Ratio to equal 1.00 to 1.00 for such Fiscal Quarter) plus (c) all RP Adjustment Amounts (which amount may be negative) from prior Fiscal Quarters (commencing with the Fiscal Quarter ended on or around December 29, 2018) minus (d) all Restricted Payments previously made pursuant to clause (e) of the definition of "Permitted Restricted Payments" (including any such dividends or distributions made after September 30, 2018 and prior to the Effective Date notwithstanding that this Agreement

was not in effect at such time and including, for the avoidance of doubt, any amounts paid under sub-clause (II)(ii) of Section 7.02(v) in connection with the Shareholder Litigation Settlement).

"Restricted Payment Available Amount Conditions" means (I) (A) both before and after giving effect to such Restricted Payment (i) Liquidity (after giving effect to all blocks on Working Capital Availability under the Working Capital Credit Agreement) is at least $10,000,000, (ii) no Default or Event of Default exists or would result from such Restricted Payment, (iii) the Fixed Charge Coverage Ratio of DBM and its Subsidiaries for the most recent trailing twelve month period calculated based on the most recent monthly financial statements required to have been delivered to the Administrative Agent pursuant to Section 7.01(a)(i) after giving pro forma effect to such Restricted Payment is equal to or greater than 1.10:1.00, and (iv) after giving pro forma effect to such Restricted Payment under this clause (I) the Restrictred Payment Available Amount shall be greater than zero, and (B) prior to making such payment an Authorized Officer of the Administrative Borrower shall have delivered a certificate to the Administrative Agent and the Lenders certifying as to the foregoing conditions and attaching calculations reasonably satisfactory to the Administrative Agent in support thereof, including certifications and calculations as to the current Restricted Payment Available Amount, or (II) (A) both before and after giving effect to such Restricted Payment (i) Liquidity (after giving effect to all blocks on Working Capital Availability under the Working Capital Credit Agreement) is at least $10,000,000, (ii) no Default or Event of Default exists or would result from such Restricted Payment, (iii) the Senior Leverage Ratio for the most recent trailing twelve month period calculated based on the most recent monthly financial statements required to have been delivered to the Administrative Agent pursuant to Section 7.01(a)(i) (or prior to the first such delivery, delivered to the Administrative Agent prior to the Effective Date) after giving pro forma effect to such Restricted Payment does not exceed a level 0.50x less than the level required pursuant to Section 7.03(a) as of the end of the most recent Fiscal Quarter for which financial statements were required to be delivered pursuant to Section 7.01(a)(ii) (it being understood for purposes of calculating the Senior Leverage Ratio for this clause (iii), the outstanding amount under the Working Capital Credit Agreement shall be deemed to be an amount equal to the average outstanding principal balance thereunder for the 30 day period most recently ended), (iv) prior to making any Restricted Payment pursuant to this clause (II), all Restricted Payments permitted to be made under clause (I) above shall have been made, and (v) after giving pro forma effect such Restricted Payment under this clause (II) the Restricted Payment Available Amount shall be greater than zero, and (B) prior to making such payment an Authorized Officer of the Administrative Borrower shall have delivered a certificate to the Administrative Agent and the Lenders certifying as to the foregoing conditions and attaching calculations reasonably satisfactory to the Administrative Agent in support thereof, including certifications and calculations as to the current Restricted Payment Available Amount.

"Sale and Leaseback Transaction" means, with respect to DBM or any of its Subsidiaries, any arrangement, directly or indirectly, with any Person whereby DBM or any of its Subsidiaries shall sell or transfer any property 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 being sold or transferred.

"Scheduled Unavailability Date" has the meaning specified therefor in Section 2.11(c).

"SDN List" has the meaning specified therefor in the definition of Blocked Person.

"SEC" means the Securities and Exchange Commission or any other similar or successor agency of the Federal government administering the Securities Act.

"Secured Party" means any Agent and any Lender.

"Securities Act" means the Securities Act of 1933, as amended, or any similar Federal statute, and the rules and regulations of the SEC thereunder, all as the same shall be in effect from time to time.

"Securitization" has the meaning specified therefor in Section 12.07(l).

"Security Agreement" means a Pledge and Security Agreement, in form and substance reasonably satisfactory to the Collateral Agent, made by a Loan Party in favor of the Collateral Agent for the benefit of the Secured Parties securing the Obligations.

"Seller" means any Person that sells Equity Interests or other property or assets to a Loan Party or a Subsidiary of a Loan Party in a Permitted Acquisition.

"Senior Leverage Ratio" means, with respect to DBM and its Subsidiaries for any period, the ratio of (a) the result of (i) all Indebtedness described in clauses (a), (b), (c), (d), (e) and (f) in the definition thereof of DBM and its Subsidiaries (determined on a consolidated basis in accordance with GAAP) as of the end of such period (it being understood for purposes of calculating the Senior Leverage Ratio, the outstanding amount under the Working Capital Credit Agreement shall be deemed to be an amount equal to the average outstanding principal balance thereunder for the 30 day period most recently ended), minus (ii) any Subordinated Indebtedness of DBM and its Subsidiaries then outstanding as of the end of such period minus (iii) an amount equal to the lesser of (x) the amount of all unrestricted cash on-hand held by the Loan Parties on such date that is free and clear of all Liens (other than Permitted Specified Liens) and maintained in deposit accounts in the name of a Loan Party in the United States as of such date, which deposit accounts are subject to Control Agreements and (y) the Unrestricted Cash Cap Amount to (b) Consolidated EBITDA of such Person and its Subsidiaries for such period.

"Service" has the meaning specified therefor in the definition of "LIBOR".

"Shareholder Litigation" means the pending litigation in the Court of Chancery, Delaware known as In Re: Schuff International Inc. Shareholder Litigation, Civil Action No. 10323, including any derivative, related or successor litigation.

"Shareholder Litigation Settlement" means any settlement or other agreement entered into by or any judgment against Parent, DBM or any of their Subsidiaries or direct or

indirect equityholders in respect of the Shareholder Litigation or in respect of any derivative or other litigation related thereto.

"Solvent" means, with respect to any Person on a particular date, that on such date (a) the fair value of the property of such Person is not less than the total amount of the liabilities of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its existing debts as they become absolute and matured, (c) such Person is able to realize upon its assets and pay its debts and other liabilities, contingent obligations and other commitments as they mature in the normal course of business, (d) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay as such debts and liabilities mature, and (e) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property would constitute unreasonably small capital.

"Specified Event of Default" means an Event of Default arising from the Borrower's failure to pay principal or interest on any Loan when due or arising under clause (f) or clause (g) of Section 9.01.

"Specified Disqualified Institution" means, on any date, any Person set forth on Schedule 12.07 as of the Effective Date and designated a "Specified Disqualified Institution" on such Schedule as of the Effective Date. For the avoidance of doubt, it is hereby acknowledged and agreed that no additional Persons shall be added to Schedule 12.07 as Specified Disqualified Institutions following the Effective Date.

"Standard & Poor's" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. and any successor thereto.

"Subordinated Indebtedness" means Indebtedness of any Loan Party the terms of which (including, without limitation, payment terms, interest rates, covenants, remedies, defaults and other material terms) are reasonably satisfactory to the Collateral Agent and which has been expressly subordinated in right of payment to all Indebtedness of such Loan Party under the Loan Documents (a) by the execution and delivery of a subordination agreement, in form and substance reasonably satisfactory to the Collateral Agent or (b) otherwise on terms and conditions reasonably satisfactory to the Collateral Agent. "Subordinated Indebtedness" shall not include the Working Capital Indebtedness.

"Subsidiary" means, with respect to any Person at any date, any corporation, limited or general partnership, limited liability company, trust, estate, association, joint venture or other business entity (a) the accounts of which would be consolidated with those of such Person in such Person's consolidated financial statements if such financial statements were prepared in accordance with GAAP or (b) of which more than 50% of (i) the outstanding Equity Interests having (in the absence of contingencies) ordinary voting power to elect a majority of the Board of Directors of such Person, (ii) in the case of a partnership or limited liability company, the interest in the capital or profits of such partnership or limited liability company or (iii) in the case of a trust, estate, association, joint venture or other entity, the beneficial interest in such trust, estate, association or other entity business is, at the time of determination, owned or controlled directly or indirectly

through one or more intermediaries, by such Person. References to a Subsidiary shall mean a Subsidiary of DBM unless the context expressly provides otherwise.

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

"Tax Sharing Agreement" means that certain Tax Sharing Agreement between DBM (f/k/a Schuff International, Inc.) and Parent, as in effect on the Effective Date and as amended solely to the extent not prohibited by Section 7.02(m)(vi).

"Term Loans" means, has the meaning specified therefor in the preamble hereto.

"Term Loan Commitment" means, with respect to each Lender, the commitment of such Lender to make the Term Loans to the Borrowers in the amount set forth in Schedule 1.01(A) hereto or in the Assignment and Acceptance pursuant to which such Lender became a Lender under this Agreement, as the same may be terminated or reduced from time to time in accordance with the terms of this Agreement.

"Term Loan Lender" means a Lender with a Term Loan Commitment or a Term Loan.

"Term Loan Obligations" means any Obligations with respect to the Term Loans (including, without limitation, the principal thereof, the interest thereon, and the fees and expenses specifically related thereto).

"Term Priority Collateral" means "Term Priority Collateral" as defined in the Intercreditor Agreement.

"Termination Date" means the first date on which all of the Obligations (other than Contingent Indemnity Obligations) are paid in full in cash and the Commitments of the Lenders are terminated.

"Termination Event" means (a) a Reportable Event with respect to any Employee Plan, (b) any event that causes any Loan Party or any of its ERISA Affiliates to incur liability under Section 4062, 4063, 4064, 4069, 4201, 4204 or 4212 of ERISA or Section 4971 of the Internal Revenue Code, (c) the filing of a notice of intent to terminate an Employee Plan or the treatment of an Employee Plan amendment as a termination under Section 4041 of ERISA, (d) the institution of proceedings by the PBGC to terminate an Employee Plan, or (e) any other event or condition that could reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Employee Plan.

"Test Period" shall mean each period of four consecutive fiscal quarters of DBM (in each case taken as one accounting period).

"Title Insurance Policy" means a mortgagee's loan policy, in form and substance reasonably satisfactory to the Collateral Agent, together with all endorsements made from time to

time thereto, issued to the Collateral Agent by or on behalf of a title insurance company selected by or otherwise reasonably satisfactory to the Collateral Agent, insuring a first-position Lien created by the applicable Mortgage in an amount and on such terms and with such endorsements as are reasonably satisfactory to the Collateral Agent, delivered to the Collateral Agent.

"Total Commitment" means the Total Term Loan Commitment.

"Total Term Loan Commitment" means the sum of the amounts of the Lenders' Term Loan Commitments.

"Trade Date" has the meaning specified therefor in Section 12.07(m)(i).

"Transaction Documents" means, collectively, the Loan Documents, the Graywolf Acquisition Agreement, and the Working Capital Loan Documents.

"Uniform Commercial Code" or "UCC" has the meaning specified therefor in Section 1.04.

"Unrestricted Cash Cap Amount" means, as at any date of determination, (i) if the average outstanding principal balance under the Working Capital Credit Agreement for the 30 day period ended thereon is $0, an unlimited amount (it being understood and agreed that any amounts drawn with respect to the machinery and equipment term loan outstanding under the Working Capital Credit Agreement as of the Effective Date, in an amount not to exceed $15,300,000 minus any payments of principal thereon, shall be excluded in calculating such average outstanding principal balance) and (ii) in all other cases, $5,000,000.

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

"USA PATRIOT Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (PATRIOT) Act of 2001 (Title III of Pub. L. 107-56, Oct. 26, 2001) as amended by the USA Patriot Improvement and Reauthorization Act of 2005 (Pub. L. 109-177, March 9, 2006) and as the same may have been or may be further renewed, extended, amended, or replaced.

"Waivable Mandatory Prepayment" has the meaning specified therefor in Section 2.05(f).

"WARN" has the meaning specified therefor in Section 6.01(p).

"Wholly-Owned Subsidiary" of any Person shall mean a subsidiary of such Person of which securities (except for directors' qualifying shares) or other ownership interests representing 100% of the Equity Interests are, at the time any determination is being made, owned, controlled or held by such Person or one or more wholly owned subsidiaries of such Person or by such Person and one or more wholly owned subsidiaries of such Person.

"Withholding Agent" means any Loan Party and the Administrative Agent.

"Working Capital Agent" means Wells Fargo Bank, National Association, as lender under the Working Capital Credit Agreement (and its successors).

"Working Capital Availability" means "Availability" as defined in the Working Capital Credit Agreement (as in effect on the date hereof or as amended pursuant to an amendment agreed to in writing by the Agents).

"Working Capital Borrowing Base" means "Borrowing Base" as defined in the Working Capital Credit Agreement (as in effect on the date hereof or as amended pursuant to an amendment agreed to in writing by the Agents).

"Working Capital Credit Agreement" means the Fourth Amended and Restated Credit and Security Agreement, dated as of November 30, 2018, as amended on or prior to the date hereof, by and among DBM, the other Loan Parties party thereto as borrowers, the Working Capital Agent and the Working Capital Lenders.

"Working Capital Indebtedness" means the Indebtedness of the Loan Parties owing to the Working Capital Agent and the Working Capital Lenders under the Working Capital Credit Agreement.

"Working Capital Lenders" means the lenders from time to time party to the Working Capital Credit Agreement.

"Working Capital Loan" means a revolving loan made by the Working Capital Lenders under the Working Capital Credit Agreement.

"Working Capital Loan Documents" means, collectively, (a) the Working Capital Credit Agreement and (b) all other agreements, instruments and other documents executed and delivered to the Working Capital Agent and/or any Working Capital Lender pursuant to the foregoing.

"Working Capital Maximum Amount" means the "Maximum ABL Principal Obligations" as defined in the Intercreditor Agreement (as in effect on the date hereof or as amended pursuant to an amendment agreed to in writing by the Agents).

"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.

Section 1.02 Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall". Unless the context requires otherwise, (a) any definition of or reference to any agreement,

instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, (c) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (e) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any right or interest in or to assets and properties of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible.

Section 1.03 Certain Matters of Construction. References in this Agreement to "determination" by any Agent include good faith estimates by such Agent (in the case of quantitative determinations) and good faith beliefs by such Agent (in the case of qualitative determinations). A Default or Event of Default shall be deemed to exist at all times during the period commencing on the date that such Default or Event of Default occurs to the date on which such Default or Event of Default is waived in writing pursuant to this Agreement or, in the case of a Default, is cured within any period of cure expressly provided for in this Agreement; and an Event of Default shall "continue" or be "continuing" until such Event of Default has been waived in writing by the Required Lenders. Any Lien referred to in this Agreement or any other Loan Document as having been created in favor of any Agent, any agreement entered into by any Agent pursuant to this Agreement or any other Loan Document, any payment made by or to or funds received by any Agent pursuant to or as contemplated by this Agreement or any other Loan Document, or any act taken or omitted to be taken by any Agent, shall, unless otherwise expressly provided, be created, entered into, made or received, or taken or omitted, for the benefit or account of the Agents and the Lenders. Wherever the phrase "to the knowledge of any Loan Party" or words of similar import relating to the knowledge or the awareness of any Loan Party are used in this Agreement or any other Loan Document, such phrase shall mean and refer to (i) the actual knowledge of a senior officer of any Loan Party or (ii) the knowledge that a senior officer would have obtained if such officer had engaged in good faith and diligent performance of such officer's duties, including the making of such reasonably specific inquiries as may be necessary of the employees or agents of such Loan Party and a good faith attempt to ascertain the existence or accuracy of the matter to which such phrase relates. All covenants hereunder shall be given independent effect so that if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or otherwise within the limitations of, another covenant shall not avoid the occurrence of a default if such action is taken or condition exists. In addition, all representations and warranties hereunder shall be given independent effect so that if a particular representation or warranty proves to be incorrect or is breached, the fact that another representation or warranty concerning the same or similar subject matter is correct or is not breached will not affect the incorrectness of a breach of a representation or warranty hereunder.

Section 1.04 Accounting and Other Terms.

(a) Unless otherwise expressly provided herein, each accounting term used herein shall have the meaning given it under GAAP. For purposes of determining compliance with any incurrence or expenditure tests set forth in Section 7.01, Section 7.02 and Section 7.03, any amounts so incurred or expended (to the extent incurred or expended in a currency other than Dollars) shall be converted into Dollars on the basis of the exchange rates (as shown on the Bloomberg currency page for such currency or, if the same does not provide such exchange rate, by reference to such other publicly available service for displaying exchange rates as may be reasonably selected by the Agents or, in the event no such service is selected, on such other basis as is reasonably satisfactory to the Agents) as in effect on the date of such incurrence or expenditure under any provision of any such Section that has an aggregate Dollar limitation provided for therein (and to the extent the respective incurrence or expenditure test regulates the aggregate amount outstanding at any time and it is expressed in terms of Dollars, all outstanding amounts originally incurred or spent in currencies other than Dollars shall be converted into Dollars on the basis of the exchange rates (as shown on the Bloomberg currency page for such currency or, if the same does not provide such exchange rate, by reference to such other publicly available service for displaying exchange rates as may be reasonably selected by the Agents or, in the event no such service is selected, on such other basis as is reasonably satisfactory to the Agents) as in effect on the date of any new incurrence or expenditures made under any provision of any such Section that regulates the Dollar amount outstanding at any time). Notwithstanding the foregoing, (i) with respect to the accounting for leases as either operating leases or capital leases and the impact of such accounting in accordance with FASB ASC 840 on the definitions and covenants herein, GAAP as in effect on the Effective Date shall be applied and (ii) for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, Indebtedness of DBM and its Subsidiaries shall be deemed to be carried at 100% of the outstanding principal amount thereof, and the effects of FASB ASC 825 and FASB ASC 470-20 on financial liabilities shall be disregarded.

(b) All terms used in this Agreement which are defined in Article 8 or Article 9 of the Uniform Commercial Code as in effect from time to time in the State of New York (the "Uniform Commercial Code" or the "UCC") and which are not otherwise defined herein shall have the same meanings herein as set forth therein, provided that terms used herein which are defined in the Uniform Commercial Code as in effect in the State of New York on the date hereof shall continue to have the same meaning notwithstanding any replacement or amendment of such statute except as the Agents and the Administrative Borrower may otherwise agree.

Section 1.05 Time References. Unless otherwise indicated herein, all references to time of day refer to Eastern Standard Time or Eastern daylight saving time, as in effect in New York City 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 but excluding"; provided, however, that with respect to a computation of fees or interest payable to any Secured Party, such period shall in any event consist of at least one full day.

Section 1.06 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.

## ARTICLE II

## THE LOANS

Section 2.01 Commitments.

(a) Subject to the terms and conditions and relying upon the representations and warranties herein set forth, each Term Loan Lender severally agrees to make the Term Loans to the Borrowers on the Effective Date in an aggregate principal amount not to exceed the amount of such Lender's Term Loan Commitment.

(b) The Total Term Loan Commitment and each Lender's Term Loan Commitment shall terminate immediately and without further action upon the funding of the Term Loan on the Effective Date. Any principal amount of the Term Loan which is repaid or prepaid may not be reborrowed.

(c) Notwithstanding anything herein to the contrary, the Effective Date shall not occur after November 30, 2018 without the prior written consent of each Lender.

Section 2.02 Making the Loans.

(a) The Administrative Borrower shall give the Administrative Agent prior written notice (in substantially the form of Exhibit C hereto) (a "Notice of Borrowing"), not later than 12:00 noon (New York City time) on the Effective Date. Such Notice of Borrowing shall be irrevocable and shall specify in writing (i) the principal amount of the proposed Loan (ii) whether the Loan is requested to be a Reference Rate Loan or a LIBOR Rate Loan and, in the case of a LIBOR Rate Loan, the initial Interest Period with respect thereto, (iii) the use of the proceeds of such proposed Loan, (iv) wire instructions for the account into which the Loan proceeds should be deposited, and (v) the proposed borrowing date, which must be a Business Day and must be the Effective Date. The Administrative Agent and the Lenders may act without liability upon the basis of written notice believed by the Administrative Agent in good faith to be from the Administrative Borrower (or from any Authorized Officer thereof designated in writing purportedly from the Administrative Borrower to the Administrative Agent). The Administrative Agent and each Lender shall be entitled to rely conclusively on any Authorized Officer's authority to request a Loan on behalf of the Borrowers until the Administrative Agent receives written notice to the contrary. The Administrative Agent and the Lenders shall have no duty to verify the authenticity of the signature appearing on any written Notice of Borrowing or the use of the proceeds of such proposed Loan.

(b) Each Notice of Borrowing pursuant to this Section 2.02 shall be irrevocable and the Borrowers shall be bound to make a borrowing in accordance therewith.

(c) All Loans under this Agreement shall be made by the Lenders, to the account specified by the Administrative Agent, no later than 2:00 p.m. on the borrowing date of the proposed Loan, simultaneously and proportionately to their Pro Rata Shares of the Total Term Loan Commitment, it being understood that no Lender shall be responsible for any default by any other Lender in that other Lender's obligations to make a Loan requested hereunder, nor shall the Commitment of any Lender be increased or decreased as a result of the default by any other Lender in that other Lender's obligation to make a Loan requested hereunder, and each Lender shall be obligated to make the Loans required to be made by it by the terms of this Agreement regardless of the failure by any other Lender. Promptly upon receipt of all funds requested in the Notice of Borrowing, the Administrative Agent will make the proceeds of such Loans available to the Administrative Borrower by causing an amount, an immediately available funds, equal to the proceeds of all such Loans received by the Administrative Agent to the account provided by the Administrative Borrower in the Notice of Borrowing for such purpose.

Section 2.03 Repayment of Loans; Evidence of Debt.

(a) The outstanding unpaid principal amount of the Term Loan made on the Effective Date shall be repaid in consecutive quarterly installments on the last Business Day of each calendar quarter (each a "Payment Date"), beginning with the first full calendar quarter ending after the Effective Date; each such quarterly installment shall be in an aggregate amount equal to the percentage of the original principal amount of such Term Loan set forth below opposite the applicable period set forth below.

| Period | Quarterly Percentage |
|---|---|
| For each Payment Date occurring after the Effective Date. | 1.25% |

Notwithstanding the foregoing the last such installment in respect of the Term Loan shall be in the amount necessary to repay in full the unpaid principal amount of the Term Loan. The outstanding unpaid principal amount of the Term Loan, and all accrued and unpaid interest thereon, shall be due and payable on the earlier of (A) the Final Maturity Date and (B) the date on which the Term Loan is declared due and payable pursuant to the terms of this Agreement.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the Indebtedness of the Borrowers to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrowers to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to Section 2.03(b) or Section 2.03(c) shall be prima facie evidence of the existence and amounts of the obligations recorded therein absent manifest error; provided that (i) the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrowers to repay the Loans in accordance with the terms of this Agreement and (ii) in the event of any conflict between the entries made in the accounts maintained pursuant to Section 2.03(b) and the accounts maintained pursuant to Section 2.03(c), the accounts maintained pursuant to Section 2.03(c) shall govern and control.

(e) Any Lender may request that Loans made by it be evidenced by a promissory note. In such event, the Borrowers shall execute and deliver to such Lender a promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) substantially in the form of Exhibit G hereto. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 12.07) be represented by one or more promissory notes in such form payable to the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns).

Section 2.04 Interest.

(a) Term Loan. Subject to the terms of this Agreement, at the option of the Administrative Borrower, the Term Loan or any portion thereof shall be either a Reference Rate Loan or a LIBOR Rate Loan. Each portion of the Term Loan that is a Reference Rate Loan shall bear interest on the principal amount thereof from time to time outstanding, from the date of the Term Loan until repaid, at a rate per annum equal to the Reference Rate plus the Applicable Margin, and each portion of the Term Loan that is a LIBOR Rate Loan shall bear interest on the principal amount thereof from time to time outstanding, from the date of the Term Loan until repaid, at a rate per annum equal to the LIBOR Rate for the Interest Period in effect for the Term Loan (or such portion thereof) plus the Applicable Margin.

(b) Default Interest. To the extent permitted by law and notwithstanding anything to the contrary in this Section, upon the occurrence and during the continuance of an Event of Default, the principal of, and all accrued and unpaid interest on, all Loans, fees, indemnities or any other Obligations of the Loan Parties under this Agreement and the other Loan Documents, shall bear interest, from the date such Event of Default occurred until the date such Event of Default is cured or waived in writing in accordance herewith, at a rate per annum equal at all times to the Post-Default Rate.

(c) Interest Payment. Interest on each Loan shall be payable (i) monthly, in arrears, on the last Business Day of each month, commencing on the last Business Day of the month following the month in which such Loan is made and (ii) at maturity (whether upon demand, by acceleration or otherwise). Interest at the Post-Default Rate shall be payable on demand. Each Borrower hereby authorizes the Administrative Agent to, and the Administrative Agent may, from time to time, charge the Loan Account pursuant to Section 4.01 with the amount of any interest payment due hereunder.

(d) General. All interest shall be computed on the basis of a year of 360 days for the actual number of days (except that interest calculated by reference to the Reference Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year)), including the first day but excluding the last day, elapsed.

Section 2.05 Prepayment of Loans.

(a) Optional Prepayment.

(i) Term Loan. The Administrative Borrower on behalf of the Borrowers may, at any time and from time to time, upon at least three (3) Business Days prior to the date of prepayment, deliver a written notice substantially in the form of Exhibit H hereto (a "Notice of Optional Prepayment") to the Administrative Agent, prepay the principal of the Term Loan, in whole or in part. Each prepayment made pursuant to this Section 2.05(a)(i) shall be accompanied by the payment of (A) accrued interest to the date of such payment on the amount prepaid and (B) the Applicable Premium, if any, payable in connection with such prepayment of the Term Loan. Each such prepayment shall be applied against the remaining installments of principal due on the Term Loan (including the final principal payment on the Final Maturity Date) pro rata.

(ii) Termination of Agreement. The Administrative Borrower on behalf of the Borrowers may, upon at least three (3) Business Days' prior written notice to the Administrative Agent, terminate this Agreement by paying to the Administrative Agent, in cash, the Obligations in full (other than Contingent Indemnity Obligations), plus the Applicable Premium, if any, payable in connection with such termination of this Agreement. If the Administrative Borrower has sent a notice of termination pursuant to this Section 2.05(a)(ii), then the Lenders' obligations to extend credit hereunder shall terminate and the Borrowers (through the Administrative Borrower), shall be obligated to repay, in cash, the Obligations (other than Contingent Indemnity Obligations) in full, plus the Applicable Premium, if any, payable in connection with such termination of this Agreement on the date set forth as the date of termination of this Agreement in such notice; provided that such notice of termination may be rescinded (and/or updated to provide a new payoff date) by the Administrative Borrower twice during the term of this Agreement if any transaction involving the refinancing or repayment of the Obligations fails to close.

(b) Mandatory Prepayment.

(i) Immediately upon any Disposition (including all Dispositions of real property and fixtures but excluding Dispositions of assets (other than real property and fixtures) which qualify as Permitted Dispositions under clauses (a) and (c)-(m) of the definition of Permitted Disposition) by any Loan Party or its Subsidiaries, the Borrowers (through the Administrative Borrower), shall prepay the outstanding principal amount of the Working Capital Loans (to the extent required by the terms of the Working Capital Credit Agreement) and the Loans in accordance with Section 2.05(c) in an amount equal to (A) 100% of the Net Cash Proceeds received by such Person in connection with such Disposition of real property and (B) 100% of the Net Cash Proceeds received by such Person in connection with such other Dispositions to the extent that the aggregate amount of Net Cash Proceeds received by all Loan Parties and their Subsidiaries

(and not paid to the Administrative Agent as a prepayment of the Loans) shall exceed for all such other Dispositions $2,500,000 in any Fiscal Year with such prepayment to be in the amount by which such Net Cash Proceeds exceed $2,500,000 for such Fiscal Year unless an Event of Default has occurred any is continuing (in which case such prepayment shall be in an amount equal to 100% of the Net Cash Proceeds including the initial $2,500,000 of proceeds). Nothing contained in this Section 2.05(b)(i) shall permit any Loan Party or any of its Subsidiaries to make a Disposition of any property other than in accordance with Section 7.02(c)(ii). For the avoidance of doubt, it is hereby understood and agreed that 100% of the Net Cash Proceeds received by any Loan Party or its Subsidiaries from a Disposition of real property or fixtures shall be used to prepay the Loans in accordance with Section 2.05(c).

(ii) Upon the issuance or incurrence by any Loan Party or any of its Subsidiaries of any Indebtedness (other than Permitted Indebtedness), or upon an Equity Issuance (other than any Excluded Equity Issuances), the Borrowers (through the Administrative Borrower), shall prepay the outstanding amount of the Loans in accordance with Section 2.05(c) in an amount equal to 100% of the Net Cash Proceeds received by such Person in connection therewith. The provisions of this Section 2.05(b)(ii) shall not be deemed to be implied consent to any such issuance, incurrence or sale otherwise prohibited by the terms and conditions of this Agreement.

(iii) Within two (2) Business Days of the receipt by any Loan Party or any of its Subsidiaries of any Extraordinary Receipts, the Borrowers (through the Administrative Borrower), shall prepay the outstanding principal of the Working Capital Loans (to the extent required by the terms of the Working Capital Credit Agreement and the Intercreditor Agreement) and thereafter the Loans in accordance with Section 2.05(c) with such prepayment to be in the amount by which Net Cash Proceeds from Extraordinary Receipts exceed $4,000,000 in the aggregate for such Fiscal Year unless an Event of Default has occurred any is continuing (in which case such prepayment shall be in an amount equal to 100% of the Net Cash Proceeds including the initial $4,000,000 of proceeds).

(iv) Notwithstanding the foregoing, with respect to Net Cash Proceeds received by any Loan Party or any of its Subsidiaries in connection with a Disposition (other than a Disposition of real property) or the receipt of Extraordinary Receipts consisting of insurance proceeds or condemnation awards that are required to be used to prepay the Working Capital Loans and the Loans pursuant to Section 2.05(b)(i) or Section 2.05(b)(iii), as the case may be, up to $5,000,000 in the aggregate in any Fiscal Year of the Net Cash Proceeds from all such Dispositions and Extraordinary Receipts shall not be required to be so used to prepay the Loans to the extent that such Net Cash Proceeds are used to replace, repair, restore or otherwise acquire properties or assets (other than current assets) used in such Person's business, provided that, (A) no Default or Event of Default has occurred and is continuing on the date such Person receives such Net Cash Proceeds, (B) the Administrative Borrower delivers a certificate to the Administrative Agent within five (5) Business Days after such Disposition or loss, destruction or taking, as the case may be, stating that such Net Cash Proceeds shall be used to replace, repair, restore or otherwise acquire properties or assets (other than current assets) used in such Person's business within a period specified in such certificate not to exceed 180 days after the date of receipt of such Net Cash Proceeds (which certificate shall set forth estimates of the Net Cash Proceeds to be so expended), (C) such

Net Cash Proceeds are deposited in an account subject to a Control Agreement or used to temporarily reduce the outstanding principal amount of the Working Capital Loans (so long as such reduction is accompanied by the establishment by the Working Capital Agent of a reserve against the Working Capital Borrowing Base in the amount of such reduction), and (D) upon the earlier of (1) the expiration of the period specified in the relevant certificate furnished to the Administrative Agent pursuant to clause (B) above or (2) the occurrence of a Default or an Event of Default, such Net Cash Proceeds, if not theretofore so used, shall be used to prepay the Working Capital Loans and the Loans in accordance with Section 2.05(b)(i) or Section 2.05(b)(iii) as applicable.

(v) Notwithstanding anything to the contrary contained in Section 2.05(b)(i) or (iv), to the extent attributable to a Disposition by a Subsidiary or an Extraordinary Receipt received by a Subsidiary, that is, in either case, a Foreign Subsidiary, and in any such case a Restricted Payment or other distribution to a Borrower is required (notwithstanding the Loan Parties' commercially reasonable efforts to make such mandatory prepayment without making such Restricted Payment or other payment) in connection with such prepayment (or portion thereof), no prepayment (or a portion thereof) required under Section 2.05(b)(i) or (iv) shall be made if (x) Borrower or any Subsidiary could reasonably be expected to incur a material liability in respect of Taxes (including any withholding tax) in connection with making such Restricted Payment or other distribution or (y) making such Restricted Payment would be prohibited by applicable law. Notwithstanding anything in the preceding sentence to the contrary, in the event the limitations or restrictions described therein cease to apply to any such required prepayment or in the event and to the extent that any such Restricted Payment or other distribution has been made to any Loan Party, the Borrowers (through the Administrative Borrower), shall make such prepayment in an amount equal to the amount of such prepayment previously required to have been made without having given effect to such limitations or restrictions less the amount by which the Net Cash Proceeds from the applicable Disposition or Extraordinary Receipt were previously used for the repayment of Indebtedness in accordance with Section 2.05(c) hereof.

(c) Application of Payments. The Administrative Borrower shall provide the Administrative Agent with written notice of each prepayment of the Loans to be made pursuant to Section 2.05(b) at least five (5) Business Days prior to the date such prepayment is made, which written notice shall provide the amount of such prepayment and the sub-paragraph of this Section 2.05 pursuant to which such prepayment is to be made. Each such prepayment required under Section 2.05(b) shall be applied as follows:

(i) the proceeds from any prepayment pursuant to (A) any Disposition of any ABL Priority Collateral or (B) any Extraordinary Receipts consisting of insurance proceeds or condemnation awards with respect to any ABL Priority Collateral shall be applied (1) first, to the Working Capital Loans, to the extent required by the Working Capital Credit Agreement, until paid in full, and (2) second, to the Term Loan, until paid in full;

(ii) the proceeds from any prepayment pursuant to (A) any Disposition of any Term Priority Collateral or (B) any Extraordinary Receipts consisting of insurance proceeds or condemnation awards with respect to any Term Priority Collateral shall be applied to the Term Loan, until paid in full;

(iii) the proceeds from any prepayment pursuant to a Disposition of all or substantially all of the assets or Equity Interests of any Person or any insurance or condemnation award, which Disposition or proceeds of insurance or condemnation award includes both (A) ABL Priority Collateral and (B) Term Priority Collateral, shall be applied in a manner mutually determined by the Agent and the Working Capital Agent acting reasonably and in good faith; and

(iv) the proceeds from any prepayment event set forth in Section 2.05(b)(ii) or Section 2.05(b)(iii) (other than proceeds from any Extraordinary Receipts consisting of insurance proceeds or condemnation awards with respect to any ABL Priority Collateral) shall be applied to the Term Loan, until paid in full.

Each such prepayment of the Term Loan shall be applied against the remaining installments of principal of the Term Loan (including the final principal payment on the Final Maturity Date) pro rata. Notwithstanding the foregoing, after the occurrence and during the continuance of an Event of Default, if the Administrative Agent has elected, or has been directed by the Required Lenders, to apply payments and other Proceeds of Collateral in accordance with Section 4.03(b), all prepayments required under Section 2.05(b) shall be applied in the manner set forth in Section 4.03(b).

(d) Interest and Fees. Any prepayment made pursuant to this Section 2.05 shall be accompanied by (i) accrued interest on the principal amount being prepaid to the date of prepayment, (ii) any Funding Losses payable pursuant to Section 2.08, and (iii) the Applicable Premium, if any, payable in connection with such prepayment of the Loans to the extent required under Section 2.06(c).

(e) Cumulative Prepayments. Except as otherwise expressly provided in this Section 2.05, payments with respect to any subsection of this Section 2.05 are in addition to payments made or required to be made under any other subsection of this Section 2.05.

(f) Waivable Mandatory Prepayment. Anything contained herein to the contrary notwithstanding, in the event the Borrowers are required to make any mandatory prepayment (other than a mandatory prepayment resulting from the incurrence of indebtedness to refinance the Term Loan and repay all Obligations in full) (a "Waivable Mandatory Prepayment") of the Term Loan, not later than 2:00 p.m. five (5) Business Days prior to the date (the "Required Prepayment Date") on which the Borrowers are required to make such Waivable Mandatory Prepayment, the Administrative Borrower shall notify the Administrative Agent in writing substantially in the form of Exhibit I hereto (a "Notice of Mandatory Prepayment") of the amount of such prepayment, and the Administrative Agent will promptly thereafter notify each Lender holding an outstanding Term Loan of the amount of such Lender's Pro Rata Share of such Waivable Mandatory Prepayment and such Lender's option to refuse such amount (the "Refusal Option"). Each such Lender may exercise the Refusal Option by giving written notice to the Administrative Borrower and the Administrative Agent of its election to do so by or before 2:00 p.m. three (3) Business Days prior to the Required Prepayment Date (it being understood that any Lender which does not notify the Borrowers and the Administrative Agent of its election to exercise the Refusal Option on or before the Business Day prior to the Required Prepayment Date shall be deemed to

have elected, as of such date, not to exercise the Refusal Option). Promptly following receipt of any Lender's Refusal Option, the Administrative Agent will thereafter notify those Lenders that have elected not to exercise the Refusal Option of their right to accept or reject their pro rata portion of the excess amount. Any Lender electing to decline its pro rata portion of the excess amount shall notify the Administrative Agent and the Administrative Borrower by 2:00 p.m. one (1) Business Day prior to the Required Prepayment Date (any Lender that fails to notify the Administrative Borrower and Agent by the time frame set forth above shall be deemed to have exercised its Refusal Option). On the Required Prepayment Date, the Administrative Borrower on behalf of the Borrowers shall pay to Administrative Agent the amount of the Waivable Mandatory Prepayment, which amount shall be applied in an amount equal to that portion of the Waivable Mandatory Prepayment payable to those Lenders that have elected not to exercise the Refusal Option, to prepay the Term Loan of such Lenders. To the extent any such Lender refuses the excess amount of the Waivable Mandatory Prepayment (or to the extent the Term Loans of all such Lenders have been repaid in full), the excess amount will be retained by the Administrative Borrower on behalf of the Borrowers for working capital and general corporate purposes.

Section 2.06 Fees.

(a) Effective Date Closing Fee. On or prior to the Effective Date, the Administrative Borrower on behalf of the Borrowers shall pay to the Administrative Agent for the account of the Lenders, in accordance with their Pro Rata Shares, a non-refundable closing fee (the "Effective Date Closing Fee") equal to $1,600,000, which shall be deemed fully earned when paid.

(b) Loan Servicing Fee. From and after the Effective Date and until the Termination Date, the Administrative Borrower on behalf of the Borrowers shall pay to the Administrative Agent for the account of the Agents, a non-refundable loan servicing fee (the "Loan Servicing Fee") equal to $5,000 each month, which shall be deemed fully earned when paid and which shall be payable on the Effective Date and monthly in advance thereafter on the last Business Day of each calendar month commencing on December 31, 2018.

(c) Applicable Premium.

(i) Upon the occurrence of an Applicable Premium Trigger Event, the Administrative Borrower on behalf of the Borrowers shall pay to the Administrative Agent, for the account of the Lenders in accordance with their Pro Rata Shares, the Applicable Premium.

(ii) Any Applicable Premium payable in accordance with this Section 2.06(c) shall be presumed to be equal to the liquidated damages sustained by the Lenders as the result of the occurrence of the Applicable Premium Trigger Event and the Loan Parties agree that it is reasonable under the circumstances currently existing. THE LOAN PARTIES EXPRESSLY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING APPLICABLE PREMIUM IN CONNECTION WITH ANY ACCELERATION.

(iii) The Loan Parties expressly agree that: (A) the Applicable Premium is reasonable and is the product of an arm's length transaction between sophisticated business people, ably represented by counsel; (B) the Applicable Premium shall be payable notwithstanding the then prevailing market rates at the time payment is made; (C) there has been a course of conduct between the Lenders and the Loan Parties giving specific consideration in this transaction for such agreement to pay the Applicable Premium; (D) the Loan Parties shall be estopped hereafter from claiming differently than as agreed to in this paragraph; (E) their agreement to pay the Applicable Premium is a material inducement to Lenders to provide the Commitments and make the Loans, and (F) the Applicable Premium represents a good faith, reasonable estimate and calculation of the lost profits or damages of the Agents and the Lenders and that it would be impractical and extremely difficult to ascertain the actual amount of damages to the Agents and the Lenders or profits lost by the Agents and the Lenders as a result of such Applicable Premium Trigger Event.

(iv) Nothing contained in this Section 2.06(c) shall permit any prepayment of the Loans not otherwise permitted by the terms of this Agreement or any other Loan Document.

Section 2.07 LIBOR Option.

(a) Notwithstanding the timing for delivery of a Notice of Borrowing under Section 2.02(a) hereof, the Borrowers (through the Administrative Borrower), may, at any time and from time to time, so long as no Default or Event of Default has occurred and is continuing, elect to have interest on all or a portion of the Loans be charged at a rate of interest based upon the LIBOR Rate (the "LIBOR Option") by notifying the Administrative Agent prior to 11:00 a.m. (New York City time) at least 3 Business Days prior to (i) the proposed borrowing date of a Loan (as provided in Section 2.02), (ii) in the case of the conversion of a Reference Rate Loan to a LIBOR Rate Loan, the commencement of the proposed Interest Period or (iii) in the case of the continuation of a LIBOR Rate Loan as a LIBOR Rate Loan, the last day of the then current Interest Period (the "LIBOR Deadline"). Notice of the Borrowers' election of the LIBOR Option for a permitted portion of the Loans and an Interest Period pursuant to this Section 2.07(a) shall be made by delivery to the Administrative Agent of (A) a Notice of Borrowing (in the case of the initial making of a Loan) in accordance with Section 2.02 or (B) a LIBOR Notice prior to the LIBOR Deadline. If a timely notice is provided, but the Administrative Borrower fails to elect an Interest Period, the Administrative Borrower will be deemed to have selected an Interest Period of one month. Promptly upon its receipt of each such LIBOR Notice, the Administrative Agent shall notify each of the Lenders. Each LIBOR Notice shall be irrevocable and binding on the Borrowers.

(b) Interest on LIBOR Rate Loans shall be payable in accordance with Section 2.04(c). On the last day of each applicable Interest Period, unless the Borrowers (through the Administrative Borrower), properly have exercised the LIBOR Option with respect thereto, the interest rate applicable to such LIBOR Rate Loans automatically shall convert to the rate of interest then applicable to Reference Rate Loans of the same type hereunder. At any time that a Default or an Event of Default has occurred and is continuing, the Borrowers no longer shall have the option to request that any portion of the Loans bear interest at the LIBOR Rate and the Administrative

Agent shall have the right to convert the interest rate on all outstanding LIBOR Rate Loans to the rate of interest then applicable to Reference Rate Loans of the same type hereunder prior to the last day of the then current Interest Period.

(c) Notwithstanding anything to the contrary contained in this Agreement, the Borrowers (i) shall have not more than 5 LIBOR Rate Loans in effect at any given time, and (ii) only may exercise the LIBOR Option for LIBOR Rate Loans of at least $1,000,000 and integral multiples of $100,000 in excess thereof.

(d) The Borrowers (through the Administrative Borrower), may prepay LIBOR Rate Loans at any time; provided, however, that in the event that LIBOR Rate Loans are prepaid on any date that is not the last day of the Interest Period applicable thereto, including as a result of any prepayment pursuant to Section 2.05 or any application of payments or proceeds of Collateral in accordance with Section 4.03 or Section 4.04 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, the Borrowers shall indemnify, defend, and hold the Agents and the Lenders and their participants harmless against any and all Funding Losses in accordance with Section 2.08.

(e) Anything to the contrary contained herein notwithstanding, neither any Agent nor any Lender, nor any of their participants, is required actually to acquire eurodollar deposits to fund or otherwise match fund any Obligation as to which interest accrues at the LIBOR Rate.

Section 2.08 Funding Losses. In connection with each LIBOR Rate Loan, the Borrowers shall indemnify, defend, and hold the Agents and the Lenders harmless against any loss, cost, or expense incurred by any Agent or any Lender as a result of (a) the payment of any principal of any LIBOR Rate Loan other than on the last day of an Interest Period applicable thereto (including as a result of a Default or an Event of Default or any prepayment pursuant to Section 2.05), (b) the conversion of any LIBOR Rate Loan other than on the last day of the Interest Period applicable thereto (including as a result of a Default or an Event of Default), or (c) the failure to borrow, convert, continue or prepay any LIBOR Rate Loan on the date specified in any Notice of Borrowing or LIBOR Notice delivered pursuant hereto (such losses, costs, and expenses, collectively, "Funding Losses"). A certificate of an Agent or a Lender delivered to the Administrative Borrower setting forth any amount or amounts that such Agent or such Lender is entitled to receive pursuant to this Section 2.08 shall be conclusive absent manifest error.

Section 2.09 Taxes.

(a) Any and all payments by or on account of any Loan Party hereunder or under any other Loan Document shall be made free and clear of and without deduction for any and all Taxes, except as required by applicable law. If any Loan Party shall be required to deduct any Taxes from or in respect of any sum payable hereunder to any Secured Party, (i) the applicable Withholding Agent shall make such deductions and (ii) the applicable Withholding Agent shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law and (iii) if such Tax is an Indemnified Tax, then the sum payable by the applicable

Loan Party shall be increased by the amount (an "Additional Amount") necessary such that after making all required deductions (including deductions applicable to additions sums payable under this Section 2.09) such Secured Party receives the amount equal to the sum it would have received had no such deductions been made.

(b) In addition, each Loan Party agrees to pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent, timely reimburse it for the payment of, any Other Taxes.

(c) The Loan Parties hereby jointly and severally indemnify and agree to hold each Secured Party harmless from and against any Indemnified Taxes (including, without limitation, Indemnified Taxes imposed on any amounts payable under this Section 2.09) payable or paid by such Person and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally asserted. Such indemnification shall be paid within ten (10) days from the date on which any such Person makes written demand therefore specifying in reasonable detail the nature and amount of such Indemnified Taxes. A certificate as to the amount of such payment or liability delivered to such Loan Party by a Lender (with a copy to the Administrative Agent) or by the Administrative Agent on its own behalf, or on behalf of a Lender, shall be conclusive absent manifest error.

(d) If any Loan Party pays any Taxes (including Other Taxes) pursuant to this Section 2.09, then upon request, the Administrative Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by the appropriate Governmental Authority evidencing the payment, a copy of any return required by applicable law to report the payment, or other evidence of payment reasonably satisfactory to the Administrative Agent.

(e) Each Lender shall severally indemnify the Administrative Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender’s failure to comply with the provisions of Section 12.07(i) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (e).

(f) (i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Administrative Borrower and the Administrative Agent, at the time or times reasonably requested by the Administrative Borrower or the Administrative Agent, such properly completed and executed

documentation reasonably requested by the Administrative Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Administrative Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Administrative Borrower or the Administrative Agent as will enable the Administrative Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 2.09(f)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing,

(A) Any Secured Party that is a U.S. Person shall deliver to the Administrative Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Secured Party becomes a party hereto (and from time to time thereafter upon reasonable request of the Administrative Borrower or the Agent), properly completed and executed copies of IRS Form W-9, certifying that such Secured Party is exempt from U.S. federal backup withholding Tax;

(B) Any Secured Party that is not a U.S. Person (a "Non-U.S. Lender") shall, to the extent it is legally entitled to do so, deliver to the Administrative Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Non-U.S. Lender becomes a party hereto (and from time to time thereafter upon reasonable request of the Administrative Borrower or the Administrative Agent), whichever of the following is applicable:

(1) in the case of a Non-U.S. Lender claiming the benefits of an income tax treaty to which the United States is a party, properly completed and executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E (or, in each case, any successor forms), establishing an exemption from or reduction of U.S. federal withholding Tax pursuant to the applicable articles of such tax treaty;

(2) properly completed and executed copies of IRS Form W-8ECI (or, any successor form);

(3) in the case of a Non-U.S. Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Internal Revenue Code, (x) a certificate substantially in the form of Exhibit F-1 hereto to the effect that such Non-U.S. Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, a “10 percent shareholder” of a Borrower within the meaning of Section 881(c)(3)(B) of the Internal Revenue Code, or a “controlled foreign corporation” related to a Borrower described in Section 881(c)(3)(C) of the Internal Revenue Code (“U.S. Tax Compliance Certificate”), and (y) properly

completed and executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E (or, in each case, any successor forms); or

(4) to the extent a Non-U.S. Lender is not the beneficial owner, executed copies of IRS Form W-8IMY (or, any successor form), accompanied by executed copies of IRS Form W-8ECI, IRS Form W-8BEN or IRS Form W-8BEN-E (or, in each case, any successor forms), a U.S. Tax Compliance Certificate substantially in the form of Exhibit F-2 or Exhibit F-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Non-U.S. Lender is a partnership and one or more direct or indirect partners of such Non-U.S. Lender are claiming the portfolio interest exemption, such Non-U.S. Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit F-4 on behalf of each such direct and indirect partner;

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

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

(g) If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 2.09 (including by the payment of additional amounts pursuant to this Section 2.09), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 2.09 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified

party the amount paid over pursuant to this paragraph (h) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (h), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (h) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(h) If any form or certification previously delivered by a Secured Party pursuant to this Section 2.09 expires or becomes obsolete or inaccurate in any respect, such Secured Party shall promptly (i) notify the Administrative Borrower and Administrative Agent in writing of such expiration or obsolescence and (ii) either update the form or certification or notify the Administrative Borrower and the Administrative Agent in writing of its legal inability to do so. The Administrative Agent shall comply with Section 2.09(f) and (h) as if it is a Lender.

(i) The obligations of the Loan Parties under this Section 2.09 shall survive the resignation or replacement of the Administrative Agent or any assignment or rights by, or the replacement of, a Lender, the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

Section 2.10 Increased Costs and Reduced Return.

(a) If any Secured Party shall have reasonably determined that any Change in Law shall (i) subject such Secured Party, or any Person controlling such Secured Party to any tax (other than Indemnified Taxes and Excluded Taxes), duty or other charge with respect to this Agreement or any Loan made by such Agent or such Lender, or change the basis of taxation of payments to such Secured Party or any Person controlling such Secured Party of any amounts payable hereunder, (ii) impose, modify or deem applicable any reserve, special deposit or similar requirement against any Loan or against assets of or held by, or deposits with or for the account of, or credit extended by, such Secured Party or any Person controlling such Secured Party or (iii) impose on such Secured Party or any Person controlling such Secured Party any other condition regarding this Agreement or any Loan, and the result of any event referred to in clauses (i), (ii) or (iii) above shall be to increase the cost to such Secured Party of making any Loan, or agreeing to make any Loan, or to reduce any amount received or receivable by such Secured Party hereunder, then, upon demand by such Secured Party, the Borrowers shall pay to such Secured Party such additional amounts as will compensate such Secured Party for such increased costs or reductions in amount.

(b) If any Secured Party shall have reasonably determined that any Change in Law either (i) affects or would affect the amount of capital required or expected to be maintained by such Secured Party or any Person controlling such Secured Party, and such Secured Party reasonably determines that the amount of such capital is increased as a direct or indirect consequence of any Loans made or maintained, such Secured Party's or such other controlling

Person's other obligations hereunder, or (ii) has or would have the effect of reducing the rate of return on such Secured Party's or such other controlling Person's capital to a level below that which such Secured Party or such controlling Person could have achieved but for such circumstances as a consequence of any Loans made or maintained, or any agreement to make Loans, or such Secured Party's or such other controlling Person's other obligations hereunder (in each case, taking into consideration, such Secured Party's or such other controlling Person's policies with respect to capital adequacy), then, upon demand by such Secured Party, the Borrowers shall pay to such Secured Party from time to time such additional amounts as will compensate such Secured Party for such cost of maintaining such increased capital or such reduction in the rate of return on such Secured Party's or such other controlling Person's capital.

(c) All amounts payable under this Section 2.10 shall bear interest from the date that is 10 days after the date of demand by any Secured Party until payment in full to such Secured Party at the Reference Rate. A certificate of such Secured Party claiming compensation under this Section 2.10, specifying the event herein above described and the nature of such event shall be submitted by such Secured Party to the Administrative Borrower, setting forth the additional amount due and an explanation of the calculation thereof, and such Secured Party's reasons for invoking the provisions of this Section 2.10, and shall be final and conclusive absent manifest error.

(d) Failure or delay on the part of any Lender to demand compensation pursuant to the foregoing provisions of this Section 2.10 shall not constitute a waiver of such Lender's right to demand such compensation; provided that the Borrowers shall not be required to compensate a Lender pursuant to the foregoing provisions of this Section 2.10 for any increased costs incurred or reductions suffered more than nine months prior to the date that such Lender notifies the Administrative Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

(e) The obligations of the Loan Parties under this Section 2.10 shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

Section 2.11 Changes in Law; Impracticability or Illegality.

(a) The LIBOR Rate may be adjusted by the Administrative 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 due to changes in applicable law occurring subsequent to the commencement of the then applicable Interest Period, including changes in tax laws (except changes of general applicability in corporate income tax laws) and changes in the reserve requirements imposed by the Board of Governors of the Federal Reserve System (or any successor), excluding the Reserve Percentage, which additional or increased costs would increase the cost of funding loans bearing interest at the LIBOR Rate. In any such event, the affected Lender shall give the Administrative Borrower and the Administrative Agent notice of such a determination and adjustment and the Administrative Agent promptly shall transmit the notice to each other Lender and, upon its receipt of the notice from the affected Lender, the

Administrative Borrower may, by notice to such affected Lender (i) require such Lender to furnish to the Administrative Borrower a statement setting forth the basis for adjusting such LIBOR Rate and the method for determining the amount of such adjustment, or (ii) repay the LIBOR Rate Loans with respect to which such adjustment is made (together with any amounts due under Section 2.09).

(b) In the event that any change in market conditions or any law, regulation, treaty, or directive, or any change therein or in the interpretation of application thereof, 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 the Administrative Borrower and the Administrative Agent, and the Administrative Agent promptly shall transmit the notice to each other Lender and (i) 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 Reference Rate Loans of the same type hereunder, and (ii) the Borrowers shall not be entitled to elect the LIBOR Option (including in any borrowing, conversion or continuation then being requested) until such Lender reasonably determines that it would no longer be unlawful or impractical to do so.

(c) Non-Temporary Situations with Respect to LIBOR. Notwithstanding anything to the contrary in this Agreement or any other Loan Documents, if the Administrative Agent determines (which determination shall be conclusive absent manifest error), or the Administrative Borrower or Required Lenders notify the Administrative Agent (with, in the case of the Required Lenders, a copy to the Administrative Borrower) that the Administrative Borrower or Required Lenders (as applicable) have determined, that:

(i) adequate and reasonable means do not exist for ascertaining LIBOR for any requested Interest Period and such circumstances are unlikely to be temporary, or

(ii) the Service or a Governmental Authority having jurisdiction over the Administrative Agent has made a public statement identifying a specific date after which LIBOR shall no longer be made available, or used for determining the interest rate of loans (such specific date, the "Scheduled Unavailability Date"), or

(iii) syndicated loans currently being executed, or that include language similar to that contained in this Section, are being executed or amended (as applicable) to incorporate or adopt a new benchmark interest rate to replace LIBOR, then, reasonably promptly after such determination by the Administrative Agent or receipt by the Administrative Agent of such notice, as applicable, the Administrative Agent and the Administrative Borrower may amend this Agreement to replace LIBOR with an alternate benchmark rate (including any mathematical or other adjustments to the benchmark (if any) incorporated therein), giving due consideration to any evolving or then existing convention for similar U.S. dollar denominated syndicated credit facilities for such alternative benchmarks (any such proposed rate, a "LIBOR Successor Rate"), together with any proposed LIBOR Successor Rate Conforming Changes and any such amendment shall become effective at 5:00 p.m. (New York time) on the fifth Business Day after the Administrative

Agent shall have posted such proposed amendment to all Lenders and the Administrative Borrower unless, prior to such time, Lenders comprising the Required Lenders have delivered to the Administrative Agent written notice that such Required Lenders do not accept such amendment.

(d) If no LIBOR Successor Rate has been determined and the circumstances under clause (c)(i) above exist or the Scheduled Unavailability Date has occurred (as applicable), the Administrative Agent will promptly so notify the Administrative Borrower and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain LIBOR Rate Loans shall be suspended, (to the extent of the affected LIBOR Rate Loans or Interest Periods), and (y) the LIBOR Rate component shall no longer be utilized in determining the Reference Rate. Upon receipt of such notice, the Borrower may revoke any pending request for a conversion to or continuation of LIBOR Rate Loans (to the extent of the affected LIBOR Rate Loans or Interest Periods). Notwithstanding anything else herein, any definition of LIBOR Successor Rate shall provide that in no event shall such LIBOR Successor Rate be less than 1.50% for purposes of this Agreement.

(e) The obligations of the Loan Parties under this Section 2.11 (excluding clauses (c) and (d)) shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

Section 2.12 Mitigation Obligations; Replacement of Lenders.

(a) If any Lender requires the Borrowers to pay any Additional Amounts under Section 2.09 or requests compensation under Section 2.10, then such Lender shall (at the request of the Administrative Borrower) use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to such Section 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. The Borrowers hereby agree to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If any Lender requires the Borrowers to pay any Additional Amounts under Section 2.09 or requests compensation under Section 2.10 and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with clause (a) above, or if any Lender is a Defaulting Lender, then the Administrative Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 12.07), all of its interests, rights and obligations under this Agreement and the other Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that:

(i) the Borrowers shall have paid to the Agents any assignment fees specified in Section 12.07;

(ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts

payable to it hereunder and under the other Loan Documents (including any amounts under Section 2.08 and Section 2.09) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrowers (in the case of all other amounts);

(iii) in the case of any such assignment resulting from payments required to be made pursuant to Section 2.09 or a claim for compensation under Section 2.10, such assignment will result in a reduction in such compensation or payments thereafter; and

(iv) such assignment does not conflict with applicable law.

Prior to the effective date of such assignment, the assigning Lender shall execute and deliver an Assignment and Acceptance, subject only to the conditions set forth above. If the assigning Lender shall refuse or fail to execute and deliver any such Assignment and Acceptance prior to the effective date of such assignment, the assigning Lender shall be deemed to have executed and delivered such Assignment and Acceptance. Any such assignment shall be made in accordance with the terms of Section 12.07.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Administrative Borrower to require such assignment and delegation cease to apply.

## ARTICLE III

## [INTENTIONALLY OMITTED]

## ARTICLE IV

## APPLICATION OF PAYMENTS; DEFAULTING LENDERS; JOINT AND SEVERAL LIABILITY OF BORROWERS

Section 4.01 Payments; Computations and Statements.

(a) The Administrative Borrower on behalf of the Borrowers will make each payment under this Agreement not later than 12:00 noon (New York City time) on the day when due, in lawful money of the United States of America and in immediately available funds, to the Administrative Agent's Account. All payments received by the Administrative Agent after 12:00 noon (New York City time) on any Business Day may at the Administrative Agent's discretion be deemed received on the next succeeding Business Day. All payments shall be made by the Administrative Borrower without set-off, counterclaim, recoupment, deduction or other defense to the Agents and the Lenders. Except as provided in Section 2.02, after receipt, the Administrative Agent will promptly thereafter cause to be distributed like funds relating to the payment of principal ratably to the Lenders in accordance with their Pro Rata Shares and like funds relating to the payment of any other amount payable to any Lender to such Lender, in each case to be applied in accordance with the terms of this Agreement. The Lenders and the Borrowers hereby authorize the Administrative Agent to, and the Administrative Agent may, from time to time, charge the Loan

Account of the Borrowers with any amount due and payable by the Borrowers under any Loan Document. Each of the Lenders and the Borrowers agrees that the Administrative Agent shall have the right to make such charges whether or not any Default or Event of Default shall have occurred and be continuing. Any amount charged to the Loan Account of the Borrowers shall be deemed to be Obligations. Whenever any payment to be made under any such Loan Document shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall in such case be included in the computation of interest or fees, as the case may be. All computations of fees shall be made by the Administrative Agent on the basis of a year of 360 days for the actual number of days (except that interest calculated by reference to the Reference Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year)), including the first day but excluding the last day, elapsed. Each determination by the Administrative Agent of an interest rate or fees hereunder shall be conclusive and binding for all purposes in the absence of manifest error.

(b) The Administrative Agent shall provide the Administrative Borrower, promptly (i) at or around the end of each calendar month during which any changes to the balance of the Loan Account occur, any Loans are made or any payments of the Loans occur and (ii) following the request of the Administrative Borrower therefor, a summary statement (in the form from time to time used by the Administrative Agent) of the opening and closing daily balances in the Loan Account of the Borrowers during such month, the amounts and dates of all Loans made to the Borrowers during such month, the amounts and dates of all payments on account of the Loans to the Borrowers during such month and the Loans to which such payments were applied, the amount of interest accrued on the Loans to the Borrowers during such month, and the amount and nature of any charges to the Loan Account made during such month on account of fees, commissions, expenses and other Obligations (provided that the Administrative Agent shall only provide the Administrative Borrower with the information referenced in (b)(i) and (b)(ii) above if there is activity in the Loan Account). All entries on any such statement shall be presumed to be correct and, 30 days after the same is sent, shall be final and conclusive absent manifest error.

Section 4.02 Sharing of Payments. Except as provided in Section 2.02 hereof, if any Lender shall obtain any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) on account of any Obligation in excess of its ratable share of payments on account of similar obligations obtained by all the Lenders, such Lender shall forthwith purchase from the other Lenders such participations in such similar obligations held by them as shall be necessary to cause such purchasing Lender to share the excess payment ratably with each of them; provided, however, that (a) if all or any portion of such excess payment is thereafter recovered from such purchasing Lender, such purchase from each Lender shall be rescinded and each Lender shall repay to the purchasing Lender the purchase price to the extent of such recovery together with an amount equal to such Lender's ratable share (according to the proportion of (i) the amount of such Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid by the purchasing Lender in respect of the total amount so recovered and (b) the provisions of this Section shall not be construed to apply to (i) any payment made by the Borrowers pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender or Disqualified Institution), or (ii) any payment obtained by a Lender as consideration for the assignment of or sale of a

participation in any of its Loans, other than to any Loan Party or any Subsidiary thereof (as to which the provisions of this Section shall apply). The Borrowers agree that any Lender so purchasing a participation from another Lender pursuant to this Section may, to the fullest extent permitted by law, exercise all of its rights (including the Lender's right of set-off) with respect to such participation as fully as if such Lender were the direct creditor of the Borrowers in the amount of such participation.

Section 4.03 Apportionment of Payments. Subject to Section 2.02 hereof and to any written agreement among the Agents and/or the Lenders:

(a) All payments of principal and interest in respect of outstanding Loans, all payments of fees (other than the fees set forth in Section 2.06 hereof to the extent set forth in any written agreement among the Agents and the Lenders) and all other payments in respect of any other Obligations, shall be allocated by the Administrative Agent among such of the Lenders as are entitled thereto, in proportion to their respective Pro Rata Shares or otherwise as provided herein or, in respect of payments not made on account of Loans, as designated by the Person making payment when the payment is made.

(b) After the occurrence and during the continuance of an Event of Default, the Administrative Agent may, and upon the direction of the Collateral Agent or the Required Lenders shall, apply all payments in respect of any Obligations, including without limitation, all proceeds of the Collateral, subject to the provisions of this Agreement, (i) first, ratably to pay the Obligations in respect of any fees, expense reimbursements, indemnities and other amounts then due and payable to the Agents until paid in full; (ii) second, to pay interest then due and payable in respect of the Collateral Agent Advances until paid in full; (iii) third, to pay principal of the Collateral Agent Advances until paid in full; (iv) fourth, ratably to pay the Term Loan Obligations in respect of any fees (other than any Applicable Premium), expense reimbursements, indemnities and other amounts then due and payable to the Term Loan Lenders until paid in full; (v) fifth, ratably to pay interest then due and payable in respect of the Term Loan until paid in full; (vi) sixth, ratably to pay principal of the Term Loan until paid in full; (vii) seventh, ratably to pay the Obligations in respect of any Applicable Premium then due and payable to the Lenders until paid in full; and (viii) eighth, to the ratable payment of all other Obligations then due and payable.

(c) For purposes of Section 4.03(b) (other than clause (viii) thereof), "paid in full" means payment in cash of all amounts owing under the Loan Documents according to the terms thereof, including loan fees, service fees, professional fees, interest (and specifically including interest accrued after the commencement of any Insolvency Proceeding), default interest, interest on interest, and expense reimbursements, whether or not same would be or is allowed or disallowed in whole or in part in any Insolvency Proceeding, except to the extent that default or overdue interest (but not any other interest) and loan fees, each arising from or related to a default, are disallowed in any Insolvency Proceeding; provided, however, that for the purposes of clause (viii), "paid in full" means payment in cash of all amounts owing under the Loan Documents according to the terms thereof, including loan fees, service fees, professional fees, interest (and specifically including interest accrued after the commencement of any Insolvency Proceeding), default interest, interest on interest, and expense reimbursements, whether or not the same would be or is allowed or disallowed in whole or in part in any Insolvency Proceeding.

(d) In the event of a direct conflict between the priority provisions of this Section 4.03 and other provisions contained in any other Loan Document, it is the intention of the parties hereto that both such priority provisions in such documents shall 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 4.03 shall control and govern.

Section 4.04 Defaulting Lenders. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(a) Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in Section 12.02.

(b) The Administrative Agent shall not be obligated to transfer to such Defaulting Lender any payments made by the Administrative Borrower on behalf of any Borrower to the Administrative Agent for such Defaulting Lender's benefit, and, in the absence of such transfer to such Defaulting Lender, the Administrative Agent shall transfer any such payments to each other non-Defaulting Lender ratably in accordance with their Pro Rata Shares (without giving effect to the Pro Rata Shares of such Defaulting Lender) (but only to the extent that such Defaulting Lender's Loans were funded by the other Lenders) or, if so directed by the Administrative Borrower and if no Default or Event of Default has occurred and is continuing (and to the extent such Defaulting Lender's Loans were not funded by the other Lenders), retain the same to be re-advanced to the Administrative Borrower on behalf of the Borrowers as if such Defaulting Lender had made such Loans to the Borrowers. Subject to the foregoing, the Administrative Agent may hold and, in its discretion, re-lend to the Administrative Borrower on behalf of the Borrowers for the account of such Defaulting Lender the amount of all such payments received and retained by the Administrative Agent for the account of such Defaulting Lender.

(c) Any such failure to fund by any Defaulting Lender shall constitute a material breach by such Defaulting Lender of this Agreement and shall entitle the Borrowers to replace the Defaulting Lender with one or more substitute Lenders, and the Defaulting Lender shall have no right to refuse to be replaced hereunder. Such notice to replace the Defaulting Lender 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. Prior to the effective date of such replacement, the Defaulting Lender shall execute and deliver an Assignment and Acceptance, subject only to the Defaulting Lender being repaid its share of the outstanding Obligations without any premium or penalty of any kind whatsoever. If the Defaulting Lender shall refuse or fail to execute and deliver any such Assignment and Acceptance prior to the effective date of such replacement, the Defaulting Lender shall be deemed to have executed and delivered such Assignment and Acceptance. The replacement of any Defaulting Lender shall be made in accordance with the terms of Section 12.07.

(d) The operation of this Section shall not be construed to increase or otherwise affect the Commitments of any Lender, to relieve or excuse the performance by such Defaulting Lender or any other Lender of its duties and obligations hereunder, or to relieve or excuse

the performance by any Borrower of its duties and obligations hereunder to the Administrative Agent or to the Lenders other than such Defaulting Lender.

(e) This Section shall remain effective with respect to such Lender until either (i) the Obligations under this Agreement shall have been declared or shall have become immediately due and payable or (ii) the non-Defaulting Lenders, the Agents, and the Administrative Borrower on behalf of the Borrowers shall have waived such Defaulting Lender's default in writing, and the Defaulting Lender makes its Pro Rata Share of the applicable defaulted Loans and pays to the Agents all amounts owing by such Defaulting Lender in respect thereof; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrowers while such Lender was a Defaulting Lender; provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from such Lender's having been a Defaulting Lender.

Section 4.05 Administrative Borrower; Joint and Several Liability of the Borrowers.

(a) Each Borrower hereby irrevocably appoints DBM as the borrowing agent and attorney-in-fact for the Borrowers (the "Administrative Borrower") which appointment shall remain in full force and effect unless and until the Agents shall have received prior written notice signed by all of the Borrowers 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 (i) to provide to the Agents and receive from the Agents all notices with respect to Loans obtained for the benefit of any Borrower and all other notices and instructions under this Agreement and (ii) to take such action as the Administrative Borrower deems appropriate on its behalf to obtain Loans 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 Account and Collateral of the Borrowers in a combined fashion, as more fully set forth herein, is done solely as an accommodation to the Borrowers in order to utilize the collective borrowing powers of the Borrowers in the most efficient and economical manner and at their request, and that neither the Agents nor the Lenders shall incur liability to the Borrowers as a result hereof. Each Borrower expects to derive benefit, directly or indirectly, from the handling of the Loan Account 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.

(b) Each Borrower hereby accepts joint and several liability hereunder and under the other Loan Documents in consideration of the financial accommodations to be provided by the Agents and the Lenders under this Agreement and the other Loan Documents, for the mutual benefit, directly and indirectly, of each of the Borrowers and in consideration of the undertakings of the other Borrowers to accept joint and several liability for the Obligations. Each of the Borrowers, 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, without limitation, any Obligations arising under this Section 4.05), it being the intention of the parties hereto that all of

the Obligations shall be the joint and several obligations of each of the Borrowers without preferences or distinction among them. If and to the extent that any of the Borrowers 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. Subject to the terms and conditions hereof, the Obligations of each of the Borrowers under the provisions of this Section 4.05 constitute the absolute and unconditional, full recourse Obligations of each of the Borrowers, enforceable against each such Person to the full extent of its properties and assets, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity, irrespective of the validity, regularity or enforceability of this Agreement, the other Loan Documents or any other circumstances whatsoever.

(c) The provisions of this Section 4.05 are made for the benefit of the Agents, the Lenders and their successors and assigns, and may be enforced by them from time to time against any or all of the Borrowers as often as occasion therefor may arise and without requirement on the part of the Agents, the Lenders or such successors or assigns first to marshal any of its or their claims or to exercise any of its or their rights against any of the other Borrowers or to exhaust any remedies available to it or them against any of the other Borrowers 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 4.05 shall remain in effect until the Termination Date.

(d) Each of the Borrowers hereby agrees that it will not enforce any of its rights of contribution or subrogation against the other Borrowers with respect to any liability incurred by it hereunder or under any of the other Loan Documents, any payments made by it to the Agents or the Lenders with respect to any of the Obligations or any Collateral, until the Termination Date. Any claim which any Borrower may have against any other Borrower with respect to any payments to the Agents or the Lenders hereunder or under any other Loan Documents 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.

## ARTICLE V

## CONDITIONS TO LOANS

Section 5.01 Conditions Precedent to Effectiveness. This Agreement shall become effective as of the Business Day (the "Effective Date") when each of the following conditions precedent shall have been satisfied in a manner reasonably satisfactory to the Agents (or, if a specific Agent is identified below, such Agent):

(a) Payment of Fees, Etc. The Borrowers shall have paid on or before the Effective Date all fees, costs, and expenses then payable pursuant to Section 2.06 and Section 12.04.

(b) Representations and Warranties; No Event of Default. The following statements shall be true and correct: (i) the representations and warranties contained in Article VI and in each other Loan Document, certificate or other writing delivered to any Secured Party pursuant hereto or thereto on or prior to the Effective Date are true and correct on and as of the Effective Date as though made on and as of such date, except to the extent that any such representation or warranty expressly relates solely to an earlier date (in which case such representation or warranty shall be true and correct on and as of such earlier date) and (ii) no Default or Event of Default shall have occurred and be continuing on the Effective Date or would result from this Agreement or the other Loan Documents becoming effective in accordance with its or their respective terms.

(c) Legality. The making of the initial Loans shall not contravene any law, rule or regulation applicable to any Secured Party.

(d) Delivery of Documents. The Collateral Agent shall have received on or before the Effective Date the following, each in form and substance reasonably satisfactory to the Collateral Agent and, unless indicated otherwise, dated the Effective Date and, if applicable, duly executed by the Persons party thereto:

(i) a Security Agreement, together with the original stock certificates (if any) representing all of the Equity Interests and all promissory notes required to be pledged thereunder, accompanied by undated stock powers executed in blank and other proper instruments of transfer;

(ii) evidence reasonably satisfactory to the Collateral Agent of the filing of appropriate financing statements on form UCC-1 in such office or offices as may be necessary to perfect the security interests purported to be created by each Security Agreement;

(iii) the results of searches for any effective UCC financing statements, Tax Liens or judgment Liens filed against any Loan Party or its property, which results shall not show any such Liens (other than Permitted Liens);

(iv) a Perfection Certificate;

(v) [Reserved];

(vi) [Reserved];

(vii) the Intercompany Subordination Agreement;

(viii) the Intercreditor Agreement;

(ix) the R&W Insurance Collateral Assignment;

(x) [Reserved];

(xi) a Notice of Borrowing;

(xii) a certificate of an Authorized Officer of each Loan Party, certifying (A) as to copies of the Governing Documents of such Loan Party, together with all amendments thereto (including, without limitation, a true and complete copy of the charter, certificate of formation, certificate of limited partnership or other publicly filed organizational document of each Loan Party certified as of a recent date not more than 30 days prior to the Effective Date (or such other date as the Administrative Agent shall have agreed to in its sole discretion) by an appropriate official of the jurisdiction of organization of such Loan Party which shall set forth the same complete name of such Loan Party as is set forth herein and the organizational number of such Loan Party, if an organizational number is issued in such jurisdiction), (B) as to a copy of the resolutions or written consents of such Loan Party authorizing (1) the borrowings hereunder and the transactions contemplated by the Loan Documents to which such Loan Party is or will be a party, and (2) the execution, delivery and performance by such Loan Party of each Loan Document to which such Loan Party is or will be a party and the execution and delivery of the other documents to be delivered by such Person in connection herewith and therewith, (C) the names and true signatures of the representatives of such Loan Party authorized to sign each Loan Document (in the case of a Borrower, including, without limitation, Notices of Borrowing, LIBOR Notices and all other notices under this Agreement and the other Loan Documents) to which such Loan Party is or will be a party and the other documents to be executed and delivered by such Loan Party in connection herewith and therewith, together with evidence of the incumbency of such authorized officers and (D) as to the matters set forth in Section 5.01(b);

(xiii) a certificate of the chief financial officer of DBM (A) attaching a copy of the Financial Statements and the Projections described in Section 6.01(g)(ii) hereof and certifying as to the compliance with the representations and warranties set forth in Section 6.01(g)(i) and Section 6.01(bb)(ii) and (B) certifying that after giving effect to all Loans to be made on the Effective Date, all liabilities of the Loan Parties are current;

(xiv) a certificate of the chief financial officer of DBM and the Authorized Officer of each Loan Party, certifying as to the solvency of the Loan Parties on a consolidated basis (after giving effect to the Loans made on the Effective Date and the payment of all fees, costs and expenses incurred in connection with the Transaction Documents);

(xv) a certificate of an Authorized Officer of the Administrative Borrower certifying that (A) the attached copies of all Graywolf Acquisition Documents, Effective Date Preferred Equity Issuance Documents, Working Capital Loan Documents and the Parent Debt Documents as in effect on the Effective Date are true, complete and correct copies thereof and (B) such agreements remain in full force and effect and that none of the Loan Parties has breached or defaulted in any of its obligations under such agreements;

(xvi) a certificate of the appropriate official(s) of the jurisdiction of organization and, except to the extent such failure to be so qualified could not reasonably be expected to have a Material Adverse Effect, each jurisdiction of foreign qualification of each Loan Party certifying as of a recent date not more than 30 days prior to the Effective Date (or such other date as the Administrative Agent shall have agreed to in its sole discretion) as to the subsistence in good standing of such Loan Party in such jurisdictions;

(xvii) opinions of Latham & Watkins LLP, counsel to the Loan Parties, as to such matters as the Collateral Agent may reasonably request and legal opinions of local counsel, as the Collateral Agent may reasonably request, in each jurisdiction in which a Loan Party is organized to the extent such Loan Party is not covered by the opinion provided by Latham & Watkins LLP;

(xviii) evidence of the insurance coverage required by Section 7.01 and the terms of each Security Agreement and such other insurance coverage with respect to the business and operations of the Loan Parties as the Collateral Agent may reasonably request, in each case, where requested by the Collateral Agent, with such endorsements as to the named insureds or loss payees thereunder as the Collateral Agent may request and providing that such policy may be terminated or cancelled (by the insurer or the insured thereunder) only upon 30 days' (10 days' in the case of non-payment) prior written notice to the Collateral Agent and each such named insured or loss payee, together with evidence of the payment of all premiums due in respect thereof for such period as the Collateral Agent may request;

(xix) evidence of the payment in full of all Indebtedness under the Existing Graywolf Credit Facilities substantially contemporaneously with the Effective Date, together with termination and release agreements with respect to the Existing Graywolf Credit Facilities and all related documents, duly executed by the Loan Parties and the Existing Agents, as applicable, and attaching (A) a satisfaction of mortgage for each mortgage previously filed by each Existing Agent on each Facility, (C) a termination of security interest in Intellectual Property for each assignment for security previously recorded by the Existing Agents at the United States Patent and Trademark Office or the United States Copyright Office and covering any U.S. Registered Intellectual Property of the Loan Parties, and (D) UCC-3 termination statements for all UCC-1 financing statements previously filed by the Existing Agents and covering any portion of the Collateral;

(xx) all Control Agreements as set forth on Schedule 5.01(d) hereto, each duly executed by, in addition to the applicable Loan Party, the applicable financial institution;

(xxi) a duly executed IRS Form W-9 (or such other applicable IRS tax form) of each Borrower, including, for the avoidance of doubt, the Administrative Borrower; and

(xxii) such other agreements, instruments, approvals, opinions and other documents, each reasonably satisfactory to the Agents in form and substance, as any Agent may reasonably request prior to the making of the Term Loans by the Lenders on the Effective Date;

(e) Material Adverse Effect. The Administrative Agent shall have determined, in its sole discretion, that no event or development shall have occurred since December 30, 2017 which could reasonably be expected to have a Material Adverse Effect.

(f) Consummation of Graywolf Acquisition Agreement. Concurrently with the making of the Term Loan, (i) DBM shall have purchased pursuant to the Graywolf

Acquisition Agreement (no provision of which shall have been amended or otherwise modified or waived without the prior written consent of the Agents), and shall have become the owner, free and clear of all Liens other than Permitted Liens, of all of the equity interests and assets contemplated to be purchased thereunder for a Purchase Price not in excess of $135,000,000, and (ii) DBM, DBM Merger Sub, Inc., CB-Horn Holdings, Inc. and the Stockholders' Representative (as defined in the Graywolf Acquisition Agreement) shall have fully performed all of the obligations to be performed by it thereunder.

(g) Consummation of Working Capital Loan Documents. On or prior to the Effective Date, (i) each of the conditions precedent to the obligations of each of the parties to the Working Capital Loan Documents shall have been satisfied or waived in accordance with the terms thereof, (ii) the Working Capital Loan Documents shall have been consummated in all material respects in accordance with all Requirements of Law, (iii) there shall be no breach of any material term or condition of the Working Capital Loan Documents, (iv) neither the Loan Parties nor any other Person party to the Working Capital Loan Documents shall be in default in the performance or compliance with any of the provisions of the Working Capital Loan Documents, (v) the Working Capital Loan Documents shall be in full force and effect and not be terminated, rescinded or withdrawn and (vi) the outstanding principal balance of the Working Capital Loans shall not exceed $55,000,000.

(h) Effective Date Preferred Equity Issuance. On or prior to the Effective Date, DBM shall have received net cash proceeds of at least $40,000,000 from the Effective Date Preferred Equity Issuance on the terms conditions set forth in the Effective Date Preferred Purchase Agreement which shall be satisfactory to the Agents in their sole discretion.

(i) Approvals. All consents, authorizations and approvals of, and filings and registrations with, and all other actions in respect of, any Governmental Authority or other Person required in connection with (i) the making of the Loans, (ii) the execution, delivery and performance of the Transaction Documents and (iii) the conduct of the Loan Parties' business shall have been obtained and shall be in full force and effect.

(j) Proceedings; Receipt of Documents. All proceedings in connection with the making of the Loans and the other transactions contemplated by this Agreement and the other Loan Documents, and all documents incidental hereto and thereto, shall be reasonably satisfactory to the Collateral Agent and its counsel, and the Collateral Agent and such counsel shall have received all such information and such counterpart originals or certified or other copies of such documents as the Collateral Agent or such counsel may reasonably request.

(k) [reserved]

(l) Indebtedness, Consolidated EBITDA and Minimum Liquidity. The Agents shall have received evidence reasonably satisfactory to them that (i) the aggregate principal amount of Indebtedness for borrowed money (including Capitalized Lease Obligations and letters of credit but excluding Subordinated Indebtedness) of DBM and its Subsidiaries outstanding on the Effective Date (calculated on a pro forma basis to give effect to all Loans made, and Working Capital Indebtedness incurred, on the Effective Date) does not exceed 2.00 times the Consolidated EBITDA

of DBM and its Subsidiaries for the 12 month period ending on or about September 30, 2018, (ii) the Consolidated EBITDA of DBM and its Subsidiaries for the 12 month period ending on or about September 30, 2018 is not less than $75,000,000, and (iii) Liquidity (calculated on a pro forma basis to give effect to all Loans made, and Working Capital Indebtedness incurred, on the Effective Date and the payment of all fees, costs and expenses incurred in connection with the Transaction Documents) is not less than $20,000,000. DBM shall deliver to the Administrative Agent a certificate of an Authorized Officer of DBM certifying as to the matters set forth above and containing reasonably detailed calculations thereof.

(m) Cash Management and Collateral Reporting. The Agents shall be satisfied in their reasonable discretion with the cash management systems and Collateral reporting of the Loan Parties.

(n) KYC. The Administrative Agent and the Lenders shall have received (i) at least one Business Day before the Effective Date, all documentation and other information about the Loan Parties and their Subsidiaries that shall have been reasonably requested by the Administrative Agent or the Lenders in writing at least five (5) Business Days prior to the Effective Date and that the Administrative Agent and the Lenders reasonably determine is required by applicable regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the PATRIOT Act (provided that such information shall, to the extent requested at least ten (10) Business Days prior to the Effective Date, have been provided at least three (3) Business Days prior to the Effective Date) and (ii) at least ten (10) Business Days prior to the Effective Date, a Beneficial Ownership Certification in relation to each Borrower for each Lender that so requests at least fifteen (15) Business Days prior to the Effective Date.

(o) No Litigation. There shall exist no claim, action, suit, investigation, litigation or proceeding, pending or threatened in any court or before any arbitrator or governmental instrumentality which relates to this Agreement or the transactions contemplated hereby or which, in the opinion of the Administrative Agent, has any reasonable likelihood of having a material adverse effect on (i) the condition (financial or otherwise), operations, performance, properties, assets, liabilities, business or prospects of any Loan Party, (ii) the ability of any Loan Party to perform its obligations under the Loan Documents or (iii) the ability of the Agent to enforce the Loan Documents.

(p) Representation and Warranty Insurance. DBM shall have procured a representation and warranty insurance policy for the Project Graywolf Acquisition (which shall be in full force and effect), and the Administrative Agent shall be satisfied with such representation and warranty insurance, which shall name the Borrowers as beneficiaries and additional insureds of such policy.

Section 5.02 Conditions Subsequent to Effectiveness. As an accommodation to the Loan Parties, the Agents and the Lenders have agreed to execute this Agreement and to make the Loans on the Effective Date subject to the agreement of the Loan Parties to comply with this Section 5.02 notwithstanding the failure by the Loan Parties to satisfy the conditions set forth below on or before the Effective Date. In consideration of such accommodation, the Loan Parties agree that, in addition to all other terms, conditions and provisions set forth in this Agreement and the

other Loan Documents, including, without limitation, those conditions set forth in Section 5.01, the Loan Parties shall satisfy each of the conditions subsequent set forth below on or before the date applicable thereto (it being understood that (i) the failure by the Loan Parties to perform or cause to be performed any such condition subsequent on or before the date applicable thereto shall constitute an Event of Default and (ii) to the extent that the existence of any such condition subsequent would otherwise cause any representation, warranty or covenant in this Agreement or any other Loan Document to be breached, the Required Lenders hereby waive such breach for the period from the Effective Date until the date on which such condition subsequent is required to be fulfilled pursuant to this Section 5.02):

(a) Within 30 days of the Effective Date (or such later date as determined by the Collateral Agent in its sole discretion), the Collateral Agent shall have received, with respect to the insurance coverage required by Section 7.01 and the terms of the Security Agreement, to the extent not delivered to the Collateral Agent on or prior to the Effective Date, evidence of such endorsements as to the named insureds or loss payees, or in the case of business interruption insurance, collateral assignees, thereunder as the Collateral Agent may request and providing that the applicable policies may be terminated or cancelled (by the insurer or the insured thereunder) only upon 30 days' (10 days' in the case of non-payment) prior written notice to the Collateral Agent and each such named insured or loss payee.

(b) Within sixty (60) days of the Effective Date (or such later date as determined by the Collateral Agent in its sole discretion), the Collateral Agent shall have received with respect to each DBM Facility owned in fee by a Loan Party, to the extent not delivered to the Collateral Agent on or prior to the Effective Date, a Mortgage duly executed by the applicable Loan Party, in recordable form, together with such other Real Property Deliverables as the Collateral Agent may request;

(c) Within forty-five (45) days of the Effective Date (or such later date as determined by the Collateral Agent in its sole discretion), the Collateral Agent shall have received, to the extent not delivered to the Collateral Agent on or prior to the Effective Date, all Control Agreements with respect to any deposit account, securities account, commodity account, securities entitlement or commodity contract of any Loan Party existing on the Effective Date that, in the reasonable judgment of the Agents, are required for the Loan Parties to comply with the Loan Documents, each duly executed by, in addition to the applicable Loan Party, the applicable financial institution.

(d) Within sixty (60) of the Effective Date (or such later date as determined by the Collateral Agent in its sole discretion), the Collateral Agent shall have received with respect to each Graywolf Facility owned in fee by a Loan Party (other than the Florida Real Property), to the extent not delivered to the Collateral Agent on or prior to the Effective Date, a Mortgage duly executed by the applicable Loan Party, in recordable form, together with such other Real Property Deliverables as the Collateral Agent may request.

(e) Within 90 days of the Effective Date (or such later date as determined by the Collateral Agent in its reasonable discretion), the Loan Parties shall have used commercially reasonable efforts to deliver to the Collateral Agent shall have received a landlord waiver or a

collateral access agreement, as applicable, in form and substance reasonably satisfactory to the Collateral Agent, with respect to each of the Material Leases set forth on Schedule III to the Security Agreement, duly executed by each landlord, bailee, warehouseman, or other Person counterparty to such Material Lease, as applicable.

(f) Within 120 days of the Effective Date (or such later date as determined by the Collateral Agent in its reasonable discretion), the Collateral Agent shall have received evidence reasonably satisfactory to it that the Loan Parties have caused Wells Fargo Bank, National Association to be the principal depository bank of each Loan Party, including for the maintenance of all operating, collection, disbursement and other deposition accounts and for cash management services.

(g) Within 10 Business Days of the Effective Date (or such later date as determined by the Collateral Agent in its sole discretion), the Collateral Agent shall have received, to the extent not delivered to the Collateral Agent on or prior to the Effective Date, the original stock certificates (if any) representing all of the Equity Interests of Foreign Subsidiaries required to be pledged under the Loan Documents, accompanied by undated stock powers executed in blank and other proper instruments of transfer.

(h) Within 5 Business Days of the Effective Date (or such later date as determined by the Collateral Agent in its sole discretion), the Collateral Agent shall have received, to the extent not delivered to the Collateral Agent on or prior to the Effective Date, evidence, in form and substance satisfactory to the Collateral Agent, of the termination of each Lien listed on Schedule 7.02(a) and the making of any required termination filings in respect thereof (other than the Lien in favor of JPMorgan Chase Bank, N.A. referred to on Schedule 7.02(a)).

(i) Within 30 days of the Effective Date (or such later date as determined by the Collateral Agent in its sole discretion), the Collateral Agent shall have received evidence, in form and substance acceptable to the Collateral Agent, that Inco Services, Inc.'s factoring agreements, including pursuant to that certain Receivables Purchase Agreement dated as of May 7, 2015, with JPMorgan Chase Bank, N.A. and any corresponding UCC-1s have been terminated.

## ARTICLE VI

## REPRESENTATIONS AND WARRANTIES

Section 6.01 Representations and Warranties. Each Loan Party hereby represents and warrants to the Secured Parties as follows:

(a) Organization, Good Standing, Etc. Each Loan Party (i) is a corporation, limited liability company or limited partnership duly organized, validly existing and in good standing under the laws of the state or jurisdiction of its organization, (ii) has all requisite power and authority to conduct its business as now conducted and as presently contemplated and, in the case of the Borrowers, to make the borrowings hereunder, and to execute and deliver each Transaction Document to which it is a party, and to consummate the transactions contemplated thereby, and (iii) is duly qualified to do business and is in good standing in each jurisdiction in

which the character of the properties owned or leased by it or in which the transaction of its business makes such qualification necessary, except (solely for the purposes of this subclause (iii)) where the failure to be so qualified and in good standing could not reasonably be expected to have a Material Adverse Effect.

(b) Authorization, Etc. The execution, delivery and performance by each Loan Party of each Transaction Document to which it is or will be a party, (i) have been duly authorized by all necessary action, (ii) do not and will not contravene (A) any of its Governing Documents, (B) any applicable Requirement of Law or (C)(x) any Material Contract or (y) other any Contractual Obligation binding on or otherwise affecting it or any of its properties, (iii) do not and will not result in or require the creation of any Lien (other than pursuant to any Loan Document, any Working Capital Loan Document) upon or with respect to any of its properties, and (iv) do not and will not result in any default, noncompliance, suspension, revocation, impairment, forfeiture or nonrenewal of any permit, license, authorization or approval applicable to its operations or any of its properties, except, in the case of clauses (ii)(B), (ii)(C)(y) and (iv), to the extent where such contravention, default, noncompliance, suspension, revocation, impairment, forfeiture or nonrenewal could not reasonably be expected to have a Material Adverse Effect.

(c) Governmental Approvals. No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority is required in connection with the due execution, delivery and performance by any Loan Party of any Transaction Document to which it is or will be a party other than filings and recordings with respect to Collateral to be made, or otherwise delivered to the Collateral Agent for filing or recordation, on the Effective Date.

(d) Enforceability of Transaction Documents. This Agreement is, and each other Transaction Document to which any Loan Party is or will be a party, when delivered hereunder, will be, a legal, valid and binding obligation of such Person, enforceable against such Person in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.

(e) Capitalization. On the Effective Date, after giving effect to the transactions contemplated hereby to occur on the Effective Date, the authorized Equity Interests of DBM and each of its Subsidiaries and the issued and outstanding Equity Interests of DBM and each of its Subsidiaries are as set forth on Schedule 6.01(e). All of the issued and outstanding shares of Equity Interests of DBM and each of its Subsidiaries have been validly issued and are fully paid and nonassessable (as applicable), and the holders thereof are not entitled to any preemptive, first refusal or other similar rights. All Equity Interests of such Subsidiaries of DBM are owned by DBM free and clear of all Liens (other than Permitted Specified Liens). Except as described on Schedule 6.01(e), there are no outstanding debt or equity securities of DBM or any of its Subsidiaries and no outstanding obligations of DBM or any of its Subsidiaries convertible into or exchangeable for, or warrants, options or other rights for the purchase or acquisition from DBM or any of its Subsidiaries, or other obligations of DBM or any of its Subsidiaries to issue, directly or indirectly, any shares of Equity Interests of DBM or any of its Subsidiaries.

(f) Litigation. There is no pending or, to the knowledge of any Loan Party, threatened action, suit or proceeding affecting any Loan Party or any of its properties before any court or other Governmental Authority or any arbitrator that (i) if adversely determined, could reasonably be expected to have a Material Adverse Effect or (ii) relates to this Agreement or any other Transaction Document or any transactions consummated hereunder or thereunder.

(g) Financial Statements.

(i) The Financial Statements, copies of which have been delivered to each Agent and each Lender, fairly present the consolidated financial condition of DBM and its Subsidiaries as at the respective dates thereof and the consolidated results of operations of DBM and its Subsidiaries for the fiscal periods ended on such respective dates, all in accordance with GAAP. All material indebtedness and other liabilities (including, without limitation, Indebtedness, liabilities for taxes, long-term leases and other unusual forward or long-term commitments), direct or contingent, of DBM and its Subsidiaries are set forth in the Financial Statements (excluding any liabilities incurred in the ordinary course of business since the date of such Financial Statements). Since December 30, 2017 no event or development has occurred that has had or could reasonably be expected to have a Material Adverse Effect.

(ii) DBM has heretofore furnished to each Agent and each Lender projected balance sheets, income statements and statements of cash flows of DBM and its Subsidiaries for the period from January 1, 2019 through December 31, 2023, which projected financial statements shall be updated from time to time pursuant to Section 7.01(a)(v).

(h) Compliance with Law, Etc. No Loan Party or any of its Subsidiaries is in violation of (i) any of its Governing Documents, (ii) any Requirement of Law, except where the failure to so comply could not reasonably be expected to have a Material Adverse Effect, or (iii) any term of any Contractual Obligation (including, without limitation, any Material Contract) binding on or otherwise affecting it or any of its properties, except where the failure to so comply could not reasonably be expected to have a Material Adverse Effect, and no default or event of default has occurred and is continuing thereunder.

(i) ERISA. Except as could not reasonably be expected to have a Material Adverse Effect: (i) each Employee Plan is in substantial compliance with ERISA and the Internal Revenue Code, (ii) no Termination Event has occurred nor is reasonably expected to occur with respect to any Employee Plan, (iii) the most recent annual report (Form 5500 Series) with respect to each Employee Plan, including any required Schedule B (Actuarial Information) thereto, copies of which have been filed with the Internal Revenue Service and will be delivered to the Agents, upon request, is complete and correct and fairly presents the funding status of such Employee Plan, and since the date of such report there has been no material adverse change in such funding status, (iv) copies of each agreement entered into with the PBGC, the U.S. Department of Labor or the Internal Revenue Service with respect to any Employee Plan have been delivered to the Agents, (v) no Employee Plan failed to satisfy the minimum funding standards (within the meaning of Sections 412 or 430 of the Code or Section 302 of ERISA), whether or not waived, and (vi) no Lien imposed under the Internal Revenue Code or ERISA exists or is likely to arise on account of any Employee Plan within the meaning of Section 412 of the Internal Revenue Code. No Loan Party

or any of its ERISA Affiliates has incurred any withdrawal liability under ERISA with respect to any Multiemployer Plan, or is aware of any facts indicating that it or any of its ERISA Affiliates may in the future incur any such withdrawal liability, except as could not reasonably be expected to have a Material Adverse Effect. Except as could not reasonably be expected to have a Material Adverse Effect, no Loan Party or any of its ERISA Affiliates nor any fiduciary of any Employee Plan has (i) engaged in a nonexempt prohibited transaction described in Sections 406 of ERISA or 4975 of the Internal Revenue Code, (ii) failed to pay any required installment or other payment required under Section 430(j) of the Internal Revenue Code on or before the due date for such required installment or payment, (iii) engaged in a transaction within the meaning of Section 4069 of ERISA or (iv) incurred any liability to the PBGC which remains outstanding other than the payment of premiums, and there are no premium payments which have become due which are unpaid. Except as could not reasonably be expected to have a Material Adverse Effect, there are no pending or, to the best knowledge of any Loan Party, threatened claims, actions, proceedings or lawsuits (other than claims for benefits in the normal course) asserted or instituted against (i) any Employee Plan or its assets, (ii) any fiduciary with respect to any Employee Plan, or (iii) any Loan Party or any of its ERISA Affiliates with respect to any Employee Plan. Except as required by Section 4980B of the Internal Revenue Code or as could not reasonably be expected to have a Material Adverse Effect, no Loan Party or any of its ERISA Affiliates maintains an employee welfare benefit plan (as defined in Section 3(1) of ERISA) which provides health or welfare benefits (through the purchase of insurance or otherwise) for any retired or former employee of any Loan Party or any of its ERISA Affiliates or coverage after a participant's termination of employment.

(j) Taxes, Etc. (i) All foreign, federal and material state and local Tax returns and other reports required by applicable Requirements of Law to be filed by any Loan Party have been filed, or extensions have been obtained, and (ii) all Taxes, assessments and other governmental charges imposed upon any Loan Party or any property of any Loan Party and which have become due and payable on or prior to the date hereof have been paid, except to the extent contested in good faith by proper proceedings which stay the imposition of any penalty, fine or Lien resulting from the non-payment thereof and with respect to which adequate reserves have been set aside for the payment thereof on the Financial Statements in accordance with GAAP.

(k) Regulations T, U and X. No Loan Party is or will be engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation T, U or X), and no proceeds of any Loan 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, or is inconsistent with, the provisions of Regulation T, U and X.

(l) Nature of Business.

(i) No Loan Party is engaged in any business other than as set forth on Schedule 6.01(l).

(ii) DBM does not have any material liabilities (other than liabilities arising under the Loan Documents, the Working Capital Loan Documents, liabilities imposed by law, including tax liabilities, obligations under any employment agreement, stock option

plan or other benefit plan for management or employees of DBM and its Subsidiaries, obligations under its Governing Documents, the Effective Date Preferred Equity Issuance Documents, and other liabilities incidental to its existence and permitted business and activities as a holding company for a consolidated group), own any material assets (other than the Equity Interests of its Subsidiaries and cash and Permitted Investments) or engage in any operations or business (other than the ownership of its Subsidiaries and activities incidental thereto, including corporate maintenance activities (including the payment of expenses) associated with being a holding company for a consolidated group).

(m) Adverse Agreements, Etc. No Loan Party or any of its Subsidiaries is a party to any Contractual Obligation or subject to any restriction or limitation in any Governing Document or any judgment, order, regulation, ruling or other requirement of a court or other Governmental Authority, which (either individually or in the aggregate) has, or in the future could reasonably be expected (either individually or in the aggregate) to have, a Material Adverse Effect.

(n) Permits, Etc. Each Loan Party has, and is in compliance with, all permits, licenses, authorizations, approvals, entitlements and accreditations required for such Person lawfully to own, lease, manage or operate, or to acquire, each business and Facility currently owned, leased, managed or operated, or to be acquired, by such Person, except to the extent the failure to have or be in compliance therewith could not reasonably be expected to have a Material Adverse Effect. No condition exists or event has occurred which, in itself or with the giving of notice or lapse of time or both, would result in the suspension, revocation, impairment, forfeiture or non-renewal of any such permit, license, authorization, approval, entitlement or accreditation, and there is no claim that any thereof is not in full force and effect, except where such suspension, revocation, impairment, forfeiture or non-renewal could not reasonably be expected to have a Material Adverse Effect.

(o) Properties. Each Loan Party has good and marketable title to, valid leasehold interests in, or valid licenses to use, all property and assets material to its business, free and clear of all Liens, except Permitted Liens. All such properties and assets are in good working order and condition, ordinary wear and tear and casualty events excepted.

(p) Employee and Labor Matters. There is (i) no unfair labor practice complaint pending or, to the best knowledge of any Loan Party, threatened against any Loan Party before any Governmental Authority and no grievance or arbitration proceeding pending or threatened against any Loan Party which arises out of or under any collective bargaining agreement, (ii) no strike, labor dispute, slowdown, stoppage or similar action or grievance pending or threatened against any Loan Party or (iii) to the best knowledge of each Loan Party, no union representation questions existing with respect to the employees of any Loan Party and no union organizing activity taking place with respect to any of the employees of any Loan Party. No Loan Party or any of its ERISA Affiliates has incurred any liability or obligation under the Worker Adjustment and Retraining Notification Act ("WARN") or similar state law, which remains unpaid or unsatisfied. The hours worked and payments made to employees of any Loan Party 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 have a Material

Adverse Effect. All payments due from any Loan Party 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 such Loan Party, except where the failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The consummation of the Graywolf Acquisition and the transactions contemplated hereby will not give rise to any right of termination or right of renegotiation on the part of any union under any collective bargaining agreement to which any Borrower or any of their respective Subsidiaries is bound.

(q) Environmental Matters. (i) The operations of each Loan Party are in compliance with all Environmental Laws, except for any non-compliance that could not reasonably be expected to have a Material Adverse Effect; (ii) there has been no Release at any of the properties owned or operated by any Loan Party or a predecessor in interest, or at any disposal or treatment facility which received Hazardous Materials generated by any Loan Party or any predecessor in interest which could reasonably be expected to have a Material Adverse Effect; (iii) no Environmental Action has been asserted against any Loan Party or any predecessor in interest nor does any Loan Party have knowledge or notice of any threatened or pending Environmental Action against any Loan Party or any predecessor in interest which could reasonably be expected to have a Material Adverse Effect; (iv) no Environmental Actions have been asserted against any facilities that may have received Hazardous Materials generated by any Loan Party or any predecessor in interest which could reasonably be expected to have a Material Adverse Effect; (v) no property now or, to the knowledge of the Loan Parties, formerly owned or operated by a Loan Party has been used as a treatment or disposal site for any Hazardous Material; (vi) no Loan Party has failed to report to the proper Governmental Authority any Release which is required to be so reported by any Environmental Laws which could reasonably be expected to have a Material Adverse Effect; (vii) each Loan Party holds all licenses, permits and approvals required under any Environmental Laws in connection with the operation of the business carried on by it, except for such licenses, permits and approvals as to which a Loan Party's failure to maintain or comply with could not reasonably be expected to have a Material Adverse Effect; and (viii) no Loan Party has received any notification pursuant to any Environmental Laws that (A) any work, repairs, construction or Capital Expenditures are required to be made in respect as a condition of continued compliance with any Environmental Laws, or any license, permit or approval issued pursuant thereto or (B) any license, permit or approval referred to above is about to be reviewed, made, subject to limitations or conditions, revoked, withdrawn or terminated, in each case, except as could not reasonably be expected to have a Material Adverse Effect.

(r) Insurance. Each Loan Party maintains the insurance and required services and financial assurance as required by law and as required by Section 7.01(h). Schedule 6.01(r) sets forth a list of all insurance maintained by each Loan Party on the Effective Date.

(s) Use of Proceeds. The proceeds of the Term Loans shall be used (a) to partially fund the Graywolf Acquisition, (b) for the Graywolf Refinancing, and (c) to pay the costs, fees and expenses relating to the Term Loan, the Graywolf Refinancing and the transactions contemplated hereby.

(t) Solvency. After giving effect to the transactions contemplated by this Agreement and the other Transaction Documents, and before and after giving effect to each Loan, the Loan Parties on a consolidated basis are Solvent. 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 Transaction Documents with the intent to hinder, delay, or defraud either present or future creditors of such Loan Party.

(u) Intellectual Property. Each Loan Party owns or licenses or otherwise has the right to use all Intellectual Property rights that are necessary for the operation of its business, free and clear of all Liens, except Permitted Liens. Set forth on Schedule 6.01(u) is a complete and accurate list as of the Effective Date of each item of Registered Intellectual Property owned by each Loan Party. To the knowledge of each Loan Party, no trademark or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by any Loan Party infringes upon or misappropriates any rights owned by any other Person, and no claim or litigation regarding any of the foregoing is pending or, to the knowledge of each Loan Party, threatened, except for such infringements and misappropriates which could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(v) Material Contracts. Each Material Contract (i) is in full force and effect and is binding upon and enforceable against each Loan Party that is a party thereto and, to the knowledge of such Loan Party, all other parties thereto in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity, and (ii) is not in default due to the action of any Loan Party or, to the best knowledge of any Loan Party, any other party thereto.

(w) Investment Company Act. None of the Loan Parties is (i) an "investment company" or an "affiliated person" or "promoter" of, or "principal underwriter" of or for, an "investment company", as such terms are defined in the Investment Company Act of 1940, as amended, or (ii) subject to regulation under any Requirement of Law that limits in any respect its ability to incur Indebtedness or which may otherwise render all or a portion of the Obligations unenforceable.

(x) Customers and Suppliers. There exists no actual or threatened termination, cancellation or material adverse limitation of, or material adverse modification to or material adverse change in, the business relationship between (i) any Loan Party, on the one hand, and any customer or any group thereof, on the other hand, whose agreements with any Loan Party are individually or in the aggregate adverse to the business or operations of the Loan Parties taken as a whole, or (ii) any Loan Party, on the one hand, and any supplier or any group thereof, on the other hand, whose agreements with any Loan Party are individually or in the aggregate adverse to the business or operations of the Loan Parties taken as a whole; and there exists no present state of facts or circumstances that could give rise to or result in any such termination, cancellation, limitation, modification or change.

(y) Anti-Money Laundering and Anti-Terrorism Laws.

(i) None of the Loan Parties, nor, to the knowledge of any Loan Party, any Affiliate of any of the Loan Parties, has violated or is in violation of any of the Anti-Money Laundering and Anti-Terrorism Laws or has engaged in or conspired to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the Anti-Money Laundering and Anti-Terrorism Laws.

(ii) None of the Loan Parties, nor, to the knowledge of any Loan Party, any Affiliate of any of the Loan Parties, or any officer, director or principal shareholder or owner of any of the Loan Parties, is a Blocked Person.

(iii) None of the Loan Parties (A) conducts any business with or for the benefit of any Blocked Person or engages in making or receiving any contribution of funds, goods or services to, from or for the benefit of any Blocked Person, or (B) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked or subject to blocking pursuant to any OFAC Sanctions Programs in violation of any Requirements of Law.

(z) Anti-Bribery and Anti-Corruption Laws.

(i) The Loan Parties are in compliance with the U.S. Foreign Corrupt Practices Act of 1977, as amended, and the anti-bribery and anti-corruption laws of those jurisdictions in which they do business (collectively, the "Anti-Corruption Laws").

(ii) None of the Loan Parties has at any time:

(A) offered, promised, paid, given, or authorized the payment or giving of any money, gift or other thing of value, directly or indirectly, to or for the benefit of any employee, official, representative, or other person acting on behalf of any foreign (i.e., non-U.S.) Governmental Authority thereof, or of any public international organization, or any foreign political party or official thereof, or candidate for foreign political office (collectively, "Foreign Official"), for the purpose of: (1) influencing any act or decision of such Foreign Official in his, her, or its official capacity; or (2) inducing such Foreign Official to do, or omit to do, an act in violation of the lawful duty of such Foreign Official, or (3) securing any improper advantage, in order to obtain or retain business for, or with, or to direct business to, any Person; or

(B) acted or attempted to act in any manner which would subject any of the Loan Parties to liability under any Anti-Corruption Law.

(iii) There are, and have been, no allegations, investigations or inquiries with regard to a potential violation of any Anti-Corruption Law by any of the Loan Parties or, to the knowledge of the Loan Parties, any of their respective current or former directors, officers, employees, stockholders or agents.

(iv) The Loan Parties have adopted, implemented and maintain anti-bribery and anti-corruption policies and procedures that are reasonably designed to ensure compliance with the Anti-Corruption Laws.

(aa) Transactions with Affiliates. Set forth on Schedule 6.01(aa) is a complete and accurate list as of the Effective Date of all transactions by and between any Loan Party or any of its Subsidiaries and any Affiliate thereof.

(bb) Full Disclosure.

(i) Each Loan Party has disclosed to the Agents all agreements, instruments and corporate or other restrictions to which it is subject, and all other matters known to it, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. None of the reports, financial statements, certificates or other information furnished by or on behalf of any Loan Party to the Agents (other than forward-looking information and projections and information of a general economic nature and general information about Borrowers' industry) in connection with the negotiation of this Agreement or delivered hereunder (as modified or supplemented by other information so furnished), when taken as a whole, contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which it was made, not materially misleading.

(ii) The Projections have been prepared on a reasonable basis and in good faith based on assumptions, estimates, methods and tests that are believed by the Loan Parties to be reasonable at the time such Projections were prepared and information believed by the Loan Parties to have been accurate based upon the information available to the Loan Parties at the time such Projections were furnished to the Lenders, and no Loan Party is aware of any facts or information that would lead it to believe that such Projections are incorrect or misleading in any material respect; it being understood that (A) Projections are by their nature subject to significant uncertainties and contingencies, many of which are beyond the Loan Parties' control, (B) actual results may differ materially from the Projections and such variations may be material and (C) the Projections are not a guarantee of performance.

(cc) Default of Indebtedness. Neither any Loan Party nor any Subsidiary thereof is in default in the payment of the principal of or interest on any Indebtedness or under any instrument or agreement under or subject to which any Indebtedness has been issued and no event has occurred under the provisions of any such instrument or agreement which with or without the lapse of time or the giving of notice, or both, constitutes an event of default thereunder, except with respect to immaterial amounts of Indebtedness, the failure of which to timely discharge would not reasonably be expected to materially adversely affect any Loan Party.

(dd) Conflicting Agreements. No provision of any Parent Debt Document conflicts with, or requires any consent which has not already been obtained to, or would in any way prevent the execution, delivery or performance of, the terms of this Agreement or the other Transaction Documents. No provision of any other mortgage, indenture, contract, lease, agreement, judgment, decree or order binding on, or otherwise applicable to, any Loan Party nor any Subsidiary thereof or affecting any such Person’s Collateral conflicts, in any material respect, with, or requires

any consent which has not already been obtained to, or would in any way prevent the execution, delivery and performance of this Agreement or the other Transaction Documents.

(ee) Flood Hazard Property. No Mortgaged Property is a Flood Hazard Property unless the Administrative Agent shall have received the following: (a) the applicable Loan Party's written acknowledgment of receipt of written notification from the Administrative Agent (i) as to the fact that such Mortgaged Property is a Flood Hazard Property and (ii) as to whether the community in which each such Flood Hazard Property is located is participating in the National Flood Insurance Program and (b) copies of insurance policies or certificates of insurance of the applicable Loan Party evidencing flood insurance reasonably satisfactory to the Administrative Agent and the Collateral Agent and naming the Collateral Agent as lenders loss payee on behalf of the Lenders.

(ff) No Default. No Default or Event of Default has occurred and is continuing.

(gg) Beneficial Ownership Certification. The information included in the Beneficial Ownership Certification is true and correct in all respects.

(hh) No Broker's Fee. No broker's or finder's fee or commission shall be payable with respect hereto or any of the transactions contemplated thereby; and the Loan Parties hereby agree to indemnify the Agents and the Lenders against, and agree that they will hold the Agents, and the Lenders harmless from, any claim, demand, or liability for any such broker's or finder's fees alleged to have been incurred in connection herewith or therewith and any expenses (including reasonable attorneys' fees) arising in connection with any such claim, demand, or liability.

(ii) Bonding Capacity. The Loan Parties and their Subsidiaries have available bonding capacity under or more Bonding Agreements in an amount sufficient to operate their respective businesses in the ordinary course. The Loan Parties and their Subsidiaries are in compliance in all material respects with all terms and conditions set forth in each Bonding Agreement and no default has occurred thereunder.

(jj) Immaterial Subsidiaries. The Immaterial Subsidiaries do not (a) own any assets (other than assets of a de minimis nature), (b) have any liabilities (other than liabilities of a de minimis nature) or (c) engage in any business activity.

(kk) Senior Indebtedness. The Obligations constitute senior "Senior Indebtedness" or "Designated Senior Indebtedness" under any documents evidencing or governing any Subordinated Indebtedness entitled to the benefits of the subordination provisions, if any, of such Subordinated Indebtedness.

(ll) Third-Party Leases. All third-party leases with respect to real property of the Loan Parties owned in fee by such Loan Parties are set forth on Schedule 6.01(ll).

## ARTICLE VII

## COVENANTS OF THE LOAN PARTIES

Section 7.01 Affirmative Covenants. So long as any principal of or interest on any Loan or any other Obligation (whether or not due) shall remain unpaid (other than Contingent Indemnity Obligations) or any Lender shall have any Commitment hereunder, each Loan Party will, unless the Required Lenders shall otherwise consent in writing:

(a) Reporting Requirements. Furnish to each Agent and each Lender:

(i) as soon as available, and in any event within 30 days after the end of each fiscal month of DBM and its Subsidiaries, commencing with the first fiscal month of DBM and its Subsidiaries ending after the Effective Date, internally prepared consolidated and consolidating balance sheets, statements of operations and retained earnings and statements of cash flows as at the end of such fiscal month, and for the period commencing at the end of the immediately preceding Fiscal Year and ending with the end of such fiscal month, all in reasonable detail and certified by an Authorized Officer of DBM as fairly presenting, in all material respects, the financial position of DBM and its Subsidiaries as at the end of such fiscal month and the results of operations, retained earnings and cash flows of DBM and its Subsidiaries for such fiscal month and for such year-to-date period, in accordance with GAAP applied in a manner consistent with that of the most recent audited financial statements furnished to the Agents and the Lenders, subject to the absence of footnotes and normal year-end adjustments;

(ii) as soon as available and in any event within 45 days after the end of each fiscal quarter of DBM and its Subsidiaries commencing with the first fiscal quarter of DBM and its Subsidiaries ending after the Effective Date, consolidated and consolidating balance sheets, statements of operations and retained earnings and statements of cash flows of DBM and its Subsidiaries as at the end of such quarter, and for the period commencing at the end of the immediately preceding Fiscal Year and ending with the end of such quarter, setting forth in each case in comparative form the figures for the corresponding date or period set forth in the financial statements for the immediately preceding Fiscal Year, all in reasonable detail and certified by an Authorized Officer of DBM as fairly presenting, in all material respects, the financial position of DBM and its Subsidiaries as of the end of such quarter and the results of operations and cash flows of DBM and its Subsidiaries for such quarter and for such year-to-date period, in accordance with GAAP applied in a manner consistent with that of the most recent audited financial statements of DBM and its Subsidiaries furnished to the Agents and the Lenders, subject to the absence of footnotes and normal year-end adjustments;

(iii) as soon as available, and in any event within ninety (90) days after the end of each Fiscal Year of DBM and its Subsidiaries, consolidated and consolidating balance sheets, statements of operations and retained earnings and statements of cash flows of DBM and its Subsidiaries as at the end of such Fiscal Year, setting forth in each case in comparative form the figures for the corresponding date or period set forth in the financial statements for the immediately preceding Fiscal Year, all in reasonable detail and prepared in accordance with GAAP, and accompanied by a report and an opinion, prepared in accordance with generally accepted auditing

standards, of independent certified public accountants of recognized standing selected by DBM and reasonably satisfactory to the Agents (which opinion shall be without (1) a "going concern" or like qualification or exception, (2) any qualification or exception as to the scope of such audit, or (3) any qualification which relates to the treatment or classification of any item and which, as a condition to the removal of such qualification, would require an adjustment to such item, the effect of which would be to cause any noncompliance with the provisions of Section 7.03);

(iv) simultaneously with the delivery of the financial statements of DBM and its Subsidiaries required by clauses (i), (ii) and (iii) of this Section 7.01(a), a certificate of an Authorized Officer of DBM (a "Compliance Certificate"), substantially in the form of Exhibit E hereto:

(A) stating that such Authorized Officer has reviewed the provisions of this Agreement and the other Loan Documents and has made or caused to be made under his or her supervision a review of the condition and operations of DBM and its Subsidiaries during the period covered by such financial statements, and that such review has not disclosed, and such Authorized Officer has no knowledge of, the occurrence and continuance during such period of an Event of Default or Default or, if an Event of Default or Default had occurred and continued or is continuing, describing the nature and period of existence thereof and the action which DBM and its Subsidiaries propose to take or have taken with respect thereto, and

(B) in the case of the delivery of the financial statements of DBM and its Subsidiaries required by clauses (ii) and (iii) of this Section 7.01(a), (1) attaching a schedule showing the calculation of the financial covenants specified in Section 7.03 and (2) including a discussion and analysis of the financial condition and results of operations of DBM and its Subsidiaries for the portion of the Fiscal Year then elapsed and discussing the reasons for any significant variations from the Projections for such period and the figures for the corresponding period in the previous Fiscal Year, and

(C) in the case of the delivery of the financial statements of DBM and its Subsidiaries required by clause (iii) of this Section 7.01(a), attaching (1) a summary of all material insurance coverage maintained as of the date thereof by any Loan Party and all material insurance coverage planned to be maintained by any Loan Party, together with such other related documents and information as the Administrative Agent may reasonably require, and (2) confirmation that there have been no changes to the information contained in each of the Perfection Certificates delivered on the Effective Date or the date of the most recently updated Perfection Certificate delivered pursuant to this clause (iv) and/or attaching an updated Perfection Certificate identifying any such changes to the information contained therein;

In addition to the foregoing, the Loan Parties shall deliver to the Agents a Compliance Certificate immediately following any restatement or adjustment of any financial statement of DBM and its Subsidiaries previously delivered in accordance with clauses (i), (ii) or (iii) of this Section 7.01(a) (whether such restatement or adjustment is made in connection with an audit of such financial statement or otherwise), which Compliance Certificate shall set forth the information (revised to give effect to such restatement or adjustment) described in clauses (A), (B) and (C) above for the applicable period covered by such restated or adjusted financial statement (it being understood and

agreed, for the avoidance of doubt, that if any such Compliance Certificate so delivered pursuant to this paragraph shall indicate or evidence non-compliance with any financial covenant specified in Section 7.03 for the applicable period covered by such restated or adjusted financial statement, then an Event of Default shall have occurred as of the date of measurement of such financial covenant in accordance with Section 7.03);

(v) as soon as available and in any event not later than 30 days after the end of each Fiscal Year, a certificate of an Authorized Officer of DBM (A) attaching Projections for DBM and its Subsidiaries, supplementing and superseding the Projections previously required to be delivered pursuant to this Agreement, prepared on a monthly basis and otherwise in form and substance reasonably satisfactory to the Agents, for the immediately succeeding Fiscal Year for DBM and its Subsidiaries and (B) certifying that the representations and warranties set forth in Section 6.01(bb)(ii) are true and correct with respect to such Projections;

(vi) promptly after submission to any Governmental Authority, all documents and information furnished to such Governmental Authority in connection with any investigation of any Loan Party other than routine inquiries by such Governmental Authority;

(vii) as soon as possible, and in any event within three (3) Business Days after any Loan Party obtains knowledge of the occurrence of an Event of Default or Default or the occurrence of any event or development that could reasonably be expected to have a Material Adverse Effect, the written statement of an Authorized Officer of the Administrative Borrower setting forth the details of such Event of Default or Default or other event or development having a Material Adverse Effect and the action which the affected Loan Party proposes to take with respect thereto;

(viii) (A) as soon as possible and in any event within fifteen (15) days after any Loan Party or any ERISA Affiliate thereof knows or should know that (1) any Reportable Event with respect to any Employee Plan has occurred, (2) any other Termination Event with respect to any Employee Plan has occurred, or (3) any Loan Party or any ERISA Affiliate has applied for a waiver of the minimum funding standards under Sections 412 or 430 of the Code or Section 302 of ERISA, a statement of an Authorized Officer of the Administrative Borrower setting forth the details of such occurrence and the action, if any, which such Loan Party or such ERISA Affiliate proposes to take with respect thereto, (B) promptly and in any event within three (3) days after receipt thereof by any Loan Party or any ERISA Affiliate thereof from the PBGC, copies of each notice received by any Loan Party or any ERISA Affiliate thereof of the PBGC's intention to terminate any Plan or to have a trustee appointed to administer any Plan, (C) promptly and in any event within twenty (20) days after the filing thereof with the Internal Revenue Service if requested by any Agent, copies of each Schedule B (Actuarial Information) to the annual report (Form 5500 Series) with respect to each Employee Plan and Multiemployer Plan, (D) promptly and in any event within ten (10) days after any Loan Party or any ERISA Affiliate thereof knows or should know that a required installment within the meaning of Section 430(j) of the Internal Revenue Code has not been made when due with respect to an Employee Plan, (E) promptly and in any event within three (3) days after receipt thereof by any Loan Party or any ERISA Affiliate thereof from a sponsor of a Multiemployer Plan or from the PBGC, a copy of each notice received by any Loan Party or

any ERISA Affiliate thereof concerning the imposition or amount of withdrawal liability under Section 4202 of ERISA, and (F) promptly and in any event within ten (10) days after any Loan Party or any ERISA Affiliate thereof sends notice of a plant closing or mass layoff (as defined in WARN) to employees, copies of each such notice sent by such Loan Party or such ERISA Affiliate thereof;

(ix) promptly after the commencement thereof but in any event not later than 7 days after service of process with respect thereto on, or the obtaining of knowledge thereof by, any Loan Party, notice of each action, suit or proceeding before any court or other Governmental Authority or other regulatory body or any arbitrator which, if adversely determined, could reasonably be expected to have a Material Adverse Effect;

(x) concurrently with the execution, receipt or delivery thereof (but without duplication of any notices provided to the Agents and the Lenders under this Agreement), (A) copies of all material notices (including, without limitation, default notices), reports (including, without limitation, borrowing base reports), statements or other material information that any Loan Party executes, receives or delivers in connection with any Working Capital Loan Document, or Parent Debt Document and (B) copies of any amendments, restatements, supplements or other modifications, waivers, consents or forbearances that any Loan Party executes, receives or delivers with respect to any Working Capital Loan Document or Parent Debt Document; *provided* however that filing of any such material notices or other material information specified in (A) and (B) above with the SEC or any national securities exchange, shall satisfy any such requirements under this Section 7.01(a)(x) with respect to the Parent Debt Documents so long as the Administrative Borrower has notified the Administrative Agent of any such filing, other than with respect to periodic filings on forms 10-Q and 10-K for which the Loan Parties shall not be required to provide notice.

(xi) as soon as possible and in any event within five (5) days after execution, receipt or delivery thereof, copies of any material notices that any Loan Party executes or receives in connection with the sale or other Disposition of the Equity Interests of, or all or substantially all of the assets of, any Loan Party;

(xii) [Reserved]

(xiii) [Reserved]

(xiv) promptly after (A) the sending or filing thereof, copies of all material statements, reports and other information any Loan Party or Parent sends to any holders of its Indebtedness with an aggregate principal amount greater than $3,000,000 (other than the Working Capital Indebtedness) or its securities or files with the SEC or any national (domestic or foreign) securities exchange and (B) the receipt thereof, a copy of any material notice received from any holder of its Indebtedness (other than the Working Capital Indebtedness);

(xv) promptly upon receipt thereof, copies of all financial reports (including, without limitation, management letters), if any, submitted to any Loan Party by its auditors in connection with any annual or interim audit of the books thereof;

(xvi) promptly upon request, any certification or other evidence reasonably requested from time to time by any Lender confirming the Borrowers' compliance with Section 7.02(r);

(xvii) simultaneously with the delivery of the financial statements of DBM and its Subsidiaries required by clauses (i), (ii) and (iii) of this Section 7.01(a), if, as a result of any change in accounting principles and policies from those used in the preparation of the Financial Statements that is permitted by Section 7.02(q), the consolidated financial statements of DBM and its Subsidiaries delivered pursuant to clauses (i), (ii) and (iii) of this Section 7.01(a) will differ from the consolidated financial statements that would have been delivered pursuant to such subdivisions had no such change in accounting principles and policies been made, then, together with the first delivery of such financial statements after such change, one or more statements of reconciliation for all such prior financial statements in form and substance reasonably satisfactory to the Agents;

(xviii) [Reserved];

(xix) promptly after becoming aware thereof: (i) notices of any default, event of default or similar event or condition under the Graywolf Acquisition Agreement that would be adverse to the interests of the Lenders in any material respect, or (ii) any litigation, governmental investigation or proceeding commenced with respect to the Graywolf Acquisition Agreement that would be adverse to the interest of the Lenders in any material respect;

(xx) (A) within 30 days after the end of each calendar month, a report setting forth the outstanding amount of performance bonds, construction bonds or similar obligations at the end of such month and a work in progress report and (B) promptly following receipt thereof, any requests for performance, notices of defaults, events of default, amendments, waivers, consents and forbearance agreements, in each case, with respect to any performance bonds, construction bonds or similar obligations and all indemnification agreements or other agreements or documents related to such indemnification agreements, and, if reasonably requested, all other documents relating to such performance bonds, construction bonds or similar obligations; and

(xxi) promptly upon request, such other information concerning the condition or operations, financial or otherwise, of any Loan Party, Parent or any of their respective Subsidiaries as any Agent may from time to time may reasonably request.

(b) Additional Borrowers, Guarantors and Collateral Security. Cause:

(i) each Subsidiary (other than an Excluded Subsidiary) of any Loan Party not in existence on the Effective Date and any Excluded Subsidiary who ceases to be an Excluded Subsidiary (including, without limitation, by reason of an Immaterial Subsidiary obtaining assets (other than de minimis assets) or liabilities, generating revenue or engaging in any business activity and ceasing to be an Immaterial Subsidiary), to execute and deliver to the Collateral Agent promptly and in any event within fifteen (15) days after the formation, acquisition or change in status thereof (or such later date as agreed by Collateral Agent in its sole discretion), (A) a Joinder Agreement, pursuant to which such Subsidiary shall be made a party to this Agreement as a Borrower

or a Guarantor, (B) a supplement to the Security Agreement, together with (1) certificates evidencing all of the Equity Interests of any Person owned by such Subsidiary required to be pledged under the terms of the Security Agreement, (2) undated stock powers for such Equity Interests executed in blank with signature guaranteed, and (3) such opinions of counsel as the Collateral Agent may reasonably request, (C) to the extent required under the terms of this Agreement, one or more Mortgages creating on the real property of such Subsidiary a perfected, first priority Lien (in terms of priority, subject only to Permitted Specified Liens) on such real property and such other Real Property Deliverables as may be required by the Collateral Agent with respect to each such real property, and (D) such other agreements, instruments, approvals or other documents reasonably requested by the Collateral Agent in order to create, perfect, establish the first priority of or otherwise protect any Lien purported to be covered by any such Security Agreement (to the extent provided therein) or Mortgage or otherwise to effect the intent that such Subsidiary shall become bound by all of the terms, covenants and agreements contained in the Loan Documents and that all property and assets of such Subsidiary shall become Collateral for the Obligations, subject to the terms of the Loan Documents; and

(ii) each owner of the Equity Interests of any such Subsidiary to execute and deliver promptly and in any event within fifteen (15) days after the formation or acquisition of such Subsidiary (or such later date as agreed by the Collateral Agent in its sole discretion) a Pledge Amendment (as defined in the Security Agreement), together with (A) certificates evidencing all of the Equity Interests of such Subsidiary required to be pledged under the terms of the Security Agreement, (B) undated stock powers or other appropriate instruments of assignment for such Equity Interests executed in blank with signature guaranteed, (C) such opinions of counsel as the Collateral Agent may reasonably request and (D) such other agreements, instruments, approvals or other documents reasonably requested by the Collateral Agent.

Notwithstanding the foregoing, no Excluded Subsidiary shall be required to become a Guarantor hereunder so long as it remains an Excluded Subsidiary (and, as such, shall not be required to deliver the documents required by clause (i) above) or required to pledge any assets (including stock) it owns; provided, however, that if the Equity Interests of an Excluded Subsidiary are owned directly by a Loan Party, such Loan Party shall deliver all such documents, instruments, agreements and certificates described in clause (ii) above to the Collateral Agent, and take all commercially reasonable actions reasonably requested by the Collateral Agent or otherwise necessary to grant and to perfect a first-priority Lien (subject to Permitted Specified Liens) in favor of the Collateral Agent, for the benefit of the Agents and the Lenders, in 100% of the Equity Interests of any Excluded Subsidiary; provided that notwithstanding the foregoing such pledge shall not include in the case of an Excluded Foreign Subsidiary more than 65% (or such greater percentage that, due to a change in applicable law, (i) would not reasonably be expected to cause the undistributed earnings of such Excluded Foreign Subsidiary as determined for United States federal income tax purposes to be treated as a deemed dividend to such Excluded Foreign Subsidiary's United States parent and (ii) would not reasonably be expected to cause any material adverse tax consequences) of the issued and outstanding shares of Equity Interests entitled to vote (within the meaning of Treas. Reg. Section 1.956-2(c)(2)) (it being understood and agreed that the Collateral shall include 100% of the issued

and outstanding shares of Equity Interests not entitled to vote (within the meaning of Treas. Reg. Section 1.956-2(c)(2)) or other equity interest of such Excluded Foreign Subsidiary).

(c) Compliance with Laws; Payment of Taxes.

(i) Comply, and cause each of its Subsidiaries to comply with, all Requirements of Law (including, without limitation, all Environmental Laws), judgments and awards (including any settlement of any claim that, if breached, could give rise to any of the foregoing), except to the extent the failure to so comply could not reasonably be expected to have a Material Adverse Effect.

(ii) Pay, and cause each of its Subsidiaries to pay, in full before delinquency or before the expiration of any extension period, all Taxes, assessments and other governmental charges imposed upon any Loan Party or any of its Subsidiaries or any property of any Loan Party or any of its Subsidiaries in an aggregate amount for all such Taxes, assessments and other governmental charges, except to the extent contested in good faith by proper proceedings which stay the imposition of any penalty or fine or the enforcement of any Lien resulting from the non-payment thereof and with respect to which adequate reserves have been set aside for the payment thereof in accordance with GAAP.

(d) Preservation of Existence, Etc. Except as otherwise expressly permitted hereunder, maintain and preserve, and cause each of its Subsidiaries to maintain and preserve, its existence, rights and privileges, and become or remain, and cause each of its Subsidiaries to become or remain, duly qualified and in good standing in each jurisdiction in which the character of the properties owned or leased by it or in which the transaction of its business makes such qualification necessary, except to the extent that the failure to be so qualified could not reasonably be expected to have a Material Adverse Effect.

(e) Keeping of Records and Books of Account. Keep, and cause each of its Subsidiaries to keep, adequate records and books of account, with complete entries made to permit the preparation of financial statements in accordance with GAAP.

(f) Inspection Rights. Permit, and cause each of its Subsidiaries to permit, the agents and representatives of any Agent, upon reasonable advance notice (which notice shall not be required during the continuance of an Event of Default) at any time and from time to time during normal business hours at the expense of the Borrowers, to examine and make copies of and abstracts from its records and books of account, to visit and inspect its properties, to verify materials, leases, notes, accounts receivable, deposit accounts and its other assets, to conduct audits, physical counts, valuations, appraisals, Phase I ESAs (and, if reasonably requested by the Collateral Agent based upon the results of any such Phase I ESA, an ASTM Phase II Environmental Site Assessment) or examinations and to discuss its affairs, finances and accounts with any of its directors, officers, managerial employees, independent accountants or any of its other representatives; provided that so long as no Event of Default shall have occurred and be continuing, the Borrowers shall not be obligated to reimburse the Agents for (A) more than 2 visits during each Fiscal Year or (B) more than 1 inspection, audit, physical count, valuation, appraisal, environmental site assessment and examination during each Fiscal Year. In furtherance of the foregoing, each Loan

Party hereby authorizes its independent accountants, and the independent accountants of each of its Subsidiaries, to discuss the affairs, finances and accounts of such Person (independently or together with representatives of such Person) with the agents and representatives of any Agent in accordance with this Section 7.01(f).

(g) Maintenance of Properties, Etc. Maintain and preserve, and cause each of its Subsidiaries to maintain and preserve, all of its properties which are necessary or useful in the proper conduct of its business in good working order and condition, ordinary wear and tear and casualty excepted, and comply, and cause each of its Subsidiaries to comply, at all times with the provisions of all leases to which it is a party as lessee or under which it occupies property, so as to prevent any loss or forfeiture thereof or thereunder, except to the extent the failure to so maintain and preserve or so comply could not reasonably be expected to have a Material Adverse Effect.

(h) Maintenance of Insurance. (i) Maintain, and cause each of its Subsidiaries to maintain, insurance with responsible and reputable insurance companies or associations, in such amounts and against such risks as may from time to time be reasonably required by the Administrative Agent, but in all events in such amounts and against such risks as is usually carried by companies engaged in similar business and owning similar properties in the same general areas in which they operate. Without limiting the generality of the foregoing, the Borrowers will at all times maintain business interruption insurance including coverage for force majeure; and the Borrowers will at all times keep all tangible Collateral given by it insured against risks of fire (including so-called extended coverage), theft, collision (for Collateral consisting of motor vehicles) and such other risks and in such amounts as the Administrative Agent may reasonably request. All policies covering the Collateral, including business interruption insurance policies, are to be made payable to the Collateral Agent for the benefit of the Agents and the Lenders, as its interests may appear, in case of loss, under a standard non-contributory "lender" or "secured party" clause and are to contain such other provisions as the Collateral 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 insurance are to be delivered to the Collateral Agent and the policies are to be premium prepaid, with the loss payable and additional insured endorsement in favor of the Collateral Agent and such other Persons as the Collateral Agent may designate from time to time, and shall provide for not less than 30 days' (10 days' in the case of non-payment) prior written notice to the Collateral Agent of the exercise of any right of cancellation. If any Loan Party or any of its Subsidiaries fails to maintain such insurance, the Collateral Agent may arrange for such insurance, but at the Borrowers' expense and without any responsibility on the Collateral Agent's part for obtaining the insurance, the solvency of the insurance companies, the adequacy of the coverage or the collection of claims. Upon the occurrence and during the continuance of an Event of Default, the Collateral Agent shall have the sole right, in the name of the Lenders, any Loan Party and its Subsidiaries, to file claims under any insurance policies, 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.

(ii) If at any time the improvements on a Mortgaged Property are located in an area identified by the Federal Emergency Management Agency (or any successor

agency) as a special flood hazard area with respect to which flood insurance has been made available under the National Flood Insurance Act of 1968 (as now or hereafter in effect or successor act thereto), then DBM shall, or shall cause the applicable Loan Party to maintain, with a financially sound and reputable insurer, flood insurance in an amount and otherwise sufficient to comply with all applicable rules and regulations promulgated pursuant to the Flood Insurance Laws and deliver to the Administrative Agent evidence of such insurance in form and substance reasonably acceptable to the Administrative Agent.

(iii) DBM shall cause the representation and warranty insurance policy for the Project Graywolf Acquisition referred to in Section 5.01(p) to remain in full force and effect in accordance with its terms as set forth on the Effective Date (aside from those amendments or modifications consented to by the Administrative Agent in its sole discretion). DBM shall use commercially reasonable efforts to pursue receipt of the formally signed and issued policy in a reasonable time frame (it being represented by the Borrowers that such insurance policy remains in full force and effect in the absence of receipt thereof).

(iv) In the event of foreclosure of any Mortgage or of any other assignment of any Mortgaged Property in extinguishment of any Obligation(s), all insurance policies required hereunder and under any Mortgage and any related unearned premiums, without further action, shall be assigned to the applicable Loan Party's successor-in-interest with respect to such Mortgaged Property, and each Loan Party hereby irrevocably appoints the Collateral Agent as its true and lawful attorney-in-fact to execute all documents necessary to effect any such assignment.

(v) Each Loan Party shall give the Collateral Agent prompt written notice of any material casualty to any portion of any Mortgaged Property, whether or not covered by insurance. No Loan Party shall settle, adjust or compromise any material claim without the prior written consent of the Collateral Agent, which consent shall not be unreasonably conditioned, delayed and/or withheld. For the purposes of this clause (v), the term "material casualty" shall mean any casualty causing damage, the cost of repair or replacement of which exceeds Five Hundred Thousand and No/100 U.S. Dollars ($500,000.00). In the event that, notwithstanding the "lender's loss payable endorsement" requirement set forth above and in the Mortgages, the proceeds of any casualty insurance policy pertaining to the Mortgaged Property are paid to a Loan Party, such Loan Party hereby agrees to deliver promptly such proceeds to the Administrative Agent or the Collateral Agent in accordance with Section 2.05(b) of this Agreement.

(vi) This Section 7.01(h) and the requirements and other covenants specified hereunder, in each case, as they relate to insurance proceeds shall be subject to the Intercreditor Agreement. In the event of any conflict between the terms of the Intercreditor Agreement and the terms of this Section 7.01(h) as it relates to insurance proceeds, the terms of the Intercreditor Agreement shall govern and control.

(i) Obtaining of Permits, Etc. Obtain, maintain and preserve, and cause each of its Subsidiaries to obtain, maintain and preserve, and take all necessary action to timely renew, all permits, licenses, authorizations, approvals, entitlements and accreditations that are necessary or useful in the proper conduct of its business, in each case, except to the extent the failure

to obtain, maintain, preserve or take such action could not reasonably be expected to have a Material Adverse Effect.

(j) Environmental. (i) Keep any property either owned or operated by it or any of its Subsidiaries free of any Environmental Liens; (ii) comply, and cause each of its Subsidiaries to comply, with all Environmental Laws, except as could not reasonably be expected to have a Material Adverse Effect; (iii) take any Remedial Actions required to abate any Release of a Hazardous Material in excess of a reportable quantity from or onto property owned or operated by it or any of its Subsidiaries to the extent required by Environmental Law; and (iv) provide the Agents with written notice within ten (10) days of the receipt by it or any of its Subsidiaries of any of the following: (A) notice that an Environmental Lien has been filed against any property of any Loan Party or any of its Subsidiaries which could reasonably be expected to have a Material Adverse Effect; (B) notice of commencement of any material Environmental Action or notice that a material Environmental Action will be filed against any Loan Party or any of its Subsidiaries which could reasonably be expected to have a Material Adverse Effect; and (C) notice of a violation, citation or other administrative order under Environmental Laws which could reasonably be expected to have a Material Adverse Effect.

(k) Fiscal Year. Cause the Fiscal Year of DBM and its Subsidiaries to end on the Saturday closest to December 31st of each calendar year unless the Agents consent to a change in such Fiscal Year (and appropriate related changes to this Agreement).

(l) Landlord Waivers; Collateral Access Agreements. Upon the Collateral Agent's request, use commercially reasonable efforts to obtain a written subordination or waiver or collateral access agreement, as the case may be, in form and substance reasonably satisfactory to the Collateral Agent, with respect to each Material Lease.

(m) Real Property Collateral. Upon the acquisition by it or any of its Subsidiaries after the date hereof of any interest (whether fee or leasehold) in any real property (wherever located) (each such interest being a "New Facility") (i) with a Current Value (as defined below) in excess of $500,000 in the case of a fee interest, or (ii) requiring the payment of annual rent exceeding in the aggregate $500,000 in the case of leasehold interest, immediately so notify the Collateral Agent, setting forth with specificity a description of the interest acquired, the location of the real property, any structures or improvements thereon and either an appraisal or such Loan Party's good-faith estimate of the current value of such real property (for purposes of this Section, the "Current Value"). The Collateral Agent may from time to time notify the Administrative Borrower whether it intends to require a Mortgage (and any other Real Property Deliverables) or landlord's waiver (pursuant to Section 7.01(l)) with respect to such New Facility or with respect to any other interest (whether fee or leasehold) in any real property (wherever located) owned by a Loan Party that is not currently subject to a Mortgage (i) with a Current Value in excess of $500,000 in the case of a fee interest or (ii) requiring the payment of annual rent exceeding in the aggregate $500,000, in the case of a leasehold interest (each such other interest, including Facilities in which the Loan Parties have an interest on the Effective Date, being an "Existing Facility"). Upon receipt of such notice requesting a Mortgage (and any other Real Property Deliverables) or landlord's waiver, the Person that has acquired such New Facility or owns such Existing Facility shall promptly

(but in any event within ninety (90) days (or such longer period as permitted by the Collateral Agent in its sole discretion)) furnish the same to the Collateral Agent. To the extent the sale of the Florida Real Property pursuant to the terms of the Florida Real Property Purchase Agreement is not consummated within 60 days (or such longer period as permitted by Collateral Agent in its sole discretion) of the Effective Date, or if the Florida Real Property Purchase Agreement provided to Agent prior to the Effective Date related to such sale of the Florida Real Property is terminated, Borrowers agree to include the Florida Real Property as Real Property Collateral within sixty (60) days (or such longer period as permitted by Collateral Agent in its sole discretion) of the expiration of the sixty (60) day period (or such longer period as permitted by Agent in its sole discretion) or the termination of the Florida Real Property Purchase Agreement, as applicable. The Borrowers shall pay all fees and expenses, including, without limitation, reasonable attorneys' fees and expenses, and all title insurance charges and premiums, in connection with each Loan Party's obligations under this Section 7.01(m). Notwithstanding anything in this Agreement or any other Loan Document to the contrary, in no event shall any Agent or Lenders request and no Loan Party shall be required to obtain a Mortgage for any leasehold property unless a mortgage on such property has been requested by or is otherwise being provided to the Working Capital Agent.

(n) Anti-Bribery and Anti-Corruption Laws. Maintain, and cause each of its Subsidiaries to maintain, anti-bribery and anti-corruption policies and procedures that are reasonably designed to ensure compliance with the Anti-Corruption Laws.

(o) Lender Meetings. Upon the reasonable request of any Agent or the Required Lenders, (i) participate in a meeting with the Agents and the Lenders at the Loan Parties' corporate offices (or at the election of such Agent or the Required Lenders, (A) at such other location as may be agreed to by the Administrative Borrower and such Agent or the Required Lenders or (B) by conference call) at such time (but, so long as no Event of Default shall have occurred and be continuing, not more frequently than twice during each Fiscal Year) as may be agreed to by the Administrative Borrower and such Agent or the Required Lenders and (ii) make the senior officers of the Loan Parties available for a management call with the Agents and the Lenders at such time (but, so long as no Event of Default shall have occurred and be continuing, not more frequently than once during each fiscal month) as may be agreed to by the Administrative Borrower and such Agent or the Required Lenders.

(p) Key Man Life Insurance. To the extent a “key man” life insurance policy is in place covering any officers or directors of a Loan Party, ensure such life insurance policy is collaterally assigned to the Collateral Agent.

(q) Further Assurances. Take such action and execute, acknowledge and deliver, and cause each of its Subsidiaries to take such action and execute, acknowledge and deliver, at its sole cost and expense, such agreements, instruments or other documents as any Agent may reasonably require from time to time in order (i) to carry out more effectively the purposes of this Agreement and the other Loan Documents, (ii) to subject to valid and perfected first priority Liens any of the Collateral or any other property of any Loan Party and its Subsidiaries, (iii) to establish and maintain the validity and effectiveness of any of the Loan Documents and the validity, perfection and priority of the Liens intended to be created thereby, and (iv) to better assure, convey, grant,

assign, transfer and confirm unto each Secured Party the rights now or hereafter intended to be granted to it under this Agreement or any other Loan Document. In furtherance of the foregoing, to the maximum extent permitted by applicable law, each Loan Party (i) authorizes each Agent to execute any such agreements, instruments or other documents in such Loan Party's name and to file such agreements, instruments or other documents in any appropriate filing office, (ii) authorizes each Agent to file any financing statement required hereunder or under any other Loan Document, and any continuation statement or amendment with respect thereto, in any appropriate filing office without the signature of such Loan Party, and (iii) ratifies the filing of any financing statement, and any continuation statement or amendment with respect thereto, filed without the signature of such Loan Party prior to the date hereof.

(r) Credit Enhancements. If the Working Capital Agent or any holder of the Working Capital Indebtedness receives any additional guaranty, letter of credit, or any other credit enhancement after the Effective Date from any Loan Party or any of their Subsidiaries, cause the same to be granted to the Agents or the Lenders, as applicable, and upon the Agents' reasonable request, the Loan Parties or their Subsidiaries shall enter into such amendments to this Agreement or new Loan Documents, as may be reasonably requested by Agents to effect this Section 7.01(r).

(s) Bonding Capacity. Maintain and cause their respective Subsidiaries to maintain available bonding capacity under or more Bonding Agreements in an amount sufficient to operate their respective businesses in the ordinary course and comply and cause their respective Subsidiaries to comply with all material terms and conditions set forth in each Bonding Agreement.

Section 7.02 Negative Covenants. So long as any principal of or interest on any Loan or any other Obligation (whether or not due) shall remain unpaid (other than Contingent Indemnity Obligations) or any Lender shall have any Commitment hereunder, each Loan Party shall not, unless the Required Lenders shall otherwise consent in writing:

(a) Liens, Etc. Create, incur, assume or suffer to exist, or permit any of its Subsidiaries to create, incur, assume or suffer to exist, any Lien upon or with respect to any of its properties, whether now owned or hereafter acquired; file or suffer to exist under the Uniform Commercial Code or any Requirement of Law of any jurisdiction, a financing statement (or the equivalent thereof) that names it or any of its Subsidiaries as debtor; sign or suffer to exist any security agreement authorizing any secured party thereunder to file such financing statement (or the equivalent thereof) other than, as to all of the above, Permitted Liens.

(b) Indebtedness. Create, incur, assume, guarantee or suffer to exist, or otherwise become or remain liable with respect to, or permit any of its Subsidiaries to create, incur, assume, guarantee or suffer to exist or otherwise become or remain liable with respect to, any Indebtedness other than Permitted Indebtedness.

(c) Fundamental Changes; Dispositions.

(i) Merge, consolidate or amalgamate with, or wind-up, liquidate or dissolve into, any Person, or permit any of its Subsidiaries to do (or agree to do) any of the foregoing; provided, however, that (A) any Wholly-Owned Subsidiary of any Loan Party (other

than a Borrower) may be merged into such Loan Party or another Wholly-Owned Subsidiary of such Loan Party, or may consolidate or amalgamate with, or liquidate or dissolve into, another Wholly-Owned Subsidiary of such Loan Party, and (B) any Borrower may be merged into or consolidate or amalgamate with any other Borrower, in the case of each of clauses (A) or (B), so long as (1) no other provision of this Agreement would be violated thereby, (2) such Loan Party gives the Agents at least 30 days' prior written notice of such merger, consolidation, amalgamation, liquidation or dissolution, accompanied by true, correct and complete copies of all material agreements, documents and instruments relating to such merger, consolidation, amalgamation, liquidation or dissolution, including, but not limited to, the certificate or certificates of merger or amalgamation or liquidation or dissolution to be filed with each appropriate Secretary of State (with a copy as filed promptly after such filing), (3) no Default or Event of Default shall have occurred and be continuing either before or after giving effect to such transaction, (4) the Lenders' rights in any Collateral, including, without limitation, the existence, perfection and priority of any Lien thereon, are not adversely affected by such merger, consolidation, amalgamation, liquidation or dissolution and (5) (x) in the case of the preceding clause (A), the surviving Subsidiary, if any, if not already a Loan Party, to the extent that the party merged into it was a Loan Party, is joined as a Loan Party hereunder pursuant to a Joinder Agreement and is a party to a Security Agreement and the Equity Interests of such Subsidiary is the subject of a Security Agreement, in each case, which is in full force and effect on the date of and immediately after giving effect to such merger, consolidation, amalgamation, liquidation or dissolution and (y) in the case of the preceding clause (B), if such merger, consolidation or amalgamation involves the Administrative Borrower, the Administrative Borrower is the surviving Borrower; and

(ii) Make any Disposition, whether in one transaction or a series of related transactions, of all or any part of its business, property or assets, whether now owned or hereafter acquired (or agree to do any of the foregoing (other than any agreement with respect to a Disposition the proceeds of which shall be used to prepay the Obligations in full upon the consummation of such Disposition)), or permit any of its Subsidiaries to do any of the foregoing; provided, however, that any Loan Party and its Subsidiaries may make Permitted Dispositions.

(d) Change in Nature of Business.

(i) Make, or permit any of its Subsidiaries to make, any change in the nature of its business as described in Section 6.01(l).

(ii) Permit DBM to have any material liabilities (other than liabilities arising under the Loan Documents or the Working Capital Loan Documents, liabilities imposed by law, including tax liabilities, obligations under any employment agreement, stock option plan or other benefit plan for management or employees of DBM and its Subsidiaries, obligations under its Governing Documents, the Effective Date Preferred Equity Issuance Documents, and other liabilities incidental to its existence and permitted business and activities as a holding company for a consolidated group), own any material assets (other than the Equity Interests of its Subsidiaries and cash and Permitted Investments) or engage in any operations or business (other than the ownership of its Subsidiaries and activities incidental thereto, including corporate maintenance

activities (including the payment of expenses) associated with being a holding company for a consolidated group).

(e) Loans, Advances, Investments, Etc. Make or commit or agree to make, or permit any of its Subsidiaries make or commit or agree to make, any Investment in any other Person except for Permitted Investments.

(f) Sale and Leaseback Transactions. Enter into, or permit any of its Subsidiaries to enter into, any Sale and Leaseback Transaction.

(g) [Reserved]

(h) Restricted Payments. Make or permit any of its Subsidiaries to make any Restricted Payment other than Permitted Restricted Payments.

(i) Federal Reserve Regulations. Permit any Loan or the proceeds of any Loan under this Agreement to be used for any purpose that would cause such Loan to be a margin loan under the provisions of Regulation T, U or X of the Board.

(j) Transactions with Affiliates. Enter into, renew, extend, amend, modify or be a party to, or permit any of its Subsidiaries to enter into, renew, extend, amend, modify or be a party to, any transaction or series of related transactions (including, without limitation, the purchase, sale, lease, transfer or exchange of property or assets of any kind or the rendering of services of any kind) with any Affiliate, except (i) transactions consummated in the ordinary course of business in a manner and to an extent consistent with past practice and necessary or desirable for the prudent operation of its business, for fair consideration and on terms no less favorable to it or its Subsidiaries than would be obtainable in a comparable arm's length transaction with a Person that is not an Affiliate thereof, and that are (except in the case of transactions between or among DBM and its Subsidiaries) fully disclosed to the Agents prior to the consummation thereof, if they involve one or more payments by DBM or any of its Subsidiaries in excess of $250,000 for any single transaction or series of related transactions, (ii) transactions with another Loan Party, (iii) transactions permitted by Section 7.02(e) and Section 7.02(h), (iv) sales of Qualified Equity Interests of DBM to Affiliates of DBM not otherwise prohibited by the Loan Documents and the granting of registration and other customary rights in connection therewith, (v) reasonable and customary director and officer compensation (including bonuses and stock option programs), benefits and indemnification arrangements, in each case, in the ordinary course of business, consistent with past practice and approved by the Board of Directors (or a committee thereof) of such Loan Party or such Subsidiary, (vi) the Tax Sharing Agreement, and (vii) transactions described on Schedule 6.01(aa), so long as the Loan Parties shall provide the Agents with prior written notice of any renewal, extension, amendment or modification thereof in detail reasonably satisfactory to the Agents and the terms of any such renewal, extension, amendment or modification shall be no less favorable to the Loan Parties and their Subsidiaries than the terms of the applicable transaction as in effect on the Effective Date.

(k) Limitations on Dividends and Other Payment Restrictions Affecting Subsidiaries. Create or otherwise cause, incur, assume, suffer or permit to exist or become effective

any consensual encumbrance or restriction of any kind on the ability of any Subsidiary of any Loan Party (i) to pay dividends or to make any other distribution on any shares of Equity Interests of such Subsidiary owned by any Loan Party or any of its Subsidiaries, (ii) to pay or prepay or to subordinate any Indebtedness owed to any Loan Party or any of its Subsidiaries, (iii) to make loans or advances to any Loan Party or any of its Subsidiaries or (iv) to transfer any of its property or assets to any Loan Party or any of its Subsidiaries, or permit any of its Subsidiaries to do any of the foregoing; provided, however, that nothing in any of clauses (i) through (iv) of this Section 7.02(k) shall prohibit or restrict compliance with:

(A) the Loan Documents and the Working Capital Loan Documents;

(B) any agreement in effect on the date of this Agreement and described on Schedule 7.02(k), or any extension, replacement or continuation of any such agreement; provided, that, any such encumbrance or restriction contained in such extended, replaced or continued agreement is no less favorable to the Agents and the Lenders than the encumbrance or restriction under or pursuant to the agreement so extended, replaced or continued;

(C) any applicable law, rule or regulation (including, without limitation, applicable currency control laws and applicable state corporate statutes restricting the payment of dividends in certain circumstances);

(D) in the case of clause (iv), (1) customary restrictions on the subletting, assignment or transfer of any specified property or asset set forth in a lease, license, asset sale agreement or similar contract for the conveyance of such property or asset and (2) instrument or other document evidencing a Permitted Lien (or the Indebtedness secured thereby) from restricting on customary terms the transfer of any property or assets subject thereto;

(E) customary restrictions on dispositions of real property interests in reciprocal easement agreements;

(F) customary restrictions in agreements for the sale of assets on the transfer or encumbrance of such assets during an interim period prior to the closing of the sale of such assets;

(G) customary restrictions in contracts that prohibit the assignment of such contract;

(H) any agreement in effect at the time a Person becomes a Loan Party or a Subsidiary of a Loan Party, so long as such agreement was not entered into in connection with or in contemplation of such Person becoming a Loan Party or a Subsidiary of a Loan Party; or

(I) in the case of clause (iv), with respect to any joint venture which is not a Loan Party, restrictions in such Person's organizational documents or pursuant

to any joint venture or stockholders agreement solely to the extent of the Equity Interests of, or property held in, such joint venture.

(l) Limitations on Negative Pledges. Enter into, incur or permit to exist, or permit any Subsidiary to enter into, incur or permit to exist, directly or indirectly, any agreement, instrument, deed, lease or other arrangement that prohibits, restricts or imposes any condition upon the ability of any Loan Party or any Subsidiary of any Loan Party to create, incur or permit to exist any Lien securing the Obligations upon any of its property or revenues, whether now owned or hereafter acquired, or that requires the grant of any security for an obligation if security is granted for the Obligations hereunder, except the following: (i) the Loan Documents and the Working Capital Loan Documents, (ii) restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by Section 7.02(b) of this Agreement if such restrictions or conditions apply only to the property or assets securing such Indebtedness, (iii) any customary restrictions and conditions contained in agreements relating to the sale or other disposition of assets or of a Subsidiary pending such sale or other disposition; provided that such restrictions and conditions apply only to the assets or Subsidiary to be sold or disposed of and such sale or disposition is permitted hereunder, and (iv) customary provisions in leases restricting the assignment or sublet thereof.

(m) Modifications of Indebtedness, Organizational Documents and Certain Other Agreements; Etc.

(i) Amend, modify or otherwise change (or permit the amendment, modification or other change in any manner of) any of the provisions of any of its or its Subsidiaries' Subordinated Indebtedness, or of any instrument or agreement (including, without limitation, any purchase agreement, indenture, loan agreement or security agreement) relating to any such Subordinated Indebtedness, if such amendment, modification or change would shorten the final maturity or average life to maturity of, or require any payment to be made earlier than the date originally scheduled on, such Subordinated Indebtedness, would increase the interest rate applicable to such Indebtedness, would add any covenant or event of default, would change the subordination provision, if any, of such Indebtedness, or would otherwise be adverse to the Lenders or the issuer of such Subordinated Indebtedness in any respect;

(ii) amend, modify or otherwise change (or permit the amendment, modification or other change in any manner of) any of the provisions of the Working Capital Indebtedness or of any instrument or agreement (including, without limitation, any purchase agreement, indenture, loan agreement or security agreement) relating to any such Indebtedness, if such amendment, modification or change would be prohibited by the terms of the Intercreditor Agreement;

(iii) except for the Obligations and the Working Capital Indebtedness, (A) make any voluntary or optional payment (including, without limitation, any payment of interest in cash that, at the option of the issuer, may be paid in cash or in kind), prepayment, redemption, defeasance, sinking fund payment or other acquisition for value of any of its or its Subsidiaries' Indebtedness (including, without limitation, by way of depositing money or securities with the trustee therefor before the date required for the purpose of paying any portion

of such Indebtedness when due), (B) refund, refinance, replace or exchange any of its or its Subsidiaries' Indebtedness for any other Indebtedness (other than Permitted Refinancing Indebtedness), (C) make any payment, prepayment, redemption, defeasance, sinking fund payment or repurchase of any Subordinated Indebtedness in violation of the subordination provisions thereof or any subordination agreement with respect thereto, or (D) make any payment, prepayment, redemption, defeasance, sinking fund payment or repurchase of any of its or its Subsidiaries' Indebtedness as a result of any asset sale, change of control, issuance and sale of debt or equity securities or similar event, or give any notice with respect to any of the foregoing; provided that, in the case of this clause (D), the Borrowers may make mandatory prepayments of Permitted Purchase Money Indebtedness required in connection with the sale or other disposition of the assets that secure such Permitted Purchase Money Indebtedness;

(iv) purchase, tender for or otherwise acquire, or permit any of its Subsidiaries or Affiliates (including, without limitation, any Permitted Holder or any of its Affiliates) to purchase, tender for or otherwise acquire, directly or indirectly, any Working Capital Indebtedness;

(v) amend, modify or otherwise change any of its Governing Documents (including, without limitation, by the filing or modification of any certificate of designation, or any agreement or arrangement entered into by it) with respect to any of its Equity Interests (including any shareholders' agreement and the Effective Date Preferred Equity Issuance Documents), or enter into any new agreement with respect to any of its Equity Interests, except any such amendments, modifications or changes or any such new agreements or arrangements pursuant to this clause (v) that would not be adverse in any material respect to any Loan Party or any of its Subsidiaries, the Agents or the Lenders; or

(vi) agree to any amendment, modification or other change to or waiver of any of its rights under any Material Contract (other than any Working Capital Loan Document) if such amendment, modification, change or waiver would be materially adverse to the Loan Parties and their Subsidiaries taken as a whole or to the Agents and the Lenders.

(n) Investment Company Act of 1940. Engage in any business, enter into any transaction, use any securities or take any other action or permit any of its Subsidiaries to do any of the foregoing, that would cause it or any of its Subsidiaries to become subject to the registration requirements of the Investment Company Act of 1940, as amended, by virtue of being an "investment company" or a company "controlled" by an "investment company" not entitled to an exemption within the meaning of such Act.

(o) ERISA. Except where any failure to comply could not reasonably be expected to have a Material Adverse Effect: (i) engage, or permit any of its ERISA Affiliates to engage, in any transaction described in Section 4069 of ERISA; (ii) engage, or permit any of its ERISA Affiliates to engage, in any prohibited transaction described in Section 406 of ERISA or 4975 of the Internal Revenue Code for which a statutory or class exemption is not available or a private exemption has not previously been obtained from the U.S. Department of Labor; (iii) adopt any employee welfare benefit plan within the meaning of Section 3(1) of ERISA which provides benefits to employees after termination of employment other than as required by Section 601 of ERISA or applicable law; (iv) fail to make any contribution or payment to any Multiemployer Plan

which it or any of its ERISA Affiliates may be required to make under any agreement relating to such Multiemployer Plan, or any law pertaining thereto; or (v) fail, or permit any of its ERISA Affiliates to fail, to pay any required installment or any other payment required under Section 430 of the Internal Revenue Code on or before the due date for such installment or other payment.

(p) Environmental. Permit the use, handling, generation, storage, treatment, Release or disposal of Hazardous Materials at any property owned or leased by it or any of its Subsidiaries in a manner which violates any applicable Environmental Laws and where such violation could reasonably be expected to have a Material Adverse Effect.

(q) Accounting Methods. Modify or change, or permit any of its Subsidiaries to modify or change, its method of accounting or accounting principles from those utilized in the preparation of the Financial Statements (other than as may be required to conform to GAAP).

(r) Anti-Money Laundering and Anti-Terrorism Laws.

(i) None of the Loan Parties, nor, to the knowledge of any Loan Party, any of their Affiliates or agents, shall:

(A) conduct any business or engage in any transaction or dealing with or for the benefit of any Blocked Person, including the making or receiving of any contribution of funds, goods or services to, from or for the benefit of any Blocked Person in violation of any Requirements of Law;

(B) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked or subject to blocking pursuant to the OFAC Sanctions Programs in violation of any Requirements of Law;

(C) use any of the proceeds of the transactions contemplated by this Agreement to finance, promote or otherwise support in any manner any illegal activity, including, without limitation, any violation of the Anti-Money Laundering and Anti-Terrorism Laws or any specified unlawful activity as that term is defined in the Money Laundering Control Act of 1986, 18 U.S.C. §§ 1956 and 1957; or

(D) violate, attempt to violate, or engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, any of the Anti-Money Laundering and Anti-Terrorism Laws.

(ii) None of the Loan Parties, nor any Affiliate of any of the Loan Parties, nor any officer, director or principal shareholder or owner of any of the Loan Parties, nor any of the Loan Parties' respective agents acting or benefiting in any capacity in connection with the Loans or other transactions hereunder, shall be or shall become a Blocked Person.

(s) Anti-Bribery and Anti-Corruption Laws. None of the Loan Parties nor any of their Subsidiaries shall:

(i) offer, promise, pay, give, or authorize the payment or giving of any money, gift or other thing of value, directly or indirectly, to or for the benefit of any Foreign Official for the purpose of: (A) influencing any act or decision of such Foreign Official in his, her, or its official capacity; or (B) inducing such Foreign Official to do, or omit to do, an act in violation of the lawful duty of such Foreign Official, or (C) securing any improper advantage, in order to obtain or retain business for, or with, or to direct business to, any Person; or

(ii) act or attempt to act in any manner which would subject any of the Loan Parties to liability under any Anti-Corruption Law.

(t) Performance Bonds. None of the Loan Parties shall permit obligations of the type described in Section 7.01(a)(xx) to exceed $650,000,000 in the aggregate at any time outstanding.

(u) Immaterial Subsidiaries. The Loan Parties shall not permit the Immaterial Subsidiaries to (a) own any assets (other than assets of a de minimis nature), (b) have any liabilities (other than liabilities of a de minimis nature), or (c) engage in any business activity.

(v) Shareholder Litigation. Without the prior written consent of Required Lenders, neither DBM nor any of its Subsidiaries shall (I) be obligated to pay or contribute any amounts or other consideration in respect of any Shareholder Litigation Settlement other than obligations with respect to payments or contributions in an aggregate amount not to exceed the amount of Subordinated Indebtedness permitted to be outstanding under clause (p) of the definition of "Permitted Indebtedness"; provided that such obligations constitute Subordinated Indebtedness and are on terms, including subordination terms, which are reasonably satisfactory to the Administrative Agent, or (II) actually pay or contribute any amounts or other consideration in respect of any Shareholder Litigation Settlement other than (i) amounts for which DBM or its Subsidiaries are permitted to be obligated pursuant to clause (I) above and (ii) an aggregate amount not to exceed an amount that would have been otherwise permitted as a "Permitted Restricted Payment" under clause (e) of the definition thereof at the time of making such payment, contribution or other consideration if DBM had elected to utilize such amount as a Permitted Restricted Payment under clause (e) of the definition thereof; provided that, in the case of clauses (I) and (II) any such payment, contribution or obligation shall constitute, without duplication, an incurrence of Subordinated Indebtedness under clause (p) of the definition of "Permitted Indebtedness" or Restricted Payment under clause (e) of the definition thereof, as applicable, for all purposes under this Agreement and the other Loan Documents, and in the case of clause (II)(ii) hereof, the Loan Parties shall have satisfied all conditions to the making of any such Restricted Payment hereunder (as if DBM had elected to utilize such amount as a Restricted Payment), including under clause (e) of the definition of Permitted Restricted Payment prior to any such payment; provided further that DBM shall be required to provide to the Administrative Agent all agreements and other documentation or judgments evidencing or otherwise entered into in connection with any Shareholder Litigation Settlement not later than five (5) Business Days prior to making any payment otherwise permitted under this clause (v).

Section 7.03 Financial Covenants. So long as any principal of or interest on any Loan or any other Obligation (whether or not due) shall remain unpaid (other than Contingent Indemnity Obligations) or any Lender shall have any Commitment hereunder, each Loan Party shall not, unless the Required Lenders shall otherwise consent in writing:

(a) Senior Leverage Ratio. Permit the Senior Leverage Ratio of DBM and its Subsidiaries for any Test Period for which the last fiscal quarter ends on or about the date set forth below to be greater than the ratio set forth opposite such date:

| Fiscal Quarter End | Senior Leverage Ratio |
|---|---|
| March 31, 2019 | 3.00:1.00 |
| June 30, 2019 | 3.00:1.00 |
| September 30, 2019 | 3.00:1.00 |
| December 31, 2019 | 3.00:1.00 |
| March 31, 2020 | 3.00:1.00 |
| June 30, 2020 | 3.00:1.00 |
| September 30, 2020 | 2.75:1.00 |
| December 31, 2020 | 2.75:1.00 |
| March 31, 2021 | 2.75:1.00 |
| June 30, 2021 | 2.75:1.00 |
| September 30, 2021 | 2.50:1.00 |
| December 31, 2021 | 2.50:1.00 |
| March 31, 2022 | 2.50:1.00 |
| June 30, 2022 | 2.50:1.00 |
| September 30, 2022 and the last day of each fiscal quarter thereafter | 2.25:1.00 |

(b) Fixed Charge Coverage Ratio. Permit the Fixed Charge Coverage Ratio of DBM and its Subsidiaries for any Test Period to be less than 1.00 : 1.00.

(c) Minimum Monthly Stop Loss. DBM will not permit the Net Loss of Borrower and its Subsidiaries on a consolidated basis to exceed $600,000 in the aggregate in any one month or $1,000,000 in the aggregate during any two consecutive months during any fiscal year.

**ARTICLE VIII**

**CASH MANAGEMENT ARRANGEMENTS**
**AND OTHER COLLATERAL MATTERS**

Section 8.01 Cash Management Arrangements.

(a) The Loan Parties shall maintain Cash Management Accounts pursuant to lockbox or other arrangements reasonably acceptable to the Agents at one or more of the banks set forth on Schedule 8.01 (each a "Cash Management Bank") (it being understood and agreed that the Cash Management Accounts and lockbox and other arrangements established at Wells Fargo Bank, National Association in accordance with Section 5.02(d) shall be acceptable to the Agents so long as Wells Fargo Bank, National Association is the Working Capital Agent). The Loan Parties shall obtain an agreement (in form and substance reasonably satisfactory to the Agents) from each lockbox servicer and Cash Management Bank, establishing the Collateral Agent's control over and Lien in each lockbox or Cash Management Account, which may be exercised by the Collateral Agent upon the occurrence and during the continuance of an Event of Default, requiring immediate deposit of all remittances received in such lockbox or Cash Management Account to the Administrative Agent's Account, and waiving offset rights of such lockbox servicer or Cash Management Bank, except for customary administrative charges. Neither Agent assumes any responsibility to any Loan Party for any lockbox arrangement or Cash Management Account, including any claim of accord and satisfaction or release with respect to any payment items accepted by any lockbox servicer or Cash Management Bank. The Loan Parties shall deposit or cause to be deposited promptly, and in any event no later than the next Business Day after the date of receipt thereof, all proceeds in respect of any Collateral, all Collections (of a nature susceptible to a deposit in a bank account) and all other amounts received by any Loan Party (including payments made by Account Debtors directly to any Loan Party) into a Cash Management Account.

(b) The Loan Parties shall not maintain, and shall not permit any of their Subsidiaries to maintain, subject to Section 5.02(c) hereof, cash, Cash Equivalents or other amounts in any deposit account or securities account, unless the Collateral Agent shall have received a Control Agreement in respect of each such Cash Management Account (other than Excluded Accounts). So long as no Event of Default has occurred and is continuing, the Borrowers may amend Schedule 8.01 to add or replace a Cash Management Bank or Cash Management Account; provided, however, that prior to the time of the opening of such Cash Management Account, each Loan Party and such prospective Cash Management Bank shall have executed and delivered to the Collateral Agent a Control Agreement.

**ARTICLE IX**

**EVENTS OF DEFAULT**

Section 9.01 Events of Default. Each of the following events shall constitute an event of default (each, an "Event of Default"):

(a) any Borrower shall fail to pay, when due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), (i) any interest on any Loan, any Collateral Agent Advance, any reimbursement obligation or any fee, indemnity or other amount

payable under this Agreement (other than any portion thereof constituting principal of the Loans) or any other Loan Document, and such failure continues for a period of three (3) Business Days or (ii) all or any portion of the principal of the Loans;

(b) any representation or warranty made or deemed made by or on behalf of any Loan Party or by any officer of the foregoing under or in connection with any Loan Document or under or in connection with any certificate or other writing delivered to any Secured Party pursuant to any Loan Document shall have been incorrect in any material respect (or in any respect if such representation or warranty is qualified or modified as to materiality or "Material Adverse Effect" in the text thereof) when made or deemed made;

(c) (i) any Loan Party shall fail to perform or comply with any covenant or agreement contained in Section 5.02, Section 7.01(a) (other than with respect to the sub-clauses of Section 7.01(a) described in sub-clause (ii) hereof), Section 7.01(b), Section 7.01(c), Section 7.01(d), Section 7.01(f), Section 7.01(h), Section 7.01(k), Section 7.01(o), Section 7.02 or Section 7.03 or Article VIII (other than as described in sub-clause (ii) hereof), or any Loan Party shall fail to perform or comply with any negative covenant contained in any Security Agreement to which it is a party or any Mortgage to which it is a party or any Loan Party shall fail to comply with any affirmative covenant contained in any Security Agreement with respect to the delivery of Collateral to the Collateral Agent or (ii) any Loan Party shall fail to perform or comply with any covenant or agreement contained in Section 7.01(a)(vi), Section 7.01(a)(viii), Section 7.01(a)(xiv), Section 7.01(a)(xvii), Section 7.01(a)(xix), Section 7.01(a)(xxi) or the first and second sentences of Section 8.01(a) and, such failure, if capable of being remedied, shall remain unremedied for 10 days after the earlier of the date an Authorized Officer of any Loan Party has knowledge of such failure and the date written notice of such default shall have been given by any Agent to such Loan Party;

(d) any Loan Party shall fail to perform or comply with any other term, covenant or agreement contained in any Loan Document to be performed or observed by it and, except as set forth in subsections (a), (b) and (c) of this Section 9.01, such failure, if capable of being remedied, shall remain unremedied for 30 days after the earlier of the date an Authorized Officer of any Loan Party has knowledge of such failure and the date written notice of such default shall have been given by any Agent to such Loan Party;

(e) DBM or any of its Subsidiaries shall fail to pay when due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise) any principal, interest or other amount payable in respect of Indebtedness (excluding Indebtedness evidenced by this Agreement or the Working Capital Loan Documents) having an aggregate amount outstanding in excess of $3,000,000, and such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument relating to such Indebtedness, or any other default under any agreement or instrument relating to any such Indebtedness, or any other event, shall occur and shall continue after the applicable grace period, if any, specified in such agreement or instrument, if the effect of such default or event is to accelerate, or to permit the acceleration of, the maturity of such Indebtedness; or any such Indebtedness shall be declared to be due and payable, or required to be prepaid (other than by a regularly scheduled required prepayment), redeemed, purchased or defeased or an offer to prepay, redeem, purchase or defease such Indebtedness shall be required to

be made, in each case, prior to the stated maturity thereof; provided that this clause (e) shall not apply to secured Indebtedness that becomes due as a result of the sale, transfer, destruction or other disposition of the property or assets securing such Indebtedness if such sale, transfer, destruction or other disposition and the prepayment of such secured Indebtedness are permitted hereunder and thereunder;

(f) DBM or any of its Subsidiaries (i) shall institute any proceeding or voluntary case seeking to adjudicate it a bankrupt or insolvent, or seeking dissolution, liquidation, winding up, reorganization, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian or other similar official for any such Person or for any substantial part of its property, (ii) shall be generally not paying its debts as such debts become due or shall admit in writing its inability to pay its debts generally, (iii) shall make a general assignment for the benefit of creditors, or (iv) shall take any action to authorize or effect any of the actions set forth above in this subsection (f);

(g) any proceeding shall be instituted against DBM or any of its Subsidiaries seeking to adjudicate it a bankrupt or insolvent, or seeking dissolution, liquidation, winding up, reorganization, arrangement, adjustment, protection, relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian or other similar official for any such Person or for any substantial part of its property, and either such proceeding shall remain undismissed or unstayed for a period of 45 days or any of the actions sought in such proceeding (including, without limitation, the entry of an order for relief against any such Person or the appointment of a receiver, trustee, custodian or other similar official for it or for any substantial part of its property) shall occur;

(h) any material provision of any Loan Document shall at any time for any reason (other than pursuant to the express terms thereof) cease to be valid and binding on or enforceable against any Loan Party intended to be a party thereto, or the validity or enforceability thereof shall be contested by any party thereto (other than any Agent or any Lender), or a proceeding shall be commenced by any Loan Party or any Governmental Authority having jurisdiction over any of them, seeking to establish the invalidity or unenforceability thereof, or any Loan Party shall deny in writing that it has any liability or obligation purported to be created under any Loan Document;

(i) any Security Agreement, any Mortgage or any other security document, after delivery thereof pursuant hereto, shall for any reason fail or cease to create a valid and, except (A) to the extent permitted by the terms hereof or thereof and (B) as a result of a waiver or release by the Agents and the Lenders, perfected first priority Lien in favor of the Collateral Agent for the benefit of the Agents and the Lenders on any Collateral purported to be covered thereby;

(j) one or more judgments, orders or awards (or any settlement of any litigation or other proceeding that, if breached, could result in a judgment, order or award) for the payment of money exceeding $7,000,000 in the aggregate (except to the extent fully covered (other than to the extent of customary deductibles) by insurance pursuant to which the insurer has been

notified and has not denied coverage) shall be rendered against DBM or any of its Subsidiaries and remain unsatisfied and (i) enforcement proceedings shall have been commenced by any creditor upon any such judgment, order, award or settlement or (ii) there shall be a period of 60 consecutive days after entry thereof during which (A) a stay of enforcement thereof is not be in effect or (B) the same is not vacated, discharged, stayed or bonded pending appeal;

(k) (i) any Loan Party is enjoined, restrained or in any way prevented by any Governmental Authority from conducting any material part of the business of the Loan Parties taken as a whole, (ii) any Loan Party suffers any loss, revocation or termination of any material license, permit, lease or agreement necessary to the business of the Loan Parties taken as a whole, (iii) any cessation of any material part of the business of the Loan Parties taken as a whole for a material period of time, (iv) any material Collateral or material property or assets of the Loan Parties taken as a whole is taken or impaired through condemnation without compensation for the fair market value thereof, (v) any Loan Party agrees to or commences any liquidation, dissolution or winding up of its affairs (except as otherwise permitted hereby), or (vi) the Loan Parties, on a consolidated basis, cease to be Solvent; or

(l) any Loan Party is criminally indicted or convicted for (i) a felony committed in the conduct of such Loan Party's business, or (ii) violating any state or federal law (including the Controlled Substances Act, Money Laundering Control Act of 1986 and Illegal Exportation of War Materials Act) that could lead to forfeiture of any material property or assets of such Loan Party or any Collateral;

(m) any Loan Party or any of its ERISA Affiliates shall have made a complete or partial withdrawal from a Multiemployer Plan, and, as a result of such complete or partial withdrawal, any Loan Party or any of its ERISA Affiliates incurs a withdrawal liability in an annual amount exceeding $3,000,000;

(n) any Termination Event with respect to any Employee Plan shall have occurred, and, 30 days after notice thereof shall have been given to any Loan Party by any Agent, (i) such Termination Event (if correctable) shall not have been corrected, and (ii) the then current value of such Employee Plan's vested benefits exceeds the then current value of assets allocable to such benefits in such Employee Plan by more than $3,000,000 (or, in the case of a Termination Event involving liability under Section 409, 502(i), 502(l), 515, 4062, 4063, 4064, 4069, 4201, 4204 or 4212 of ERISA or Section 4971 or 4975 of the Internal Revenue Code, the liability is in excess of such amount);

(o) (i) there shall occur and be continuing any "Event of Default" (or any comparable term) under, and as defined in the documents evidencing or governing any Subordinated Indebtedness, (ii) any of the Obligations for any reason shall cease to be "Senior Indebtedness" or "Designated Senior Indebtedness" (or any comparable terms) under, and as defined in the documents evidencing or governing any Subordinated Indebtedness, (iii) with respect to any Subordinated Indebtedness having an aggregate amount outstanding in excess of $3,000,000, any holder of such Subordinated Indebtedness shall fail to perform or comply with any of the subordination provisions of the documents evidencing or governing such Subordinated Indebtedness, or (iv) the subordination provisions of the documents evidencing or governing any Subordinated Indebtedness shall, in whole

or in part, terminate, cease to be effective or cease to be legally valid, binding and enforceable against any holder of the applicable Subordinated Indebtedness;

(p) an Event of Default (as defined in the Working Capital Loan Documents) shall have occurred and be continuing;

(q) to the extent not constituting a Permitted Lien: issuance of a notice of Lien, levy, assessment, injunction or attachment against a material portion of any Loan Party's property and the same is not discharged before the earlier of 30 days after the date it first arises or 5 days prior to the date on which such property or asset is subject to forfeiture by such Loan Party; or

(r) any material event occurs which is of a type covered by any Loan Party's business interruption insurance or which otherwise constitutes an unplanned interruption of the operations of any Loan Party's manufacturing facilities, but in each case only with respect to a facility or facilities generating 20% of Consolidated EBITDA for the prior Test Period, which continues for more than thirty (30) consecutive days, unless such Loan Party shall (i) be entitled to receive for such period of interruption proceeds of business interruption or similar insurance or cash equity contributions in an amount sufficient to meet such Loan Party's cash needs during such period (when compared to its average per diem cash needs for the consecutive three month period immediately preceding the initial date of interruption) and (ii) receive such insurance proceeds in the amount described in the preceding clause (i) not later than forty-five (45) days following the initial date of any such interruption; provided, however, that notwithstanding the provisions of clauses (i) and (ii) of this section, an Event of Default shall be deemed to have occurred if such Loan Party shall be receiving the proceeds of business interruption insurance for a period of more than thirty (30) consecutive days; or

(s) (i) any surety or other bonding party (or any designee on its behalf) that has issued performance bonds, construction bonds or similar obligations for the benefit of customers of DBM and/or its Subsidiaries (A) demands cash or other collateral (whether as a result of a default or similar condition under the agreements evidencing or relating to such bonds or similar obligations, including any indemnity agreement in respect thereof, or due to one or more customers of DBM and/or its Subsidiaries having made demand for performance under any such bonds or similar obligations, or otherwise), if compliance by DBM and its Subsidiaries at the time of such demand would cause a breach of Section 7.02(a) of this Agreement or (B) shall have issued in its or their favor, on behalf of DBM or any of its Subsidiaries (or their designee) (on account of a demand or otherwise), letters of credit or similar instruments, to the extent the face amount of all such letters of credit or similar instruments plus the amount of cash or Cash Equivalents deposited in favor of such sureties or other bonding parties (or their designees) in the aggregate shall exceed $12,000,000 or (ii) performance bonds, construction bonds or similar obligations in an aggregate face amount equal to or greater than $6,000,000 in aggregate shall have been called upon and/or required performance by the applicable surety or bonding party or its or their designee in any trailing 12 month period; or

(t) a Change of Control shall have occurred;

then, and in any such event, the Collateral Agent may, and shall at the request of the Required Lenders, by notice to the Administrative Borrower, (i) terminate or reduce all Commitments, whereupon all Commitments shall immediately be so terminated or reduced, (ii) declare all or any portion of the Loans then outstanding to be accelerated and due and payable, whereupon all or such portion of the aggregate principal of all Loans, all accrued and unpaid interest thereon, all fees and all other amounts payable under this Agreement and the other Loan Documents shall become due and payable immediately, together with the payment of the Applicable Premium with respect to the Commitments so terminated and the Loans so repaid, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by each Loan Party and (iii) exercise any and all of its other rights and remedies under applicable law, hereunder and under the other Loan Documents; provided, however, that upon the occurrence of any Event of Default described in subsection (f) or (g) of this Section 9.01 with respect to any Loan Party, without any notice to any Loan Party or any other Person or any act by any Agent or any Lender, all Commitments shall automatically terminate and all Loans then outstanding, together with all accrued and unpaid interest thereon, all fees and all other amounts due under this Agreement and the other Loan Documents, including, without limitation, the Applicable Premium, shall be accelerated and become due and payable automatically and immediately, without presentment, demand, protest or notice of any kind, all of which are expressly waived by each Loan Party.

## ARTICLE X

## AGENTS

Section 10.01 Appointment. Each Lender (and each subsequent maker of any Loan by its making thereof) hereby irrevocably appoints, authorizes and empowers the Administrative Agent and the Collateral Agent to perform the duties of each such Agent as set forth in this Agreement and the other Loan Documents, together with such actions and powers as are reasonably incidental thereto, including: (i) to receive on behalf of each Lender any payment of principal of or interest on the Loans outstanding hereunder and all other amounts accrued hereunder for the account of the Lenders and paid to such Agent, and, subject to Section 2.02 of this Agreement, to distribute promptly to each Lender its Pro Rata Share of all payments so received; (ii) to distribute to each Lender copies of all material notices and agreements received by such Agent and not required to be delivered to each Lender pursuant to the terms of this Agreement, provided that the Agents shall not have any liability to the Lenders for any Agent's inadvertent failure to distribute any such notices or agreements to the Lenders; (iii) to maintain, in accordance with its customary business practices, ledgers and records reflecting the status of the Obligations, the Loans, and related matters and to maintain, in accordance with its customary business practices, ledgers and records reflecting the status of the Collateral and related matters; (iv) to 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 this Agreement or any other Loan Document; (v) to make the Loans and Collateral Agent Advances, for such Agent or on behalf of the applicable Lenders as provided in this Agreement or any other Loan Document; (vi) to perform, exercise, and enforce any and all other rights and remedies of the Lenders with respect to the Loan Parties, the Obligations, or otherwise related to any of same to the extent reasonably incidental to the exercise by such Agent of the rights and remedies specifically authorized to be exercised by such Agent by the terms of

this Agreement or any other Loan Document; (vii) to incur and pay such fees necessary or appropriate for the performance and fulfillment of its functions and powers pursuant to this Agreement or any other Loan Document; (viii) subject to Section 10.03, to take such action as such Agent deems appropriate on its behalf to administer the Loans and the Loan Documents and to exercise such other powers delegated to such Agent by the terms hereof or the other Loan Documents (including, without limitation, the power to give or to refuse to give notices, waivers, consents, approvals and instructions and the power to make or to refuse to make determinations and calculations); and (ix) to act with respect to all Collateral under the Loan Documents, including for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations. As to any matters not expressly provided for by this Agreement and the other Loan Documents (including, without limitation, enforcement or collection of the Loans), the Agents shall not be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the instructions of the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), and such instructions of the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents) shall be binding upon all Lenders and all makers of Loans; provided, however, the Agents shall not be required to take any action which, in the reasonable opinion of any Agent, exposes such Agent to liability or which is contrary to this Agreement or any other Loan Document or applicable law.

Section 10.02 Nature of Duties; Delegation.

(a) The Agents shall have no duties or responsibilities except those expressly set forth in this Agreement or in the other Loan Documents. The duties of the Agents shall be mechanical and administrative in nature. The Agents shall not have by reason of this Agreement or any other Loan Document a fiduciary relationship in respect of any Lender. Nothing in this Agreement or any other Loan Document, express or implied, is intended to or shall be construed to impose upon the Agents any obligations in respect of this Agreement or any other Loan Document except as expressly set forth herein or therein. Each Lender shall make its own independent investigation of the financial condition and affairs of the Loan Parties in connection with the making and the continuance of the Loans hereunder and shall make its own appraisal of the creditworthiness of the Loan Parties and the value of the Collateral, and the Agents shall have no duty or responsibility, either initially or on a continuing basis, to provide any Lender with any credit or other information with respect thereto, whether coming into their possession before the initial Loan hereunder or at any time or times thereafter, provided that, upon the reasonable request of a Lender, each Agent shall provide to such Lender any documents or reports delivered to such Agent by the Loan Parties pursuant to the terms of this Agreement or any other Loan Document. If any Agent seeks the consent or approval of the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents) to the taking or refraining from taking any action hereunder, such Agent shall send notice thereof to each Lender. Each Agent shall promptly notify each Lender any time that the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents) have instructed such Agent to act or refrain from acting pursuant hereto.

(b) Each Agent may, upon any term or condition it specifies, delegate or exercise any of its rights, powers and remedies under, and delegate or perform any of its duties or any other action with respect to, any Loan Document by or through any trustee, co-agent, employee, attorney-in-fact and any other Person (including any Lender). Any such Person shall benefit from this Article X to the extent provided by the applicable Agent.

Section 10.03 Rights, Exculpation, Etc.

(a) The Agents and their directors, officers, agents or employees shall not be liable for any action taken or omitted to be taken by them under or in connection with this Agreement or the other Loan Documents, except for their own gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction. Without limiting the generality of the foregoing, the Agents (i) may treat the payee of any Loan as the owner thereof until the Collateral Agent receives written notice of the assignment or transfer thereof, pursuant to Section 12.07 hereof, signed by such payee and in form satisfactory to the Collateral Agent; (ii) may consult with legal counsel (including, without limitation, counsel to any Agent or counsel to the Loan Parties), independent public accountants, and other experts selected by any of them and shall not be liable for any action taken or omitted to be taken in good faith by any of them in accordance with the advice of such counsel or experts; (iii) make no warranty or representation to any Lender and shall not be responsible to any Lender for any statements, certificates, warranties or representations made in or in connection with this Agreement or the other Loan Documents; (iv) shall not have any duty to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of this Agreement or the other Loan Documents on the part of any Person, the existence or possible existence of any Default or Event of Default, or to inspect the Collateral or other property (including, without limitation, the books and records) of any Person; (v) shall not be responsible to any Lender for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement or the other Loan Documents or any other instrument or document furnished pursuant hereto or thereto; and (vi) shall not be deemed to have made any representation or warranty regarding the existence, value or collectibility of the Collateral, the existence, priority or perfection of the Collateral Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Agents be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral. The Agents shall not be liable for any apportionment or distribution of payments made in good faith pursuant to Section 4.03, and if any such apportionment or distribution is subsequently determined to have been made in error, and the sole recourse of any Lender to whom payment was due but not made shall be to recover from other Lenders any payment in excess of the amount which they are determined to be entitled. The Agents may at any time request instructions from the Lenders with respect to any actions or approvals which by the terms of this Agreement or of any of the other Loan Documents the Agents are permitted or required to take or to grant, and if such instructions are promptly requested, the Agents shall be absolutely entitled to refrain from taking any action or to withhold any approval under any of the Loan Documents until they shall have received such instructions from the Required Lenders. Without limiting the foregoing, no Lender shall have any right of action whatsoever against any Agent as a result of such Agent acting or refraining from acting under this Agreement or any of the other Loan Documents in accordance with the instructions of the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents).

(b) The Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions of this Agreement relating to Disqualified Institutions. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or participant or prospective Lender or participant is a Disqualified Institution or (y) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information, to any Disqualified Institution.

Section 10.04 Reliance. Each Agent shall be entitled to rely upon any written notices, statements, certificates, orders or other documents or any telephone message believed by it in good faith to be genuine and correct and to have been signed, sent or made by the proper Person, and with respect to all matters pertaining to this Agreement or any of the other Loan Documents and its duties hereunder or thereunder, upon advice of counsel selected by it.

Section 10.05 Indemnification. To the extent that any Agent is not reimbursed and indemnified by any Loan Party, and whether or not such Agent has made demand on any Loan Party for the same, the Lenders will, within five (5) days of written demand by such Agent, reimburse such Agent for and indemnify such Agent from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including, without limitation, client charges and expenses of counsel or any other advisor to such Agent), advances or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against such Agent in any way relating to or arising out of this Agreement or any of the other Loan Documents or any action taken or omitted by such Agent under this Agreement or any of the other Loan Documents, in proportion to each Lender's Pro Rata Share, including, without limitation, advances and disbursements made pursuant to Section 10.08; provided, however, that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses, advances or disbursements for which there has been a final non-appealable judicial determination that such liability resulted from such Agent's gross negligence or willful misconduct. The obligations of the Lenders under this Section 10.05 shall survive the payment in full of the Loans and the termination of this Agreement.

Section 10.06 Agents Individually. With respect to its Pro Rata Share of the Total Commitment hereunder and the Loans made by it, each Agent shall have and may exercise the same rights and powers hereunder and is subject to the same obligations and liabilities as and to the extent set forth herein for any other Lender or maker of a Loan. The terms "Lenders" or "Required Lenders" or any similar terms shall, unless the context clearly otherwise indicates, include each Agent in its individual capacity as a Lender or one of the Required Lenders. Each Agent and its Affiliates may accept deposits from, lend money to, and generally engage in any kind of banking, trust or other business with any Borrower as if it were not acting as an Agent pursuant hereto without any duty to account to the other Lenders.

Section 10.07 Successor Agent.

(a) Any Agent may at any time give at least 30 days prior written notice of its resignation to the Lenders and the Administrative Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right to appoint a successor Agent. If no such successor Agent shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the "Resignation Effective Date"), then the retiring Agent may (but shall not be obligated to), on behalf of the Lenders, appoint a successor Agent. Whether or not a successor Agent has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) With effect from the Resignation Effective Date, (i) the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any Collateral held by such Agent on behalf of the Lenders under any of the Loan Documents, the retiring Agent shall continue to hold such collateral security until such time as a successor Agent is appointed) and (ii) all payments, communications and determinations provided to be made by, to or through such retiring Agent shall instead be made by or to each Lender directly, until such time, if any, as a successor Agent shall have been appointed as provided for above. Upon the acceptance of a successor's Agent's appointment as Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Agent, and the retiring Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents. After the retiring Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article, Section 12.04 and Section 12.15 shall continue in effect for the benefit of such retiring Agent in respect of any actions taken or omitted to be taken by it while the retiring Agent was acting as Agent.

Section 10.08 Collateral Matters.

(a) The Collateral Agent may from time to time make such disbursements and advances ("Collateral Agent Advances") which the Collateral Agent, in its reasonable discretion, deems necessary to preserve, protect, prepare for sale or lease or dispose of the Collateral or any portion thereof, to enhance the likelihood or maximize the amount of repayment by the Borrowers of the Loans and other Obligations or to pay any other amount chargeable to the Borrowers pursuant to the terms of this Agreement, including, without limitation, costs, fees and expenses as described in Section 12.04. The Collateral Agent Advances shall be repayable on demand and be secured by the Collateral and shall bear interest at a rate per annum equal to the rate then applicable to Reference Rate Loans. The Collateral Agent Advances shall constitute Obligations hereunder which may be charged to the Loan Account in accordance with Section 4.01. The Collateral Agent shall notify the Administrative Agent, each Lender and the Administrative Borrower in writing of each such Collateral Agent Advance, which notice shall include a description of the purpose of such Collateral Agent Advance. Without limitation to its obligations pursuant to Section 10.05, each Lender agrees that it shall make available to the Collateral Agent, upon the Collateral Agent's demand, in Dollars in immediately available funds, the amount equal to such Lender's Pro Rata Share of each such Collateral Agent Advance. If such funds are not made available to the Collateral Agent by such Lender, the Collateral Agent shall be entitled to recover such funds on demand from such Lender, together with interest thereon for each day from the date such payment was due until the date such amount is paid to the Collateral Agent, at the Federal Funds Rate for three (3) Business Days and thereafter at the Reference Rate.

(b) The Lenders hereby irrevocably authorize the Collateral Agent, at its option and in its discretion, to release any Lien granted to or held by the Collateral Agent upon any Collateral upon termination of the Total Commitment and payment and satisfaction

of all Loans and all other Obligations (other than Contingent Indemnity Obligations) in accordance with the terms hereof; or constituting property being sold or disposed of in the ordinary course of any Loan Party's business or otherwise in compliance with the terms of this Agreement and the other Loan Documents; or constituting property in which the Loan Parties owned no interest at the time the Lien was granted or at any time thereafter; or if approved, authorized or ratified in writing by the Lenders in accordance with Section 12.02. Upon request by the Collateral Agent at any time, the Lenders will confirm in writing the Collateral Agent's authority to release particular types or items of Collateral pursuant to this Section 10.08(b).

(c) Without in any manner limiting the Collateral Agent's authority to act without any specific or further authorization or consent by the Lenders (as set forth in Section 10.08(b)), each Lender agrees to confirm in writing, upon request by the Collateral Agent, the authority to release Collateral conferred upon the Collateral Agent under Section 10.08(b). Upon receipt by the Collateral Agent of confirmation from the Lenders of its authority to release any particular item or types of Collateral, and upon prior written request by any Loan Party, the Collateral Agent shall (and is hereby irrevocably authorized by the Lenders to) execute such documents as may be necessary to evidence the release of the Liens granted to the Collateral Agent for the benefit of the Agents and the Lenders upon such Collateral; provided, however, that (i) the Collateral Agent shall not be required to execute any such document on terms which, in the Collateral Agent's opinion, would expose the Collateral Agent to liability or create any obligations or entail any consequence other than the release of such Liens without recourse or warranty, and (ii) such release shall not in any manner discharge, affect or impair the Obligations or any Lien upon (or obligations of any Loan Party in respect of) all interests in the Collateral retained by any Loan Party.

(d) Anything contained in any of the Loan Documents to the contrary notwithstanding, the Loan Parties, each Agent and each Lender hereby agree that (i) no Lender shall have any right individually to realize upon any of the Collateral under any Loan Document or to enforce any Guaranty, it being understood and agreed that all powers, rights and remedies under the Loan Documents may be exercised solely by the Collateral Agent for the benefit of the Lenders in accordance with the terms thereof, (ii) in the event of a foreclosure by the Collateral Agent on any of the Collateral pursuant to a public or private sale, the Administrative Agent, the Collateral Agent or any Lender may be the purchaser of any or all of such Collateral at any such sale and (iii) the Collateral Agent, as agent for and representative of the Agents and the Lenders (but not any other Agent or any Lender or Lenders in its or their respective individual capacities unless the Required Lenders shall otherwise agree in writing) shall be entitled (either directly or through one or more acquisition vehicles) for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral to be sold (A) at any public or private sale, (B) at any sale conducted by the Collateral Agent under the provisions of the Uniform Commercial Code (including pursuant to Sections 9-610 or 9-620 of the Uniform Commercial Code), (C) at any sale or foreclosure conducted by the Collateral Agent (whether by judicial action or otherwise) in accordance with applicable law or (D) any sale conducted pursuant to the provisions of any Debtor Relief Law (including Section 363 of the Bankruptcy Code), to use and apply all or any of the Obligations as a credit on account of the purchase price for any Collateral payable by the Collateral Agent at such sale.

(e) The Collateral Agent shall have no obligation whatsoever to any Lender to assure that the Collateral exists or is owned by the Loan Parties or is cared for, protected or insured or has been encumbered or that the Lien granted to the Collateral Agent pursuant to this Agreement or any other Loan Document has been properly or sufficiently or lawfully created, perfected, protected or enforced or is entitled to any particular priority, or 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 the Collateral Agent in this Section 10.08 or in any other Loan Document, it being understood and agreed that in respect of the Collateral, or any act, omission or event related thereto, the Collateral Agent may act in any manner it may deem appropriate, in its sole discretion, given the Collateral Agent's own interest in the Collateral as one of the Lenders and that the Collateral Agent shall have no duty or liability whatsoever to any other Lender, except as otherwise provided herein.

Section 10.09 Agency for Perfection. Each Agent and each Lender hereby appoints each other Agent and each other Lender as agent and bailee for the purpose of perfecting the security interests in and liens upon the Collateral in assets which, in accordance with Article 9 of the Uniform Commercial Code, can be perfected only by possession or control (or where the security interest of a secured party with possession or control has priority over the security interest of another secured party) and each Agent and each Lender hereby acknowledges that it holds possession of or otherwise controls any such Collateral for the benefit of the Agents and the Lenders as secured party. Should the Administrative Agent or any Lender obtain possession or control of any such Collateral, the Administrative Agent or such Lender shall notify the Collateral Agent thereof, and, promptly upon the Collateral Agent's request therefor shall deliver such Collateral to the Collateral Agent or in accordance with the Collateral Agent's instructions. In addition, the Collateral Agent shall also have the power and authority hereunder to appoint such other sub-agents as may be necessary or required under applicable state law or otherwise to perform its duties and enforce its rights with respect to the Collateral and under the Loan Documents. Each Loan Party by its execution and delivery of this Agreement hereby consents to the foregoing.

Section 10.10 No Reliance on any Agent's Customer Identification Program. Each Lender acknowledges and agrees that neither such Lender, nor any of its Affiliates, participants or assignees, may rely on any Agent to carry out such Lender's, Affiliate's, participant's or assignee's customer identification program, or other requirements imposed by the USA PATRIOT Act or the regulations issued thereunder, including the regulations set forth in 31 C.F.R. §§ 1010.100(yy), (iii), 1020.100, and 1020.220 (formerly 31 C.F.R. § 103.121), as hereafter amended or replaced ("CIP Regulations"), or any other Anti-Money Laundering and Anti-Terrorism Laws, including any programs involving any of the following items relating to or in connection with any of the Loan Parties, their Affiliates or their agents, the Loan Documents or the transactions hereunder or contemplated hereby: (1) any identity verification procedures, (2) any recordkeeping, (3) comparisons with government lists, (4) customer notices or (5) other procedures required under the CIP Regulations or other regulations issued under the USA PATRIOT Act. Each Lender, Affiliate, participant or assignee subject to Section 326 of the USA PATRIOT Act will perform the measures necessary to satisfy its own responsibilities under the CIP Regulations.

Section 10.11 No Third Party Beneficiaries. The provisions of this Article are solely for the benefit of the Secured Parties, and no Loan Party shall have rights as a third-party beneficiary of any of such provisions.

Section 10.12 No Fiduciary Relationship. It is understood and agreed that the use of the term "agent" herein or in any other Loan Document (or any other similar term) with reference to any 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 as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

Section 10.13 Reports; Confidentiality; Disclaimers. By becoming a party to this Agreement, each Lender:

(a) is deemed to have requested that each Agent furnish such Lender, promptly after it becomes available, a copy of each field audit or examination report with respect to DBM or any of its Subsidiaries (each, a "Report") prepared by or at the request of such Agent, and each Agent shall so furnish each Lender with each such Report,

(b) expressly agrees and acknowledges that the Agents (i) do not make any representation or warranty as to the accuracy of any Reports, and (ii) shall not be liable for any information contained in any Reports,

(c) expressly agrees and acknowledges that the Reports are not comprehensive audits or examinations, that any Agent or other party performing any audit or examination will inspect only specific information regarding DBM and its Subsidiaries and will rely significantly upon DBM's and its Subsidiaries' books and records, as well as on representations of their personnel,

(d) agrees to keep all Reports and other material, non-public information regarding DBM and its Subsidiaries and their operations, assets, and existing and contemplated business plans in a confidential manner in accordance with Section 12.19, and

(e) without limiting the generality of any other indemnification provision contained in this Agreement, agrees: (i) to hold any 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 the Borrowers, or the indemnifying Lender's participation in, or the indemnifying Lender's purchase of, a loan or loans of the Borrowers, and (ii) to pay and protect, and indemnify, defend and hold any Agent and any other Lender preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including, attorneys fees and costs) incurred by any such 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.

Section 10.14 Collateral Custodian. Upon the occurrence and during the continuance of any Default or Event of Default, the Collateral Agent or its designee may at any time and from time to time employ and maintain on the premises of any Loan Party a custodian selected by the Collateral Agent or its designee who shall have full authority to do all acts necessary to protect the Agents' and the Lenders' interests. Each Loan Party hereby agrees to, and to cause its Subsidiaries to, cooperate with any such custodian and to do whatever the Collateral Agent or its designee may reasonably request to preserve the Collateral. All costs and expenses incurred by the Collateral Agent or its designee by reason of the employment of the custodian shall be the responsibility of the Borrowers and charged to the Loan Account.

Section 10.15 Collateral Agent May File Proofs of Claim. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Collateral Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether any Agent shall have made any demand on the Borrowers) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Secured Parties (including any claim for the compensation, expenses, disbursements and advances of the Secured Parties and their respective agents and counsel and all other amounts due the Secured Parties hereunder and under the other Loan Documents) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Secured Party to make such payments to the Collateral Agent and, in the event that the Collateral Agent shall consent to the making of such payments directly to the Secured Parties, to pay to the Collateral Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Collateral Agent and its agents and counsel, and any other amounts due the Collateral Agent hereunder and under the other Loan Documents.

Section 10.16 Intercreditor Agreement. The Administrative Agent and each Lender hereby grants to the Collateral Agent all requisite authority to enter into or otherwise become bound by the Intercreditor Agreement and to bind the Agents and the Lenders thereto by the Collateral Agent's entering into or otherwise becoming bound thereby, and no further consent or approval on the part of the Administrative Agent or any Lender is or will be required in connection with the performance by the Collateral Agent of the Intercreditor Agreement.

## ARTICLE XI

## GUARANTY

Section 11.01 Guaranty. Each Guarantor hereby jointly and severally and unconditionally and irrevocably guarantees the punctual payment when due, whether at stated maturity, by acceleration or otherwise, of all Obligations of the Borrowers now or hereafter existing under any Loan Document, whether for principal, interest (including, without limitation, all interest that accrues after the commencement of any Insolvency Proceeding of any Borrower, whether or not a claim for post-filing interest is allowed in such Insolvency Proceeding), fees, commissions, expense reimbursements, indemnifications or otherwise (such obligations, to the extent not paid by the Borrowers, being the "Guaranteed Obligations"), and agrees to pay any and all expenses otherwise payable by any Borrower (including reasonable counsel fees and expenses) incurred by

the Secured Parties in enforcing any rights under the guaranty set forth in this Article XI. Without limiting the generality of the foregoing, each Guarantor's liability shall extend to all amounts that constitute part of the Guaranteed Obligations and would be owed by the Borrowers to the Secured Parties under any Loan Document but for the fact that they are unenforceable or not allowable due to the existence of an Insolvency Proceeding involving any Borrower. In no event shall the obligation of any Guarantor hereunder exceed the maximum amount such Guarantor could guarantee under any Debtor Relief Law.

Section 11.02 Guaranty Absolute. Each Guarantor jointly and severally guarantees that the Guaranteed Obligations will be paid strictly in accordance with the terms of the Loan Documents. Each Guarantor agrees that this Article XI constitutes a guaranty of payment when due and not of collection and waives any right to require that any resort be made by any Agent or any Lender to any Collateral. The obligations of each Guarantor under this Article XI are independent of the Guaranteed Obligations, and a separate action or actions may be brought and prosecuted against each Guarantor to enforce such obligations, irrespective of whether any action is brought against any Loan Party or whether any Loan Party is joined in any such action or actions. The liability of each Guarantor under this Article XI shall be irrevocable, absolute and unconditional irrespective of, and each Guarantor hereby irrevocably waives any defenses it may now or hereafter have in any way relating to, any or all of the following:

(a) any lack of validity or enforceability of any Loan Document or any agreement or instrument relating thereto;

(b) any change in the time, manner or place of payment of, or in any other term of, all or any of the Guaranteed Obligations, or any other amendment or waiver of or any consent to departure from any Loan Document, including, without limitation, any increase in the Guaranteed Obligations resulting from the extension of additional credit to any Loan Party or otherwise;

(c) any taking, exchange, release or non-perfection of any Collateral, or any taking, release or amendment or waiver of or consent to departure from any other guaranty, for all or any of the Guaranteed Obligations;

(d) the existence of any claim, set-off, defense or other right that any Guarantor may have at any time against any Person, including, without limitation, any Secured Party;

(e) any change, restructuring or termination of the corporate, limited liability company or partnership structure or existence of any Loan Party; or

(f) any other circumstance (including, without limitation, any statute of limitations) or any existence of or reliance on any representation by the Secured Parties that might otherwise constitute a defense available to, or a discharge of, any Loan Party or any other guarantor or surety (other than the occurrence of the Termination Date).

This Article XI shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Guaranteed Obligations is rescinded or must otherwise be returned by Secured Parties or any other Person upon the insolvency, bankruptcy or reorganization of any Borrower or otherwise, all as though such payment had not been made.

Section 11.03 Waiver. Each Guarantor hereby waives (i) promptness and diligence, (ii) notice of acceptance and any other notice with respect to any of the Guaranteed Obligations and this Article XI and any requirement that the Secured Parties exhaust any right or take any action against any Loan Party or any other Person or any Collateral, (iii) any right to compel or direct any Secured Party to seek payment or recovery of any amounts owed under this Article XI from any one particular fund or source or to exhaust any right or take any action against any other Loan Party, any other Person or any Collateral, (iv) any requirement that any Secured Party protect, secure, perfect or insure any security interest or Lien on any property subject thereto or exhaust any right to take any action against any Loan Party, any other Person or any Collateral, and (v) any other defense available to any Guarantor. Each Guarantor agrees that the Secured Parties shall have no obligation to marshal any assets in favor of any Guarantor or against, or in payment of, any or all of the Obligations. Each Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated herein and that the waiver set forth in this Section 11.03 is knowingly made in contemplation of such benefits. Each Guarantor hereby waives any right to revoke this Article XI, and acknowledges that this Article XI is continuing in nature and applies to all Guaranteed Obligations, whether existing now or in the future.

Section 11.04 Continuing Guaranty; Assignments. This Article XI is a continuing guaranty and shall (a) remain in full force and effect until the later of the cash payment in full of the Guaranteed Obligations (other than Contingent Indemnity Obligations) and all other amounts payable under this Article XI and the Final Maturity Date, (b) be binding upon each Guarantor, its successors and assigns and (c) inure to the benefit of and be enforceable by the Secured Parties and their successors, pledgees, transferees and assigns. Without limiting the generality of the foregoing clause (c), any Lender may pledge, assign or otherwise transfer all or any portion of its rights and obligations under this Agreement (including, without limitation, all or any portion of its Commitments, its Loans owing to it) to any other Person, and such other Person shall thereupon become vested with all the benefits in respect thereof granted such Lender herein or otherwise, in each case as provided in Section 12.07.

Section 11.05 Subrogation. No Guarantor will exercise any rights that it may now or hereafter acquire against any Loan Party or any other guarantor that arise from the existence, payment, performance or enforcement of such Guarantor's obligations under this Article XI, including, without limitation, any right of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of the Secured Parties against any Loan Party or any other guarantor or any Collateral, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including, without limitation, the right to take or receive from any Loan Party or any other guarantor, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security solely on account of such claim, remedy or right, unless and until the Termination Date shall have occurred. If any amount shall be paid to any Guarantor in violation of the immediately preceding sentence at any time prior to the later of the payment in full in cash of the Guaranteed Obligations (other than Contingent Indemnity Obligations) and all other amounts payable under this Article XI and

the Final Maturity Date, such amount shall be held in trust for the benefit of the Secured Parties and shall forthwith be paid to the Secured Parties to be credited and applied to the Guaranteed Obligations and all other amounts payable under this Article XI, whether matured or unmatured, in accordance with the terms of this Agreement, or to be held as Collateral for any Guaranteed Obligations or other amounts payable under this Article XI thereafter arising. If (i) any Guarantor shall make payment to the Secured Parties of all or any part of the Guaranteed Obligations, and (ii) the Termination Date shall have occurred, the Secured Parties will, at such Guarantor's request and expense, execute and deliver to such Guarantor appropriate documents, without recourse and without representation or warranty, necessary to evidence the transfer by subrogation to such Guarantor of an interest in the Guaranteed Obligations resulting from such payment by such Guarantor.

Section 11.06 Contribution. All Loan Parties desire to allocate among themselves, in a fair and equitable manner, their obligations arising under this Guaranty. Accordingly, in the event any payment or distribution is made on any date by a Loan Party under this Guaranty such that its Aggregate Payments exceeds its Fair Share as of such date, such Loan Party shall be entitled to a contribution from each of the other Loan Parties in an amount sufficient to cause each Loan Party's Aggregate Payments to equal its Fair Share as of such date. "Fair Share" means, with respect to any Loan Party as of any date of determination, an amount equal to (a) the ratio of (i) the Fair Share Contribution Amount with respect to such Loan Party, to (ii) the aggregate of the Fair Share Contribution Amounts with respect to all Loan Parties multiplied by, (b) the aggregate amount paid or distributed on or before such date by all Loan Parties under this Guaranty in respect of the Guaranteed Obligations. "Fair Share Contribution Amount" means, with respect to any Loan Party as of any date of determination, the maximum aggregate amount of the obligations of such Loan Party under this Guaranty that would not render its obligations hereunder subject to avoidance as a fraudulent transfer or conveyance under Section 548 of Title 11 of the United States Code or any comparable applicable provisions of state law; provided, solely for purposes of calculating the "Fair Share Contribution Amount" with respect to any Loan Party for purposes of this Section 11.06, any assets or liabilities of such Loan Party arising by virtue of any rights to subrogation, reimbursement or indemnification or any rights to or obligations of contribution hereunder shall not be considered as assets or liabilities of such Loan Party. "Aggregate Payments" means, with respect to any Loan Party as of any date of determination, an amount equal to (A) the aggregate amount of all payments and distributions made on or before such date by such Loan Party in respect of this Guaranty (including, without limitation, in respect of this Section 11.06), minus (B) the aggregate amount of all payments received on or before such date by such Loan Party from the other Loan Parties as contributions under this Section 11.06. The amounts payable as contributions hereunder shall be determined as of the date on which the related payment or distribution is made by the applicable Loan Party. The allocation among Loan Parties of their obligations as set forth in this Section 11.06 shall not be construed in any way to limit the liability of any Loan Party hereunder. Each Loan Party is a third party beneficiary to the contribution agreement set forth in this Section 11.06.

## ARTICLE XII

## MISCELLANEOUS

Section 12.01 Notices, Etc.Notices Generally. All notices and other communications provided for hereunder shall be in writing and shall be delivered by hand, sent by registered or certified mail (postage prepaid, return receipt requested), overnight courier, or telecopier. In the case of notices or other communications to any Loan Party, Administrative Agent or the Collateral Agent, as the case may be, they shall be sent to the respective address set forth below (or, as to each party, at such other address as shall be designated by such party in a written notice to the other parties complying as to delivery with the terms of this Section 12.01):

DBM Global Inc.
3020 E. Camelback Road, Suite 100

Phoenix, Arizona 85016
Attention: Scott D. Sherman
Telephone: (602) 452-4480
Email: scott.sherman@dbmglobal.com

with a copy to:

Latham & Watkins LLP
885 Third Avenue
New York, NY 10022-4834
Attention: Senet S. Bischoff
Telephone: +1.212.906.1834
Telecopier: +1.212.751.4864
Email: senet.bischoff@lw.com

if to any Agent, to it at the following address:

TCW Asset Management Company LLC
200 Clarendon Street, 51st Floor
Boston, Massachusetts 02116
Attention: Michael Coster
Telephone: 213-244-0401
Telecopier: 617-948-2003
Email: michael.coster@tcw.com

in each case, with a copy to:

O'Melveny & Myers LLP
400 South Hope Street
Los Angeles, CA 90071
Attention: Thomas Baxter
Telephone: 213-430-6570
Telecopier: 213-430-6407
Email: tbaxter@omm.com

and a copy to (which shall not constitute notice):

Cortland Capital Market Services LLC
225 W. Washington Street, 9th Floor
Chicago, Illinois 60606
Attention: Mike Fredian and Legal Department
Telephone: 312-605-1017
Telecopier: 312-376-0751
Email: Mike.Fredian@cortlandglobal.com; legal@cortlandglobal.com; tcw@cortlandglobal.com

All notices or other communications sent in accordance with this Section 12.01, shall be deemed received on the earlier of the date of actual receipt or three (3) Business Days after the deposit thereof in the mail; provided, that (i) notices sent by overnight courier service shall be deemed to have been given when received and (ii) 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), provided, further that notices to any Agent pursuant to Article II shall not be effective until received by such Agent.

(a) Electronic Communications.

(i) Each Agent and the Administrative Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications. Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Agents, provided that the foregoing shall not apply to notices to any Lender pursuant to Article II if such Lender has notified the Agents that it is incapable of receiving notices under such Article by electronic communication.

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

Section 12.02 Amendments, Etc.

(a) No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by any Loan Party therefrom, shall in any event be effective unless the same shall be in writing and signed (with a copy to the Administrative Agent) (x) in the case of an amendment, consent or waiver to cure any ambiguity, omission, defect or inconsistency or granting a new Lien for the benefit of the Agents and the Lenders or extending an existing Lien over additional property, by the Agents and the Administrative Borrower on behalf of the Borrowers, (y) in the case of any other waiver or consent, by the Required Lenders (or by the Administrative Agent with the consent of the Required Lenders) and (z) in the case of any other amendment, by the Required Lenders (or by the Administrative Agent with the consent of the Required Lenders) and the Administrative Borrower on behalf of the Borrowers, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no amendment, waiver or consent shall:

(i) increase the Commitment of any Lender, reduce the principal of, or interest on, the Loans payable to any Lender, reduce the amount of any fee payable for the account of any Lender, or postpone or extend any scheduled date fixed for any payment of principal of, or interest or fees on, the Loans payable to any Lender, in each case, without the written consent of such Lender; provided, however, that only the consent of the Required Lenders shall be necessary to amend the definition of “Post-Default Rate” or to waive any obligation of the Borrowers to pay interest at the Post-Default Rate;

(ii) change the percentage of the Commitments or of the aggregate unpaid principal amount of the Loans that is required for the Lenders or any of them to take any action hereunder without the written consent of each Lender;

(iii) amend the definition of "Required Lenders" or "Pro Rata Share" without the written consent of each Lender;

(iv) release all or a substantial portion of the Collateral (except as otherwise provided in this Agreement and the other Loan Documents), subordinate any Lien granted in favor of the Collateral Agent for the benefit of the Agents and the Lenders, or release any Borrower or any Guarantor (except in connection with a Disposition of the Equity Interests thereof permitted by Section 7.02(c)(ii)), in each case, without the written consent of each Lender; or

(v) amend, modify or waive Section 4.02, Section 4.03 or this Section 12.02 of this Agreement without the written consent of each Lender.

Notwithstanding the foregoing, (A) no amendment, waiver or consent shall, unless in writing and signed by an Agent, affect the rights or duties of such Agent (but not in its capacity as a Lender) under this Agreement or the other Loan Documents, (B) any amendment, waiver or consent to any provision of this Agreement (including Section 4.01 and Section 4.02) that permits any Loan Party, any Permitted Holder (or other equity holder of DBM) or any of their respective Affiliates to purchase Loans on a non-pro rata basis, become an eligible assignee pursuant to Section 12.07 and/or make offers to make optional prepayments on a non-pro rata basis shall require the prior written consent of the Required Lenders rather than the prior written consent of each Lender directly affected thereby and (C) the consent of the Borrowers shall not be required to change any order of priority set forth in Section 2.05(c) and Section 4.03. Notwithstanding anything to the contrary herein, no Defaulting Lender, Loan Party, Permitted Holder (or other equity holder of DBM), holder of Working Capital Indebtedness or any of their respective Affiliates that is a Lender shall have any right to approve or disapprove any amendment, waiver or consent under the Loan Documents and any Loans held by such Person for purposes hereof shall be automatically deemed to be voted pro rata according to the Loans of all other Lenders in the aggregate (other than such Defaulting Lender, Loan Party, Permitted Holder (or other equity holder of DBM), holder of Working Capital Indebtedness or Affiliate); provided that a holder of Working Capital Indebtedness that is a Lender shall have

voting rights solely with respect to the matters described in clause (i) of this Section 12.02(a) (but otherwise shall not have any voting rights under this Agreement or any other Loan Document).

(b) If any action to be taken by the Lenders hereunder requires the consent, authorization, or agreement of all of the Lenders or any Lender affected thereby, and a Lender other than the Collateral Agent and the Administrative Agent and their respective Affiliates and Related Funds (the "Holdout Lender") fails to give its consent, authorization, or agreement, then the Collateral Agent, upon at least five (5) Business Days prior irrevocable notice to the Holdout Lender, may permanently replace the Holdout Lender with one or more substitute lenders (each, a "Replacement Lender"), and the Holdout Lender shall have no right to refuse to be replaced hereunder. Such notice to replace the Holdout Lender 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. Prior to the effective date of such replacement, the Holdout Lender and each Replacement Lender shall execute and deliver an Assignment and Acceptance, subject only to the Holdout Lender being repaid its share of the outstanding Obligations without any premium or penalty of any kind whatsoever. If the Holdout Lender shall refuse or fail to execute and deliver any such Assignment and Acceptance prior to the effective date of such replacement, the Holdout Lender shall be deemed to have executed and delivered such Assignment and Acceptance. The replacement of any Holdout Lender shall be made in accordance with the terms of Section 12.07. Until such time as the Replacement Lenders shall have acquired all of the Obligations, the Commitments, and the other rights and obligations of the Holdout Lender hereunder and under the other Loan Documents, the Holdout Lender shall remain obligated to make its Pro Rata Share of Loans.

Section 12.03 No Waiver; Remedies, Etc. No failure on the part of any Agent or any Lender to exercise, and no delay in exercising, any right hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right under any Loan Document preclude any other or further exercise thereof or the exercise of any other right. The rights and remedies of the Agents and the Lenders provided herein and in the other Loan Documents are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law. The rights of the Agents and the Lenders under any Loan Document against any party thereto are not conditional or contingent on any attempt by the Agents and the Lenders to exercise any of their rights under any other Loan Document against such party or against any other Person.

Section 12.04 Expenses; Attorneys' Fees. The Borrowers will pay on demand, all reasonable, out of pocket costs and expenses incurred by or on behalf of each Agent (and, in the case of clauses (c) through (l) below, each Lender), regardless of whether the transactions contemplated hereby are consummated, including, without limitation, reasonable fees, costs, client charges and expenses of counsel for each Agent (and, in the case of clauses (c) through (l) below, each Lender), accounting, due diligence, periodic field audits, physical counts, valuations, investigations, searches and filings, monitoring of assets, appraisals of Collateral, the rating of the Loans, title searches and reviewing environmental assessments, miscellaneous disbursements, examination, travel, lodging and meals, arising from or relating to: (a) the negotiation, preparation, execution, delivery, performance and administration of this Agreement and the other Loan Documents (including, without limitation, the preparation of any additional Loan Documents pursuant to Section 7.01(b) or the review of any of the agreements, instruments and documents referred to in Section 7.01(f)), (b) any requested amendments, waivers or consents to this Agreement or the other Loan Documents whether or not such documents become effective or are given, (c) the preservation and protection of the Agents' or any of the Lenders' rights under this Agreement or the other Loan Documents, (d) the defense of any claim or action asserted or brought against any Agent or any Lender by any Person that arises from or relates to this Agreement, any other Loan Document, the Agents' or the Lenders' claims against any Loan Party, or any and all matters in connection therewith, (e) the commencement or defense of, or intervention in, any court proceeding arising from or related to this Agreement or any other Loan Document, (f) the filing of any petition, complaint, answer, motion or other pleading by any Agent or any Lender, or the taking of any action in respect of the Collateral or other security, in connection with this Agreement or any other Loan Document, (g) the protection, collection, lease, sale, taking possession of or liquidation of, any Collateral or other security in connection with this Agreement or any other Loan Document, (h) any attempt to enforce any Lien or security interest in any Collateral or other security in connection with this Agreement or any other Loan Document, (i) any attempt to collect from any Loan Party, (j) all liabilities and costs arising from or in connection with the past, present or future operations of any Loan Party involving any damage to real or personal property or natural resources or harm or injury alleged to have resulted from any Release of Hazardous Materials on, upon or into such property, (k) any Environmental Liabilities and Costs incurred in connection with the investigation, removal, cleanup and/or remediation of any Hazardous Materials present or arising out of the operations of any Facility of any Loan Party, (l) any Environmental Liabilities and Costs incurred in connection with any Environmental Lien, (m) the rating of the Loans by one or more rating agencies in connection with any Lender's Securitization, or (n) the receipt by any Agent or any Lender of any advice from professionals with respect to any of the foregoing. Without limitation of the foregoing or any other provision of any Loan Document: (x) the Borrowers agree to pay all broker fees that may become due in connection with the transactions contemplated by this Agreement and the other Loan Documents, and (y) if the Borrowers fail to perform any covenant or agreement contained herein or in any other Loan Document, any Agent may itself perform or cause performance of such covenant or agreement, and the expenses of such Agent incurred in connection therewith shall be reimbursed on demand by the Borrowers. The obligations of the Borrowers under this Section 12.04 shall survive the repayment of the Obligations and discharge of any Liens granted under the Loan Documents. Notwithstanding the foregoing, the Loan Parties shall not have any obligation to any Agent or any Lender for any such expense under this Section 12.04 to the extent caused by (i) the bad faith, gross negligence or willful misconduct of such Agent or such Lender, as determined by a final non-appealable judgment of a court of competent jurisdiction, or (ii) any dispute solely among any Agent and/or any Lender (or any of them) to the extent such dispute does not arise from any act or omission of a Loan Party or any of its Subsidiaries (other than any claim against any Agent in its capacity as an Agent (excluding its role as a Lender)).

Section 12.05 Right of Set-off. Upon the occurrence and during the continuance of any Event of Default, any Agent or any Lender may, and is hereby authorized to, at any time and from time to time, without notice to any Loan Party (any such notice being expressly waived by the Loan Parties) and to the fullest extent permitted by law, set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other Indebtedness at any time owing by such Agent or such Lender or any of their respective Affiliates to or for the credit or the account of any Loan Party against any and all obligations of the Loan Parties either now or hereafter existing under any Loan Document, irrespective of whether or not such Agent or such Lender shall have made any demand hereunder or thereunder and although such obligations may be contingent or unmatured; provided that in the event that any Defaulting

Lender shall exercise any such right of set-off, (a) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 4.04 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Agents and the Lenders, and (b) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of set-off. Each Agent and each Lender agrees to notify such Loan Party promptly after any such set-off and application made by such Agent or such Lender or any of their respective Affiliates provided that the failure to give such notice shall not affect the validity of such set-off and application. The rights of the Agents and the Lenders under this Section 12.05 are in addition to the other rights and remedies (including other rights of set-off) which the Agents and the Lenders may have under this Agreement or any other Loan Documents of law or otherwise.

Section 12.06 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining portions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

Section 12.07 Assignments and Participations.

(a) This Agreement and the other Loan Documents shall be binding upon and inure to the benefit of each Loan Party and the Administrative Agent and each Lender and their respective successors and assigns; provided, however, that none of the Loan Parties may assign or transfer any of its rights hereunder or under the other Loan Documents without the prior written consent of each Lender and any such assignment without the Lenders' prior written consent shall be null and void.

(b) Subject to the conditions set forth in clause (c) below, each Lender may assign to one or more other lenders or other entities all or a portion of its rights and obligations under this Agreement with respect to all or a portion of its Term Loan Commitment and any Loan made by it with the written consent of the Administrative Agent and the Administrative Borrower; provided, however, that (i) no written consent of the Administrative Agent or the Administrative Borrower shall be required (A) in connection with any assignment by a Lender to a Lender, an Affiliate of such Lender or a Related Fund of such Lender or (B) if such assignment is in connection with any merger, consolidation, sale, transfer, or other disposition of all or any substantial portion of the business or loan portfolio of such Lender and (ii) the written consent of the Administrative Borrower (A) shall not be unreasonably withheld, conditioned or delayed, (B) shall not be required upon the occurrence and during the continuance of an Event of Default and (C) shall be deemed given if not denied by the Administrative Borrower within five (5) Business Days of the date of the request therefor and, with respect to any denial, shall be accompanied by a written explanation thereof, and provided, further, that the Administrative Borrower’s consent shall not be required during the 60 days following the Effective Date for assignments to lenders disclosed and reasonably satisfactory to the Administrative Borrower prior to the Effective Date.

(c) Assignments shall be subject to the following additional conditions:

(i) Each such assignment shall be in an amount which is at least $1,000,000 (or the remainder of such Lender's Commitment) (except such minimum amount shall not apply to an assignment by a Lender to (A) a Lender, an Affiliate of such Lender or a Related Fund of such Lender or (B) a group of new Lenders, each of whom is an Affiliate or Related Fund of each other to the extent the aggregate amount to be assigned to all such new Lenders is at least $1,000,000);

(ii) The parties to each such assignment shall execute and deliver to the Administrative Agent (and the Administrative Borrower, if applicable), for its acceptance, an Assignment and Acceptance, together with any promissory note subject to such assignment and such parties shall deliver to the Administrative Agent, for the benefit of the Administrative Agent, a processing and recordation fee of $5,000 (except the payment of such fee shall not be required in connection with an assignment by a Lender to a Lender, an Affiliate of such Lender or a Related Fund of such Lender) and, if the assignee is not an existing Lender hereunder, shall provide the Administrative Agent a W-9 (or other applicable tax forms), with all documentation and other information with respect to the assignee that is required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the Anti-Money Laundering and Anti-Terrorism Laws; and

(iii) No such assignment shall be made to (A) any Loan Party, any Permitted Holder (or other equity holder of DBM) or any of their respective Affiliates, (B) any Defaulting Lender or any of its Affiliates, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B), (C) except during the existence of a Specified Event of Default, a Specified Disqualified Institution (it being understood that assignments to Specified Disqualified Institutions may be made during the existence of a Specified Event of Default), or (D) except during the existence of an Event of Default, without the consent of the Administrative Borrower, to a Disqualified Institution (other than Specified Disqualified Institutions) (it being understood that assignments to Disqualified Institutions (other than the Specified Disqualified Institutions) may be made during the existence of an Event of Default).

(d) Upon such execution, delivery and acceptance, from and after the recordation date specified in each Assignment and Acceptance (for the avoidance of doubt, to be the date the Assignment and Acceptance is recorded in the Register), (A) the assignee thereunder shall become a "Lender" hereunder and, in addition to the rights and obligations hereunder held by it immediately prior to such effective date, have the rights and obligations hereunder that have been assigned to it pursuant to such Assignment and Acceptance and (B) the assigning Lender thereunder shall, to the extent that rights and obligations hereunder have been assigned by it pursuant to such Assignment and Acceptance, relinquish its rights and be released from its 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, such Lender shall cease to be a party hereto).

(e) By executing and delivering an Assignment and Acceptance, the assigning Lender 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, the 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 any other Loan Document or the execution, legality, validity, enforceability,

genuineness, sufficiency or value of this Agreement or any other Loan Document furnished pursuant hereto; (ii) the assigning Lender makes no representation or warranty and assumes no responsibility with respect to the financial condition of any Loan Party or any of its Subsidiaries 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 and the other Loan Documents, together with such other documents and information 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 the assigning Lender, the Administrative Agent or any 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 and the other Loan Documents; (v) such assignee appoints and authorizes the Administrative Agent to take such action as an agent on its behalf and to exercise such powers under this Agreement and the other Loan Documents as are delegated to the Administrative Agent by the terms hereof and thereof, together with such powers as are reasonably incidental hereto and thereto; and (vi) such assignee agrees that it will perform in accordance with their terms all of the obligations which by the terms of this Agreement and the other Loan Documents are required to be performed by it as a Lender.

(f) The Administrative Agent shall, acting solely for this purpose as a non-fiduciary agent of the Borrowers, maintain, or cause to be maintained at one of its offices, a copy of each Assignment and Acceptance delivered to it and a register (the "Register") for the recordation of the names and addresses of the Lenders and the Commitments of, and the principal amount of the Loans (and stated interest thereon) (the "Registered Loans") owing to each Lender from time to time. The entries in the Register shall be conclusive and binding for all purposes, absent manifest error, and the Borrowers, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Administrative Borrower and any Lender at any reasonable time and from time to time upon reasonable prior written notice.

(g) Upon receipt by the Administrative Agent of a completed Assignment and Acceptance, the Administrative Agent shall record the information contained therein in the Register (as adjusted to reflect any principal payments on or amounts capitalized and added to the principal balance of the Loans and/or Commitment reductions made subsequent to the effective date of the applicable assignment, as confirmed in writing by the corresponding assignor and assignee).

(h) 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). 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), the Administrative Agent shall treat the Person in whose name such Registered Loan (and the registered note, if any, evidencing the same) is registered on the Register as the owner thereof for the purpose of receiving all payments thereon, notwithstanding notice to the contrary.

(i) In the event that any Lender sells participations in a Registered Loan, such Lender shall, acting solely for this purpose as a non-fiduciary agent on behalf of the Borrowers, maintain, or cause to be maintained, a register, 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 the Registered Loan that is the subject of the participation (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. The Participant Register shall be available for inspection by the Administrative Borrower and any Lender at any reasonable time and from time to time upon reasonable prior notice. 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, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(j) Any Non-U.S. Lender who purchases or is assigned or participates in any portion of such Registered Loan shall comply with Section 2.09 (it being understood that with respect to a participation, the documentation required under Section 2.09(f) shall be delivered to the participating Lender).

(k) Each Lender may sell participations to one or more banks or other entities in or to all or a portion of its rights and obligations under this Agreement and the other Loan Documents (including, without limitation, all or a portion of its Commitments and the Loans made by it); provided, that (i) such Lender's obligations under this Agreement (including without limitation, its Commitments hereunder) and the other Loan Documents shall remain unchanged; (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and the Borrowers, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and the other Loan Documents; (iii) a participant shall not be entitled to require such Lender to take or omit to take any action hereunder except (A) action directly effecting an extension of the maturity dates or decrease in the principal amount of the Loans, (B) action directly effecting an extension of the due dates or a decrease in the rate of interest payable on the Loans or the fees payable under this Agreement, or (C) actions directly effecting a release of all or a substantial portion of the Collateral or any Loan Party (except as set forth in Section 10.08 of this Agreement or any other Loan Document) and (iv) no such participation shall be made to a Loan Party, any Permitted Holder (or other equityholder of DBM) or any of their respective Affiliates or, except during the existence of an Event of Default, without the consent of Administrative Borrower, a Disqualified Institution (it being understood that participations to Disqualified Institutions may be made during the existence of an Event of Default). The Loan Parties agree that each participant shall be entitled to the benefits of Section 2.09 and Section 2.10 of this Agreement with respect to its participation in any portion of the Commitments and the Loans (subject to the requirements and limitations therein, including the

requirements under Section 2.09(f)) to the same extent as if it was a Lender and had acquired its interest by assignment pursuant this Section; provided that such participant (A) agrees to be subject to the provisions of Section 2.12; and (B) shall not be entitled to receive any greater payment under Section 2.09 or 2.10, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the participant acquired the applicable participation.

(l) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or loans made to such Lender pursuant to securitization or similar credit facility (a "Securitization"); provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto. The Loan Parties shall cooperate with such Lender and its Affiliates to effect the Securitization including, without limitation, by providing such information as may be reasonably requested by such Lender in connection with the rating of its Loans or the Securitization.

(m) Disqualified Institutions.

(i) No assignment or, to the extent the DQ List has been provided to all the Lenders by the Administrative Borrower (it being understood that Schedule 12.07 is the DQ List as of the Effective Date and will have been provided to the Lenders as of the Effective Date), participation shall be made to any Person that was a Disqualified Institution as of the date (the "Trade Date") on which the applicable Lender entered into a binding agreement to sell and assign or participate all or a portion of its rights and obligations under this Agreement to such Person (unless (A), in the case of Disqualified Institutions (other than Specified Disqualified Institutions), an Event of Default has occurred and is continuing, (B) in the case of Specified Disqualified Institutions, a Specified Event of Default has occurred and is continuing or (C) the Administrative Borrower has consented to such assignment in writing in its sole and absolute discretion, as otherwise contemplated by this Section 12.07, in each such case such Person will not be considered a Disqualified Institution for the purpose of such assignment). For the avoidance of doubt, with respect to any assignee or participant that becomes a Disqualified Institution after the applicable Trade Date (including as a result of the delivery of a notice pursuant to, and/or the expiration of the notice period referred to in, the definition of "Disqualified Institution"), (x) such assignee shall not retroactively be disqualified from becoming a Lender or participant and (y) the execution by the Borrower of an Assignment and Acceptance with respect to such assignee will not by itself result in such assignee no longer being considered a Disqualified Institution. Any assignment in violation of this clause (m)(i) shall not be void, but the other provisions of this clause (m) shall apply.

(ii) If any assignment or participation is made to any Disqualified Institution without the Administrative Borrower's prior written consent during a period in which no Event of Default exists or during a period in which no Specified Event of Default exists in the case of Specified Disqualified Institutions, in each case, in violation of clause (i) above, or if any Person becomes a Disqualified Institution after the applicable Trade Date, the Administrative Borrower may, at its sole expense and effort, upon notice to the applicable Disqualified Institution and the Administrative Agent, (A) in the case of outstanding Term Loans held by Disqualified Institutions, prepay such Term Loan by paying the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Institution paid to acquire such Term Loans, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder and under the other Loan Documents and/or (B) require such Disqualified Institution to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in this Section 12.07), all of its interest, rights and obligations under this Agreement and related Loan Documents to an assignee permitted under this Section 12.07 that shall assume such obligations at the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Institution paid to acquire such interests, rights and obligations, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder and under the other Loan Documents; provided that (i) the Administrative Borrower shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 12.07(c), and (ii) such assignment does not conflict with applicable laws.

(iii) Notwithstanding anything to the contrary contained in this Agreement, Disqualified Institutions (A) will not (x) have the right to receive information, reports or other materials provided to Lenders by the Administrative Borrower, any other Loan Party, the Administrative Agent or any other Lender, (y) attend or participate in meetings attended by the Lenders and the Administrative Agent, or (z) access any electronic site established for the Lenders or confidential communications from counsel to or financial advisors of the Administrative Agent or the Lenders and (B) (x) for purposes of any consent to any amendment, waiver or modification of, or any action under, and for the purpose of any direction to the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) under this Agreement or any other Loan Document, each Disqualified Institution will be deemed to have consented in the same proportion as the Lenders that are not Disqualified Institutions consented to such matter, and (y) for purposes of voting on any plan of reorganization or plan of liquidation pursuant to any Debtor Relief Laws ("Plan of Reorganization"), each Disqualified Institution party hereto hereby agrees (1) not to vote on such Plan of Reorganization, (2) if such Disqualified Institution does vote on such Plan of Reorganization notwithstanding the restriction in the foregoing clause (1), such vote will be deemed not to be in good faith and shall be "designated" pursuant to Section 1126(e) of the Bankruptcy Code (or any similar provision in any other Debtor Relief Laws), and such vote shall not be counted in determining whether the applicable class has accepted or rejected such Plan of Reorganization in accordance with Section 1126(c) of the Bankruptcy Code of the United States (or any similar provision in any other Debtor Relief Laws) and (3) not to contest any request by any party for a determination by the Bankruptcy Court (or other applicable court of competent jurisdiction) effectuating the foregoing clause (2).

(iv) The Administrative Agent shall have the right, and the Borrowers hereby expressly authorize the Administrative Agent, to provide the list of Disqualified Institutions provided by the Administrative Borrower and any updates thereto from time to time (collectively, the "DQ List") to each Lender requesting the same.

Section 12.08 Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of this Agreement by telecopier or electronic mail 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 telecopier or

electronic mail 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*.

Section 12.09 GOVERNING LAW. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (UNLESS EXPRESSLY PROVIDED TO THE CONTRARY IN ANOTHER LOAN DOCUMENT IN RESPECT OF SUCH OTHER LOAN DOCUMENT) SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED IN THE STATE OF NEW YORK.

Section 12.10 CONSENT TO JURISDICTION; SERVICE OF PROCESS AND VENUE. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK IN THE COUNTY OF NEW YORK OR OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH LOAN PARTY HEREBY IRREVOCABLY ACCEPTS IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS. EACH LOAN PARTY HEREBY IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS AND IN ANY SUCH ACTION OR PROCEEDING BY ANY MEANS PERMITTED BY APPLICABLE LAW, INCLUDING, WITHOUT LIMITATION, BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO THE ADMINISTRATIVE BORROWER AT ITS ADDRESS FOR NOTICES AS SET FORTH IN SECTION 12.01, SUCH SERVICE TO BECOME EFFECTIVE 10 DAYS AFTER SUCH MAILING. THE LOAN PARTIES AGREE 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 HEREIN SHALL AFFECT THE RIGHT OF THE AGENTS AND THE LENDERS TO SERVICE OF PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ANY LOAN PARTY IN ANY OTHER JURISDICTION. EACH LOAN PARTY HEREBY EXPRESSLY AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE JURISDICTION OR LAYING OF VENUE OF ANY SUCH LITIGATION BROUGHT IN ANY SUCH COURT REFERRED TO ABOVE AND ANY CLAIM THAT ANY SUCH LITIGATION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. TO THE EXTENT THAT ANY LOAN PARTY HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OR OTHERWISE) WITH RESPECT TO ITSELF OR ITS PROPERTY, EACH LOAN PARTY HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS.

Section 12.11 WAIVER OF JURY TRIAL, ETC. EACH LOAN PARTY, EACH AGENT AND EACH LENDER HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM CONCERNING ANY RIGHTS UNDER THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS, OR UNDER ANY AMENDMENT, WAIVER, CONSENT, INSTRUMENT, DOCUMENT OR OTHER AGREEMENT DELIVERED OR WHICH IN THE FUTURE MAY BE DELIVERED IN CONNECTION THEREWITH, OR ARISING FROM ANY FINANCING RELATIONSHIP EXISTING IN CONNECTION WITH THIS AGREEMENT, AND AGREES THAT ANY SUCH ACTION, PROCEEDINGS OR COUNTERCLAIM SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. EACH LOAN PARTY CERTIFIES THAT NO OFFICER, REPRESENTATIVE, AGENT OR ATTORNEY OF ANY AGENT OR ANY LENDER HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT ANY AGENT OR ANY LENDER WOULD NOT, IN THE EVENT OF ANY ACTION, PROCEEDING OR COUNTERCLAIM, SEEK TO ENFORCE THE FOREGOING WAIVERS. EACH LOAN PARTY HEREBY ACKNOWLEDGES THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE AGENTS AND THE LENDERS ENTERING INTO THIS AGREEMENT.

Section 12.12 Consent by the Agents and Lenders. Except as otherwise expressly set forth herein to the contrary or in any other Loan Document, if the consent, approval, satisfaction, determination, judgment, acceptance or similar action (an "Action") of any Agent or any Lender shall be permitted or required pursuant to any provision hereof or any provision of any other agreement to which any Loan Party is a party and to which any Agent or any Lender has succeeded thereto, such Action shall be required to be in writing and may be withheld or denied by such Agent or such Lender, in its sole discretion, with or without any reason, and without being subject to question or challenge on the grounds that such Action was not taken in good faith.

Section 12.13 No Party Deemed Drafter. Each of the parties hereto agrees that no party hereto shall be deemed to be the drafter of this Agreement.

Section 12.14 Reinstatement; Certain Payments. If any claim is ever made upon any Secured Party for repayment or recovery of any amount or amounts received by such Secured Party in payment or on account of any of the Obligations, such Secured Party shall give prompt notice of such claim to each other Agent and Lender and the Administrative Borrower, and if such Secured Party repays all or part of such amount by reason of (i) any judgment, decree or order of any court or administrative body having jurisdiction over such Secured Party or any of its property, or (ii) any good faith settlement or compromise of any such claim effected by such Secured Party with any such claimant, then and in such event each Loan Party agrees that (A) any such judgment, decree, order, settlement or compromise shall be binding upon it notwithstanding the cancellation of any Indebtedness hereunder or under the other Loan Documents or the termination of this Agreement or the other Loan Documents, and (B) it shall be and remain liable to such Secured Party hereunder for the amount so repaid or recovered to the same extent as if such amount had never originally been received by such Secured Party.

Section 12.15 Indemnification; Limitation of Liability for Certain Damages.

(a) In addition to each Loan Party's other Obligations under this Agreement, each Loan Party agrees to, jointly and severally, defend, protect, indemnify and hold harmless each Secured Party and all of their respective Affiliates, assignees, members,

shareholders, officers, directors, employees, attorneys, consultants and agents (collectively called the "Indemnitees") from and against any and all losses, damages, liabilities, obligations, penalties, fees, costs and expenses (including, without limitation, reasonable attorneys' fees, costs and expenses) incurred by such Indemnitees, whether prior to or from and after the Effective Date, whether direct, indirect or consequential, as a result of or arising from or relating to or in connection with any of the following: (i) the negotiation, preparation, execution or performance or enforcement of this Agreement, any other Loan Document or of any other document executed in connection with the transactions contemplated by this Agreement, (ii) any Agent's or any Lender's furnishing of funds to the Borrowers under this Agreement or the other Loan Documents, including, without limitation, the management of any such Loans or the Borrowers' use of the proceeds thereof, (iii) the Agents and the Lenders relying on any instructions of the Administrative Borrower or the handling of the Loan Account and Collateral of the Borrowers as herein provided, (iv) any matter relating to the financing transactions contemplated by this Agreement or the other Loan Documents or by any document executed in connection with the transactions contemplated by this Agreement or the other Loan Documents, or (v) any claim, litigation, investigation or proceeding relating to any of the foregoing, whether or not any Indemnitee is a party thereto (collectively, the "Indemnified Matters"); provided, however, that the Loan Parties shall not have any obligation to any Indemnitee under this subsection (a) for any Indemnified Matter caused by (i) the bad faith, gross negligence or willful misconduct of such Indemnitee, as determined by a final non-appealable judgment of a court of competent jurisdiction or (ii) any dispute solely among Indemnitees to the extent such dispute does not arise from any act or omission of a Loan Party or any of its Subsidiaries (other than any claim against any Indemnitee in its capacity as an Agent (excluding its role as a Lender)). The Loan Parties shall not be liable for any settlement of any claim, litigation, investigation or proceeding (each a "**Proceeding**") effected by any Indemnitee without the consent of Administrative Borrower (which consent shall not be unreasonably withheld or delayed), but if any Proceeding is settled with Administrative Borrower's written consent, or if there is a final judgment against an Indemnitee in any such Proceeding, the Loan Parties agree to indemnify and hold harmless such Indemnitee in the manner set forth above. Without limiting the provisions of Section 2.09, this Section 12.15(a) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(b) The indemnification for all of the foregoing losses, damages, fees, costs and expenses of the Indemnitees set forth in this Section 12.15 are chargeable against the Loan Account. To the extent that the undertaking to indemnify, pay and hold harmless set forth in this Section 12.15 may be unenforceable because it is violative of any law or public policy, each Loan Party shall, jointly and severally, contribute the maximum portion which it is permitted to pay and satisfy under applicable law, to the payment and satisfaction of all Indemnified Matters incurred by the Indemnitees.

(c) No party hereto shall assert, and each party hereto hereby waives, any claim against any other party hereto, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) (whether or not the claim therefor is based on contract, tort or duty imposed by any applicable legal requirement) arising out of, in connection with, as a result of, or in any way related to, this Agreement or any other Loan Document or any agreement or instrument contemplated hereby or thereby or referred to herein or therein, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof or any act or omission or event occurring in connection therewith, and each party hereto hereby waives, releases and agrees not to sue upon any such claim or seek any such damages, whether or not accrued and whether or not known or suspected to exist in its favor; provided that this sentence shall not limit the Loan Parties' indemnity or reimbursement obligation to the extent such special, indirect, consequential or punitive damages are included in any third party claim in connection with which an Indemnitee is otherwise entitled to indemnification thereunder. No Indemnitee referred to in subsection (a) above shall be liable for any damages arising from the use by others of any information or other materials distributed to such party by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby unless such damages are the result of such Indemnitees bad faith, gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final, non-appealable judgment).

(d) The indemnities and waivers set forth in this Section 12.15 shall survive the repayment of the Obligations and discharge of any Liens granted under the Loan Documents.

Section 12.16 Records. The unpaid principal of and interest on the Loans, the interest rate or rates applicable to such unpaid principal and interest, the duration of such applicability, the Commitments, and the accrued and unpaid fees payable pursuant to Section 2.06 hereof, shall at all times be ascertained from the records of the Agents, which shall be conclusive and binding absent manifest error.

Section 12.17 Binding Effect. This Agreement shall become effective when it shall have been executed by each Loan Party, each Agent and each Lender and when the conditions precedent set forth in Section 5.01 hereof have been satisfied or waived in writing by the Agents, and thereafter shall be binding upon and inure to the benefit of each Loan Party, each Agent and each Lender, and their respective successors and assigns, except that the Loan Parties shall not have the right to assign their rights hereunder or any interest herein without the prior written consent of each Agent and each Lender, and any assignment by any Lender shall be governed by Section 12.07 hereof.

Section 12.18 Highest Lawful Rate. It is the intention of the parties hereto that each Agent and each Lender shall conform strictly to usury laws applicable to it. Accordingly, if the transactions contemplated hereby or by any other Loan Document would be usurious as to any Agent or any Lender under laws applicable to it (including the laws of the United States of America and the State of New York or any other jurisdiction whose laws may be mandatorily applicable to such Agent or such Lender notwithstanding the other provisions of this Agreement), then, in that event, notwithstanding anything to the contrary in this Agreement or any other Loan Document or any agreement entered into in connection with or as security for the Obligations, it is agreed as follows: (i) the aggregate of all consideration which constitutes interest under law applicable to any Agent or any Lender that is contracted for, taken, reserved, charged or received by such Agent or such Lender under this Agreement or any other Loan Document or agreements or otherwise in connection with the Obligations shall under no circumstances exceed the maximum amount allowed by such applicable law, any excess shall be canceled automatically and if theretofore paid shall be credited by such Agent or such Lender on the principal amount of the Obligations (or, to the extent that the principal amount of the Obligations (other than Contingent Indemnity Obligations) shall have been or would thereby be paid in full, refunded by such Agent or such Lender, as applicable, to the Borrowers); and (ii) in the event that the maturity of the Obligations is accelerated by reason of any Event of Default under this Agreement or otherwise, or in the event of any required or permitted prepayment, then such consideration

that constitutes interest under law applicable to any Agent or any Lender may never include more than the maximum amount allowed by such applicable law, and excess interest, if any, provided for in this Agreement or otherwise shall, subject to the last sentence of this Section 12.18, be canceled automatically by such Agent or such Lender, as applicable, as of the date of such acceleration or prepayment and, if theretofore paid, shall be credited by such Agent or such Lender, as applicable, on the principal amount of the Obligations (or, to the extent that the principal amount of the Obligations (other than Contingent Indemnity Obligations) shall have been or would thereby be paid in full, refunded by such Agent or such Lender to the Borrowers). All sums paid or agreed to be paid to any Agent or any Lender for the use, forbearance or detention of sums due hereunder shall, to the extent permitted by law applicable to such Agent or such Lender, be amortized, prorated, allocated and spread throughout the full term of the Loans until payment in full so that the rate or amount of interest on account of any Loans hereunder does not exceed the maximum amount allowed by such applicable law. If at any time and from time to time (x) the amount of interest payable to any Agent or any Lender on any date shall be computed at the Highest Lawful Rate applicable to such Agent or such Lender pursuant to this Section 12.18 and (y) in respect of any subsequent interest computation period the amount of interest otherwise payable to such Agent or such Lender would be less than the amount of interest payable to such Agent or such Lender computed at the Highest Lawful Rate applicable to such Agent or such Lender, then the amount of interest payable to such Agent or such Lender in respect of such subsequent interest computation period shall continue to be computed at the Highest Lawful Rate applicable to such Agent or such Lender until the total amount of interest payable to such Agent or such Lender shall equal the total amount of interest which would have been payable to such Agent or such Lender if the total amount of interest had been computed without giving effect to this Section 12.18.

For purposes of this Section 12.18, the term "applicable law" shall mean that law in effect from time to time and applicable to the loan transaction between the Borrowers, on the one hand, and the Agents and the Lenders, on the other, that lawfully permits the charging and collection of the highest permissible, lawful non-usurious rate of interest on such loan transaction and this Agreement, including laws of the State of New York and, to the extent controlling, laws of the United States of America.

The right to accelerate the maturity of the Obligations does not include the right to accelerate any interest that has not accrued as of the date of acceleration.

Section 12.19 Confidentiality. Each Agent and each Lender agrees (on behalf of itself and each of its affiliates, directors, officers, employees and representatives) to keep confidential, in accordance with its customary procedures for handling confidential information of this nature and in accordance with safe and sound practices of comparable commercial finance companies, any non-public information supplied to it by the Loan Parties pursuant to this Agreement or the other Loan Documents which is identified in writing by the Loan Parties as being confidential at the time the same is delivered to such Person (and which at the time is not, and does not thereafter become, publicly available or available to such Person from another source not known to be subject to a confidentiality obligation to such Person not to disclose such information), provided that nothing herein shall limit the disclosure by any Agent or any Lender of any such information (i) to its Affiliates and to its and its Affiliates' respective equityholders (including, without limitation, partners), investors (or prospective investors), directors, officers, employees, agents, trustees, counsel, advisors and representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such information and instructed to keep such information confidential in accordance with this Section 12.19); (ii) to any other party hereto; (iii) to any assignee or participant (or prospective assignee or participant) or any party to a Securitization so long as such assignee or participant (or prospective assignee or participant) or party to a Securitization first agrees, in writing, to be bound by confidentiality provisions similar in substance to this Section 12.19; (iv) to the extent required by any Requirement of Law or judicial process or as otherwise requested by any Governmental Authority; (v) to the National Association of Insurance Commissioners or any similar organization, any examiner, auditor or accountant or any nationally recognized rating agency or otherwise to the extent consisting of general portfolio information that does not identify Loan Parties; (vi) in connection with any litigation to which any Agent or any Lender is a party; (vii) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder; (viii) in connection with a Lender's communications with its investors or prospective investors, to the extent relevant to the Lender's current or expected financial position or results of operations; (ix) in connection with any document filed by a Lender with any Governmental Authority; or (x) with the consent of the Administrative Borrower.

Section 12.20 Public Disclosure. Each Loan Party agrees that neither it nor any of its Affiliates will now or in the future issue any press release or other public disclosure using the name of an Agent, any Lender or any of their respective Affiliates or referring to this Agreement or any other Loan Document without the prior written consent of such Agent or such Lender, except to the extent that such Loan Party or such Affiliate is required to do so under applicable law (in which event, such Loan Party or such Affiliate will consult with such Agent or such Lender before issuing such press release or other public disclosure). Each Loan Party hereby authorizes each Agent and each Lender, after consultation with the Borrowers, to advertise the closing of the transactions contemplated by this Agreement, and to make appropriate announcements of the transactions contemplated hereby (but not including the financial terms of such transactions) as such Agent or such Lender shall deem appropriate, including, without limitation, on a home page or similar place for dissemination of information on the Internet or worldwide web, or in announcements commonly known as tombstones, in such trade publications, business journals, newspapers of general circulation and to such selected parties as such Agent or such Lender shall deem appropriate.

Section 12.21 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.

Section 12.22 USA PATRIOT Act. Each Lender that is subject to the requirements of the USA PATRIOT Act hereby notifies the Borrowers that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies the entities composing the Borrowers, which information includes the name and address of each such entity and other information that will allow such Lender to identify the entities composing the Borrowers in accordance with the USA PATRIOT Act. Each Loan Party agrees to take such action and execute, acknowledge and deliver at its sole cost and expense, such instruments and documents as any Lender may reasonably require from time to time in order to enable such Lender to comply with the USA PATRIOT Act.

Section 12.23 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.

Section 12.24 Lender Representations. Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Agents and not, for the avoidance of doubt, to or for the benefit of the Borrowers or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Term Loan Commitments or this Agreement,

(ii) the prohibited transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable so as to exempt from the prohibitions of Section 406 of ERISA and Section 4975 of the Code to such Lender's entrance into, participation in, administration of and performance of the Loans, the Term Loan Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Term Loan Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Term Loan Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Term Loan Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that the Administrative Agent is not a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the Term Loan Commitments and this Agreement (including in

connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

**[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

BORROWERS:

DBM GLOBAL INC.
AITKEN MANUFACTURING INC.
SCHUFF STEEL COMPANY

By: /s/Michael R. Hill
Name: Michael R. Hill
Title: Vice President & Chief Financial Officer

DBM GLOBAL-NORTH AMERICA INC.

By: /s/Michael R. Hill
Name: Michael R. Hill
Title: President

CB-HORN HOLDINGS, INC.
GRAYWOLF INDUSTRIAL, INC.
INCO SERVICES, INC.
M. INDUSTRIAL MECHANICAL, INC.
MILCO NATIONAL CONSTRUCTORS, INC.
TITAN CONTRACTING & LEASING COMPANY, INC.
TITAN FABRICATORS, INC.

By: /s/Michael R. Hill
Name: Michael R. Hill
Title: President

SCHUFF STEEL - ATLANTIC, LLC
By: SCHUFF STEEL COMPANY,
as Sole Managing Memeber

By: /s/Michael R. Hill
Name: Michael R. Hill
Title: Vice President & Chief Financial Officer

GUARANTORS:

DBM GLOBAL HOLDINGS INC.
PDC SERVICES (USA) INC.

By: /s/Michael R. Hill
Name:Michael R. Hill
Title: President

MIDWEST ENVIRONMENTAL, INC.

By: /s/Michael R. Hill
Name:Michael R. Hill
Title: President

ON-TIME STEEL MANAGEMENT HOLDING, INC.
SCHUFF STEEL MANAGEMENT COMPANY - SOUTHWEST, INC.

By: /s/Michael R. Hill
Name:Michael R. Hill
Title: Vice President & Chief Financial Officer

SCHUFF PREMIER SERVICES LLC

By: /s/Michael R. Hill
Name:Michael R. Hill
Title: Manager

**COLLATERAL AGENT AND ADMINISTRATIVE AGENT:**

TCW ASSET MANAGEMENT COMPANY LLC

By: /s/ Susanne Grosso

Name: Suzanne Grosso

Title: Managing Director

**LENDERS:**

TCW Direct Lending VII LLC
By: TCW Asset Management Company LLC,
its Investment Advisor

By: /s/Suzanne Grosso
Name: Suzanne Grosso
Title: _Managing Director

WEST VIRGINIA DIRECT LENDING LLC
By: TCW Asset Management Company LLC,
its Investment Advisor

By: /s/Suzanne Grosso_____
Name: _Suzanne Grosso_____
Title: __Managing Director_____

TCW Skyline Lending, L.P.
By: TCW Asset Management Company LLC,
its Investment Advisor

By: /s/Suzanne Grosso_____
Name: _Suzanne Grosso_____
Title: __Managing Director_____

TCW Brazos Fund LLC
By: TCW Asset Management Company LLC,
its Investment Advisor

By: /s/Suzanne Grosso_____
Name: _Suzanne Grosso_____
Title: __Managing Director_____

Signature Page to Financing Agreement

NJ/TCW Direct Lending LLC
By: TCW Asset Management Company LLC,
its Investment Advisor

By: /s/Suzanne Grosso_____
Name: _Suzanne Grosso_____
Title: __Managing Director_____

**SCHEDULE 1.01(A)**

**Lender and Lenders' Commitments**

| **Lenders** | **Term Loan Commitments** |
|---|---|
| TCW Direct Lending VII LLC | x.xx |
| NJ/TCW Direct Lending LLC | x.xx |
| West Virginia Direct Lending LLC | x.xx |
| TCW Skyline Lending, L.P. | x.xx |
| TCW Brazos Fund LLC | x.xx |
| **Total** | x.xx |

**SCHEDULE 1.01(B)**

**DBM Facilities**

1. 4920 Airline Dr., Houston, TX
2. 1920 Ledo Rd., Albany, GA
3. 1705 W. Battaglia Drive, Eloy, AZ
4. 5055 North Ken Morey Dr., Bellemont, AZ
5. 14500 Smith Rd., Humble, TX
6. 2001 N. Davis Rd., Ottawa, KS
7. 1841 W. Buchanan St., Phoenix, AZ
8. 420 S. 19th Ave., Phoenix, AZ
9. 1345 Hall Spencer Rd., Rock Hill, SC
10. 2324 Navy Dr., Stockton, CA
11. 325 S. Geneva Rd., Lindon, UT
12. 3020 E Camelback Rd Ste 100 Phoenix, AZ 85016
13. 12278 S Lone Peak Pkwy Ste 105 & 106 Draper, UT 84020
14. 9174 Sky Park Ct. Ste 200 San Diego, CA 92123
15. 6701 W 64th St Ste 200 Overland Park, KS 66202
16. 1401 Dove St, Ste 530 Newport Beach, CA 92660
17. 7901 Stoneridge Dr., Ste 211 Pleasanton, CA 94588
18. 6650 Sugarloaf Parkway Ste 200 Duluth, GA 30097
19. 4949 SW Macadam St, 2nd Floor Box 9 Portland, OR 97239
20. 3003 N. Central Ave, Ste 700 Phoenix, AZ 85012
21. 10100 Trinity Pkwy, Ste 400 Stockton, CA 85219
22. 1841 W. Buchanan Street Phoenix, AZ 85007
23. 889 Carnarvon St, New Westminster British Columbia, V3M1G2 Canada
24. 4320 E Presidio St, Ste 111 Mesa, AZ 85215

**SCHEDULE 1.01(C)**

**Graywolf Facilities**

1. 2205 & 2121 Ragu Dr., Owensboro, KY
2. 1115 Industrial Dr., Owensboro, KY
3. 280 Ellis Smeathers Ferry Rd., Owensboro, KY
4. 920 Wing Ave., Owensboro, KY
5. 3029 S. Suncoast Blvd, Homosassa, FL 34448
6. 3095 Kentronics Drive (a/k/a 1115 Industrial Drive), Owensboro, KY 42303
7. 30 Mansell Court, Suite 215, Roswell, GA
8. 11800 Fairmont Pkwy, LaPorte, TX 77571
9. 3550 Francis Circle, Alpharetta, GA 30004
10. 37 Artley Road, Savannah, GA 31408
11. 30333 County Road 49, Loxley, AL 36551
12. 3930B Cherry Avenue, Long Beach, CA 90807

**SCHEDULE 1.01(D)**

## Historical Consolidated EBITDA

| Fiscal Period | Consolidated EBITDA |
|---|---|
| October 2017 | $ 4,935,307 |
| November 2017 | $ 3,944,097 |
| December 2017 | $ 6,230,682 |
| January 2018 | $ 3,115,894 |
| February 2018 | $ 3,988,289 |
| March 2018 | $ 2,882,836 |
| April 2018 | $ 2,988,303 |
| May 2018 | $ 4,706,863 |
| June 2018 | $ 7,904,222 |
| July 2018 | $ 2,359,922 |
| August 2018 | $ 4,515,877 |
| September 2018 | $ 9,096,614 |

**SCHEDULE 1.01(E)**

## Graywolf Acquisition Pro Forma EBITDA

| Fiscal Period | Graywolf Acquisition Pro Forma EBITDA |
|---|---|
| October 2017 | $ 2,438,438 |
| November 2017 | $ 2,576,503 |
| December 2017 | $ 832,354 |
| January 2018 | $ 602,377 |
| February 2018 | $ 1,819,034 |
| March 2018 | $ 1,036,440 |
| April 2018 | $ 2,355,934 |
| May 2018 | $ 2,421,886 |
| June 2018 | $ 1,914,803 |
| July 2018 | $ 1,641,822 |
| August 2018 | $ 1,669,044 |
| September 2018 | $ 2,302,612 |

**SCHEDULE 5.01(d)(xx)**

**Effective Date Control Agreements**

Deposit Account Control Agreement, by and between Wells Fargo Bank, National Association and Titan Contracting & Leasing Company, Inc. (Account #xxxxxxxxxx).

Deposit Account Control Agreement, by and between Wells Fargo Bank, National Association and Titan Fabricators, Inc. (Account #xxxxxxxxxx).

Deposit Account Control Agreement, by and between Wells Fargo Bank, National Association and National Steel Erection Inc. (n/k/a Milco National Constructors, Inc.; Titan Contracting & Leasing Company, Inc.). (Account #xxxxxxxxxx).

Deposit Account Control Agreement, by and between Wells Fargo Bank, National Association and Milco Constructors Inc. (n/k/a Milco National Constructors, Inc.) (Account #xxxxxxxxxx).

Deposit Account Control Agreement, by and between Wells Fargo Bank, National Association and DBM Global Inc. (Account #xxxxxxxxxx).

**SCHEDULE 6.01(e)**

**Capitalization; Subsidiaries**

| Record Owner | Subsidiary | Jurisdiction of Issuer | Certificate No. | No. and Class Shares/Interest |
|---|---|---|---|---|
| DBM Global Inc. (f/k/a Schuff International, Inc.) | DBM Global - North America Inc. (f/k/a Schuff Holding Co.) | Delaware | 2 | 100 Common |
| | Schuff Premier Services LLC | Delaware | Not Certificated | 100% of membership interests |
| | DBM Global Holdings Inc. | Delaware | C-01, C-02, C-03 | 300 Common |
| | CB-HORN HOLDINGS, INC. | Delaware | 1 | 1,000 Common |
| DBM Global - North America Inc. (f/k/a Schuff Holding Co.) | On-Time Steel Management Holding, Inc. | Delaware | 3 | 100 Common |
| | Schuff Steel Company | Delaware | 3 | 100 Common |
| | Aitken Manufacturing Inc. (f/k/a Schuff Steel - Gulf Coast, Inc.) | Delaware | 6 | 8,000 Common |
| | Addison Structural Services, Inc. | Florida | 3 | 1 Common |
| | Schuff Steel Company Panama, S. de R.L. | Panama | 5 | 65% of quotas |
| | Schuff Steel Company Panama, S. de R.L. | Panama | 6 | 34% of quotas |
| | BDS Steel Detailers (USA) Inc. | Arizona | C-1 | 100 Common |
| | PDC Services (USA) Inc. | Delaware | 1 | 100 Common |
| DBM Global Holdings Inc. | DBM Vircon Services LTD | British Columbia, Canada | C1 | 101 Common |
| | DBMG International PTE. LTD. | Singapore | 6 | 19,025,620 |
| | DBMG International PTE. LTD. | Singapore | 7 | 10,244,565 |
| | BDS Steel Detailers (UK) Ltd | United Kingdom | 4 | 1 Ordinary |
| DBMG International PTE. LTD. | DBMG Singapore PTE LTD | Singapore | 5 | 29,270,185 |
| DBMG Singapore PTE LTD | DBM Vircon (Australia) Pty Ltd | Australia | 1,2,3,4,5,6 | 64,991,049 |
| | PDC Asia Pacific Inc. | Philippines | Book Entry | 30,000 |
| | BDS Vircon Co. LTD | Thailand | 1 | 39,994 |
| | BDS Vircon Private Limited | India | 1 | 9,999 |
| DBM Vircon (Australia) Pty Ltd | PDC Operations (Australia) Pty Ltd | Australia | 1, 2, 3 | 42,597,745 |
| | BDS Global Detailing Pty Ltd | Australia | 74 | 62,536,330 |
| BDS Global Detailing Pty Ltd | BDS Steel Detailers (Australia) Pty Ltd | Australia | x | 12,200,001 |
| | BDS Steel Detailers (NZ) Ltd | New Zealand | Book Entry | 100 |
| On-Time Steel Management Holding, Inc. | Schuff Steel Management Company - Southwest, Inc. | Delaware | 3 | 100 Common |
| | Schuff Steel Management Company - Colorado LLC (no active operations) | Delaware | Not Certificated | 100% of membership interests |
| | Schuff Steel Management Company - Southeast LLC (no active operations) | Delaware | Not Certificated | 95% of membership interests |

| | | | | |
|---|---|---|---|---|
| | Schuff Steel - Atlantic, LLC | Florida | Not Certificated | 100% of membership interests |
| | SSRW JV LLC (Job-specific entity) | Delaware | Not Certificated | 50% of membership interests |
| Schuff Steel Company | Schuff Steel Company - Panama, S. de R.L. | Panama | 2 | 1% of quotas |
| Addison Structural Services, Inc. | Quincy Joist Company (no active operations) | Delaware | 2 | 1,000 Common |
| CB-HORN HOLDINGS, INC. | Graywolf Industrial, Inc. | Delaware | 2 | 100 Common |
| | Titan Contracting & Leasing Company, Inc. | Kentucky | 4 | 600 Common |
| | Titan Fabricators, Inc. | Kentucky | 6 | 1,000 Common |
| | MIDWEST ENVIRONMENTAL, INC. | Kentucky | 3 | 1,000 Common |
| | INCO SERVICES, INC. | Georgia | 19 | 2,300 Common |
| | Milco National Constructors, Inc. (f/k/a/ Milco Constructors, Inc.) | Delaware | 1 | 100 Common |
| Graywolf Industrial, Inc. (f/k/a Horn Intermediate Holdings, Inc.) | M. Industrial Mechanical, Inc. | Delaware | 1 | 100 Common |

**SCHEDULE 6.01(l)**

**Nature of Business**

DBM Global Inc. and its subsidiaries ("DBM"), is a family of companies providing fully integrated structural and steel construction services. DBM offers integrated steel construction services from a single source and professional services which include design-assist, design-build, engineering, detailing, BIM co-ordination, steel modeling/detailing, fabrication, rebar detailing, advanced field erection, project management, and state-of-the-art steel management systems. Major market segments include commercial, healthcare, convention centers, stadiums, gaming and hospitality, mixed use and retail, industrial, public works, bridges, transportation, and international projects. DBM, which is headquartered in Phoenix, Arizona, has operations in United States, Australia, Canada, India, New Zealand, Philippines, Singapore, Thailand and the United Kingdom.

Graywolf Industrial, Inc. and its subsidiaries ("Graywolf") is a leading provider of specialty maintenance, repair and installation services throughout the U.S.. Services include: plant maintenance; specialty welding; equipment setting/rigging; civil, mechanical & electrical construction; modularization; piping systems; equipment, tank and vessel fabrication and erection; and engineering and design to the power, petrochemical, pulp & paper and refinery industries. Graywolf offers its specialty services through four leading brands: Titan Contracting & Leasing Co., Inc. (Specialty mechanical contracting services), Inco Services, Inc. (Specialty construction solutions to the pulp and paper and other processing markets), Milco National Constructors, Inc. (Turnaround, tank construction and piping among a broad service offering) and Titan Fabricators, Inc. (Custom steel fabrication for heavy industrial markets).

**SCHEDULE 6.01(p)**

**Employee and Labor Matters**

"Schuff Steel and Derek Dixon before the National Labor Relations Board, Region 20 Case 20-CA-204378". The case involves a dispute over $10,000 with an ironworker who was laid off the Facebook Project in Northern California who claimed he was terminated due to protected action. Following a hearing, the Administrative Law Judge issued a decision on September 18, 2018 finding in favor of Schuff Steel Company and dismissing the complaint. On November 13, 2018, the office of general counsel filed an appeal or exceptions to the decision of the Administrative Law Judge.

**SCHEDULE 6.01(r)**

**Insurance**

1) Commercial Property Insurance of DBM Global Inc. with ACE American Insurance Company, policy number D3 77 44 293 009.

2) Commercial Property Insurance of GrayWolf Industrial, Inc. with AGCS Marine Insurance Company, policy number MXI93062078.

3) Commercial Property Insurance of DBM Global Inc. and its subsidiaries with ACE American Insurance Company, policy number D3 77 44 293.

4) Liability Insurance of DBM Global Inc. and its subsidiaries with Continental Casualty Company, policy numbers GL2074977851 and BUA2074977834.

5) Liability Insurance of GrayWolf Industrial with XL Insurance America, Inc., XL Specialty Insurance Co. and National Union Fire Ins., policy numbers CGS7409127, CAH7409128, BE035407392 and CWD7409126.

**SCHEDULE 6.01(u)**

**Registered Intellectual Property**

A. COPYRIGHTS

1. Registered Copyrights

None.

2. Copyright Applications

None.

3. Copyright Licenses

None.

B. PATENTS

1. Issued Patents

| Company | Country | Title | Application or Patent No. | Filing Date | Issue Date | Assignees |
|---|---|---|---|---|---|---|
| DBM Global Inc. | USA | Utility Patent for: Systems and Methods for Fabrication and Use of Brace Designs for Braced Frames | 14/822,448 (App #); 9631357 (pa #); Related Provisional Pat Appl # 61/121,123 | 08/10/2015 | 04/25/2017 | Allen BRB LLC |

2. Patents Applications

| Company | Country | Title | Application or Patent No. | Filing Date | Issue Date | Assignees |
|---|---|---|---|---|---|---|
| DBM Global Inc. | USA | Systems and methods for fabrication and use of brace designs for braced frames | 15/495,481 | 4/24/2017 | 0 | |
| DBM Global Inc. | USA | [Not yet published] | 16/145,719 | 09/28/2018 | 0 | |

3. Patent Licenses

None.

C. TRADEMARKS

1. Registered Trademarks:

| Company | Country | Trademark | Application or Registration No. | Filing Date | Registration Date | Assignee |
|---|---|---|---|---|---|---|
| DBM Global Inc. | USA | **SCHUFF INTERNATIONAL**® | Reg. No: 5,090,141<br>Intl Classes: 37, 40, 42 | Apr 1, 2016 | Nov 29, 2016 | NONE |
| DBM Global Inc. | USA | ® SCHUFF INTERNATIONAL | Reg. No: 5,090,143<br>Intl Classes: 37, 40, 42 | Apr 1, 2016 | Nov 29, 2016 | NONE |

| | | | | | | |
|---|---|---|---|---|---|---|
| DBM Global Inc. | USA | **SCHUFF UNIVERSITY®** | Reg. No: 5,043,168<br>Intl Classes: 41 | Apr 1, 2016 | Sept 13, 2016 | NONE |
| DBM Global Inc. | USA |  ® | Reg. No: 5,090,144<br>Intl Classes: 41 | Apr 1, 2016 | Nov 29, 2016 | NONE |
| DBM Global Inc. | USA | **SCHUFF STEEL®** | Reg. No: 5,094,572<br>Intl Classes: 37, 40, 42 | Apr 1, 2016 | Dec 6, 2016 | NONE |
| DBM Global Inc. | USA |  | Reg. No: 5,090,140<br>Intl Classes: 37, 40, 42 | Apr 1, 2016 | Nov 29, 2016 | NONE |
| Schuff Steel Management Company-Southwest, Inc. | USA | **ON-TIME STEEL MANAGEMENT - SOUTHWEST** | Filing No: 555827 | July 17, 2002 | Sept 17, 2012 | NONE |

2. Trademark Applications

None.

3. Trademark Licenses

None.

**SCHEDULE 6.01(aa)**

**Transactions with Affiliates**

1) HC2 Group, Inc. ("HC2") owns approximately 92% of DBM Global Inc. ("DBM") outstanding common stock. By virtue of that 92% ownership, HC2 and DBM entered into a tax sharing agreement (the "Tax Sharing Agreement") to take effect on the first date that DBM was eligible to be included in the HC2's U.S. federal consolidated income tax return. Under the terms of the Tax Sharing Agreement, to the extent DBM's taxable income is included in HC2's federal and state consolidated income tax returns, DBM shall pay to HC2 its separately determined tax liability. If HC2's tax liability is reduced by reason of the inclusion of DBM in HC2's consolidated income tax returns, HC2 shall pay to DBM the tax benefit that resulted from the inclusion of DBM in HC2's consolidated income tax returns. The Tax Sharing Agreement shall remain in effect so long as DBM remains eligible to be included in a U.S. federal consolidated income tax return with HC2.

2) Series A Securities Purchase Agreement, dated as of November 30, 2018, by and between DBM Global Inc. and DBM Global Intermediate Holdco Inc., as the purchaser of Series A preferred stock of DBM Global Inc.

**SCHEDULE 6.01(ll)**

**Third Party Leases**

1) Industrial Real Estate Lease by and among Schuff Steel Company, as landlord, and Mountain States Trucking, LLC, as tenant, dated December 1, 2017, regarding 325 S. Geneva Road, Lindon, UT.

2) Industrial Real Estate Lease by and among Schuff Steel Company, as landlord, and Rodmax Oil & Gas, Inc., as tenant, dated December 1, 2017, regarding 325 S. Geneva Road, Lindon, UT.

3) Industrial Real Estate Lease by and among Schuff Steel Company, (successor-in-interest to Mountain States Steel, Inc.), as landlord and Image Home Décor LP, regarding 200 S. Geneva Road, Lindon UT.

## SCHEDULE 7.02(a)

## Existing Liens

| Debtor | Secured Party | Collateral | Scan Date | State | Jurisdiction | Original File Date & # | Related Filings |
|---|---|---|---|---|---|---|---|
| Midwest Environmental Inc | Commonwealth of Kentucky | *Tax lien* | 9/5/2018 | KY | Daviess County | 7/24/2017 #MC246 PG362 | |
| Inco Services, Inc. | JPMorgan Chase Bank, N.A. | *Purchased Receivables* | 8/28/2018 | GA | Superior Court Clerks Cooperative Authority | 5/13/2015 #007-2015-013803 | |

**SCHEDULE 7.02(b)**

**Existing Indebtedness**

None.

**SCHEDULE 7.02(e)**

**Existing Investments**

None.

**SCHEDULE 7.02(k)**

**Limitations on Dividends and Other Payment Restrictions**

None.

**SCHEDULE 8.01**

**Cash Management Accounts**

DEPOSIT ACCOUNTS, SECURITIES ACCOUNTS AND COMMODITIES

| Company | Bank or Broker | Address | Account No. | Account Type |
|---|---|---|---|---|
| Titan Contracting & Leasing Company, Inc. | Wells Fargo | 471 W Main St, Suite 300, Louisville, KY 4020 | xxxxxxxx | Checking |
| National Steel Erection Inc. (n/k/a Milco National Constructors, Inc.; Titan Contracting & Leasing Company, Inc.) | Wells Fargo | 471 W Main St, Suite 300, Louisville, KY 4020 | xxxxxxxx | Checking |
| Titan Fabricators, Inc | Wells Fargo | 471 W Main St, Suite 300, Louisville, KY 4020 | xxxxxxxx | Checking |
| Milco Constructors Inc. (n/k/a Milco National Constructors, Inc.) | Wells Fargo | PO Box 6995, Portland, OR 97228-6995 | xxxxxxxx | Checking |
| INCO SERVICES, INC. | United Community Bank | 2230 Riverside Parkway Lawrenceville, GA 30043 | xxxxxxxx | Checking |
| INCO SERVICES, INC. | United Community Bank | 2230 Riverside Parkway Lawrenceville, GA 30043 | xxxxxxxx | Money Market |
| DBM Global Inc. | Wells Fargo | 420 Montgomery San Francisco, CA 94104 | xxxxxxxx | Collateral |
| DBM Global Inc. | Wells Fargo | 420 Montgomery San Francisco, CA 94104 | xxxxxxxx | Concentration |
| CB-HORN HOLDINGS, INC. | Chase | PO Box 659754, San Antonio, TX 78265-9754 | xxxxxxxx | Checking |
| GrayWolf Industrial, Inc. | Wells Fargo | 471 W Main St, Suite 300, Louisville, KY 4020 | xxxxxxxx | Checking |
| GrayWolf Industrial, Inc. | PNC Bank, National Association | 100 Summer St, Suite 1001, Boston, MA 02110 | xxxxxxxx | Checking |
| INCO SERVICES, INC. | Wells Fargo | 471 W Main St, Suite 300, Louisville, KY 4020 | xxxxxxxx | Checking |
| INCO SERVICES, INC. | United Community Bank | 2230 Riverside Parkway Lawrenceville, GA 30043 | xxxxxxxx | Checking |
| MIDWEST ENVIRONMENTAL, INC. | Wells Fargo | 471 W Main St, Suite 300, Louisville, KY 4020 | xxxxxxxx | Checking |
| M. Industrial Mechanical, Inc. | Wells Fargo | PO Box 6995, Portland, OR 97228-6995 | xxxxxxxx | Checking |
| Titan Contracting & Leasing Company, Inc. | Chase | PO Box 182051, Columbus, OH 43218-2051 | xxxxxxxx | Checking |

**SCHEDULE 12.07**

**Disqualified Institutions**

REDACTED

EXHIBIT A

FORM OF JOINDER AGREEMENT

THIS JOINDER AGREEMENT, dated as of (this "Agreement"), to the Financing Agreement referred to below is entered into by and among [NAME OF ADDITIONAL BORROWER OR GUARANTOR], a (the "Additional [Borrower][Guarantor]"), TCW Asset Management Company LLC ("TCW"), as collateral agent for the Lenders (as defined below) (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent"), and TCW, as administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent" and together with the Collateral Agent, each an "Agent" and collectively, the "Agents").

WHEREAS, DBM Global Inc., a Delaware corporation ("DBM"), each subsidiary of DBM listed as a "Borrower" on the signature pages to the Financing Agreement (together with DBM and each other Person that executes a joinder agreement and becomes a "Borrower" thereunder, each a "Borrower" and collectively, the "Borrowers") [(other than the Additional Borrower)], each subsidiary of DBM listed as a "Guarantor" on the signature pages to the Financing Agreement (together with each other Person that executes a joinder agreement and becomes a "Guarantor" thereunder, each a "Guarantor" and collectively, the "Guarantors") [(other than the Additional Guarantor)], the lenders from time to time party to the Financing Agreement (each a "Lender" and collectively, the "Lenders") and the Agents have entered into that certain Financing Agreement, dated as of November 30, 2018 (such agreement, as amended, restated, supplemented or otherwise modified from time to time, including any replacement agreement therefor, the "Financing Agreement"), pursuant to which the Lenders have agreed to make a multi-draw term loan (the "Loans"), to the Borrowers;

WHEREAS, the Borrowers' obligation to repay the Loans and all other Obligations are guaranteed, jointly and severally, by the Guarantors;

WHEREAS, pursuant to Section 7.01(b) of the Financing Agreement, the Additional [Borrower][Guarantor] is required to become a [Borrower][Guarantor] by, among other things, executing and delivering this Agreement to the Collateral Agent; and

WHEREAS, the Additional [Borrower][Guarantor] has determined that the execution, delivery and performance of this Agreement directly benefit, and are within the corporate purposes and in the best interests of, the Additional [Borrower][Guarantor].

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1. Definitions. Reference is hereby made to the Financing Agreement for a statement of the terms thereof. All terms used in this Agreement which are defined therein and not otherwise defined herein shall have the same meanings herein as set forth therein.

SECTION 2. Joinder of Additional [Borrower][Guarantor].

(a) Pursuant to Section 7.01(b) of the Financing Agreement, by its execution of this Agreement, the Additional [Borrower][Guarantor] hereby (i) confirms that, as to the Additional [Borrower][Guarantor], the representations and warranties contained in Article VI of the Financing Agreement are true and correct in all material respects as of the effective date of this Agreement (except that such materiality qualifier shall not be applicable to any representations or warranties that already are qualified or modified as to materiality or "Material Adverse Effect" in the text thereof, which representations and warranties shall be true and correct in all respects subject to such qualification) on and as of such date as though made on and as of such date, except to the extent that any such representation or warranty expressly relates solely to an earlier date (in which case such representation or warranty shall be true and correct on and as of such earlier date), and (ii) agrees that, from and after the effective date of this Agreement, the Additional [Borrower][Guarantor] shall be a party to the Financing Agreement and shall be bound, as a [Borrower][Guarantor], by all the provisions thereof and shall comply with and be subject to all of the terms, conditions, covenants, agreements and obligations set forth therein and applicable to the [Borrowers][Guarantors], [including, without limitation, the guaranty of the Obligations made by the Guarantors, jointly and severally with the other Loan Parties, in favor of the Agents and the Lenders pursuant to Article XI of the Financing Agreement]. The Additional [Borrower][Guarantor] hereby agrees that from and after the effective date of this Agreement, each reference to a ["Borrower"]["Guarantor"] or a "Loan Party" and each reference to the ["Borrowers"]["Guarantors"] or the "Loan Parties" in the Financing Agreement shall include the Additional [Borrower][Guarantor]. The Additional [Borrower][Guarantor] acknowledges that it has received a copy of the Financing Agreement and each other Loan Document and that it has read and understands the terms thereof.

(b) Attached hereto are supplements to each Schedule to the Financing Agreement revised to include all information required to be provided therein with respect to, and only with respect to, the Additional [Borrower][Guarantor]. The Schedules to the Financing Agreement shall, without further action, be amended to include the information contained in each such supplement.

SECTION 3. Effectiveness. This Agreement shall become effective upon its execution by the Additional [Borrower][Guarantor] and each Agent and receipt by the Agents of the following, in each case in form and substance reasonably satisfactory to the Agents:

(a) counterparts to this Agreement, duly executed by the Additional [Borrower][Guarantor] and the Agents, together with the Schedules referred to in Section 2(b) hereof;

(b) a Supplement to the Security Agreement, substantially in the form of Exhibit C to the Security Agreement (the "Security Agreement Supplement"), duly executed by the Additional [Borrower][Guarantor], and any instruments of assignment or other documents required to be delivered to the Agents pursuant to the terms thereof;

(c) a Pledge Amendment to the Security Agreement to which the parent company of the Additional [Borrower][Guarantor] is a party, in substantially the form of Exhibit A thereto,

duly executed by such parent company and providing for all Equity Interest of the Additional [Borrower][Guarantor] to be pledged to the Collateral Agent pursuant to the terms thereof;

(d) (i) certificates, if any, representing 100% of the issued and outstanding Equity Interests of the Additional [Borrower][Guarantor] and each Subsidiary of the Additional [Borrower][Guarantor] and all original promissory notes of such Additional [Borrower][Guarantor], if any, in each case, that are required to be delivered under the Loan Documents, in each case, accompanied by instruments of assignment and transfer in such form as the Collateral Agent may reasonably request;

(e) to the extent required under the Financing Agreement, a Mortgage (the "Additional Mortgage"), duly executed by the Additional [Borrower][Guarantor], with respect to the real property owned or leased, as applicable, by the Additional [Borrower][Guarantor], together with all other applicable Real Property Deliverables, agreements, instruments and documents as the Collateral Agent may reasonably require under Section 7.01(m) of the Financing Agreement;

(f) (i) appropriate financing statements on Form UCC-1 duly filed in such office or offices as may be necessary to perfect the security interests purported to be created by the Security Agreement Supplement and any Mortgage and (ii) evidence reasonably satisfactory to the Collateral Agent of the filing of such UCC-1 financing statements;

(g) If requested by the Agents, a favorable written opinion of counsel to the Loan Parties as to such matters as the Agents may reasonably request; and

(h) such other agreements, instruments or other documents reasonably requested by the Collateral Agent in order to create, perfect, establish the first priority (subject to Permitted Liens) of or otherwise protect any Lien purported to be covered by the Security Agreement Supplement or any Additional Mortgage or otherwise to effect the intent that the Additional [Borrower][Guarantor] shall become bound by all of the terms, covenants and agreements contained in the Loan Documents and that all property and assets of such Subsidiary shall become Collateral for the Obligations free and clear of all Liens other than Permitted Liens.

SECTION 4. Notices, Etc. All notices and other communications provided for hereunder shall be in writing and shall be mailed (by certified mail, postage prepaid and return receipt requested), telecopied or delivered by hand, Federal Express or other reputable overnight courier, if to the Additional [Borrower][Guarantor], to it at its address set forth below its signature to this Agreement, and if to any Borrower, any Guarantor, any Lender or any Agent, to it at its address specified in the Financing Agreement or Joinder Agreement (as applicable); or as to any such Person at such other address as shall be designated by such Person in a written notice to such other Person, complying as to delivery with the terms of this Section 4. All such notices and other communications shall be effective in accordance with Section 12.01 of the Financing Agreement.

SECTION 5. General Provisions. (a) Except as supplemented hereby, the Financing Agreement and each other Loan Document shall continue to be, and shall remain, in full force and effect. This Agreement shall not be deemed (i) to be a waiver of, or consent to, or a modification or amendment of, any other term or condition of the Financing Agreement or any other Loan

Document or (ii) to prejudice any right or rights which the Agents or the Lenders may now have or may have in the future under or in connection with the Financing Agreement or the other Loan Documents or any of the instruments or agreements referred to therein, as the same may be amended, restated, supplemented or otherwise modified from time to time, including any replacement instrument or agreement therefor.

(b) The Additional [Borrower][Guarantor] hereby expressly (i) authorizes the Collateral Agent to file appropriate financing statements or continuation statements, and amendments thereto, (including without limitation, any such financing statements that indicate the Collateral as "all assets" or words of similar import) in such office or offices as may be necessary or, in the opinion of the Collateral Agent, desirable to perfect the Liens to be created by the Security Agreement Supplement and each of the other Loan Documents and (ii) ratifies such authorization to the extent that the Collateral Agent has filed any such financing or continuation statements or amendments thereto prior to the date hereof. A photocopy or other reproduction of the Security Agreement Supplement or any financing statement covering the Collateral or any part thereof shall be sufficient as a financing statement where permitted by law.

(c) Each Borrower agrees to pay on demand all costs and expenses incurred by or on behalf of each Agent in connection with the negotiation, preparation, execution, delivery and performance of this Agreement, as required by Section 12.04 of the Financing Agreement.

(d) This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of this Agreement by telecopier or electronic 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 telecopier or electronic 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.

(e) Section headings in this Agreement are included herein for the convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

(f) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK IN THE COUNTY OF NEW YORK OR OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, THE ADDITIONAL [BORROWER][GUARANTOR] HEREBY IRREVOCABLY ACCEPTS IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS. THE ADDITIONAL [BORROWER] [GUARANTOR] HEREBY IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS AND IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, TO THE ADMINISTRATIVE BORROWER AT ITS ADDRESS FOR NOTICES AS SET FORTH IN THE FINANCING AGREEMENT AND TO THE SECRETARY OF STATE OF THE STATE OF NEW YORK, SUCH

SERVICE TO BECOME EFFECTIVE TEN (10) DAYS AFTER SUCH MAILING. THE ADDITIONAL [BORROWER][GUARANTOR] 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 HEREIN SHALL AFFECT THE RIGHT OF THE AGENTS AND THE LENDERS TO SERVICE OF PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST THE ADDITIONAL [BORROWER][GUARANTOR] IN ANY OTHER JURISDICTION. THE ADDITIONAL [BORROWER][GUARANTOR] HEREBY EXPRESSLY AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE JURISDICTION OR LAYING OF VENUE OF ANY SUCH LITIGATION BROUGHT IN ANY SUCH COURT REFERRED TO ABOVE AND ANY CLAIM THAT ANY SUCH LITIGATION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. TO THE EXTENT THAT ANY LOAN PARTY HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OR OTHERWISE) WITH RESPECT TO ITSELF OR ITS PROPERTY, EACH LOAN PARTY HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS AGREEMENT.

(g) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED IN THE STATE OF NEW YORK.

(h) EACH PARTY HERETO WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM CONCERNING ANY RIGHTS UNDER THIS AGREEMENT, OR UNDER ANY AMENDMENT, WAIVER, CONSENT, INSTRUMENT, DOCUMENT OR OTHER AGREEMENT DELIVERED OR WHICH IN THE FUTURE MAY BE DELIVERED IN CONNECTION THEREWITH, AND AGREES THAT ANY SUCH ACTION, PROCEEDINGS OR COUNTERCLAIM SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

(i) This Agreement, together with the Financing Agreement and the other Loan Documents, reflects the entire understanding of the parties with respect to the transactions contemplated hereby and thereby and shall not be contradicted or qualified by any other agreement, oral or written, before the date hereof.

[*Remainder of Page Intentionally Left Blank*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

ADDITIONAL [BORROWER][GUARANTOR]:

[_____]

By: __
Name:
Title:

Address:

COLLATERAL AGENT AND ADMINISTRATIVE AGENT:

TCW ASSET MANAGEMENT COMPANY LLC

By: __
Name: __
Title: __

EXHIBIT B

FORM OF ASSIGNMENT AND ACCEPTANCE AGREEMENT

This **ASSIGNMENT AND ACCEPTANCE AGREEMENT** ("Assignment Agreement") is entered into as of _____ __, 20__ between _____ ("Assignor") and _____ ("Assignee"). Reference is made to the agreement described in Item 2 of Annex I annexed hereto (as amended, restated, modified or otherwise supplemented from time to time, the "Financing Agreement"). Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Financing Agreement.

1. In accordance with the terms and conditions of Section 12.07 of the Financing Agreement, the Assignor hereby irrevocably sells, transfers, conveys and assigns without recourse, representation or warranty (except as expressly set forth herein) to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, that interest in and to the Assignor's rights and obligations under the Loan Documents with respect to the Obligations owing to the Assignor, and the Assignor's portion of the Commitments and the Loans as 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 any statements, warranties or representations made in or in connection with the Loan Documents or the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any other instrument or document furnished pursuant thereto; and (c) 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 the Loan Documents or any other instrument or document furnished pursuant thereto.

3. The Assignee (a) confirms that it has received copies of the Financing Agreement and the other 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 the Administrative Agent, the Assignor, or any other Lender, based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents; (c) confirms that it is eligible as an assignee under the terms of the Financing Agreement; (d) appoints and authorizes the Administrative Agent to take such action as the Administrative Agent on its behalf and to exercise such powers under the Loan Documents as are delegated to the Administrative 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 Loan Documents are required to be performed by it as a Lender; and (f) attaches 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 Financing Agreement or 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 the Assignee, it will be delivered by the Assignor to the Agents for recording by the Administrative Agent. The effective date of this Assignment Agreement (the "Settlement Date") shall be the latest of (a) the date of the execution hereof by the Assignor and the Assignee, (b) the date this Assignment Agreement has been accepted by the Administrative Agent (and the Collateral Agent and the Administrative Borrower to the extent required pursuant to Section 12.07(b) of the Financing Agreement) and recorded in the Register by the Administrative Agent, (c) the date of receipt by the Administrative Agent of a processing and recordation fee in the amount of $5,000, (d) the settlement date specified on Annex I, (e) the receipt by Assignor of the Purchase Price specified in Annex I and (f) the date of receipt by the Administrative Agent of all documentation and other information with respect to the Assignee that is required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the Anti-Money Laundering and Anti-Terrorism Laws.

5. As of the Settlement Date (a) the Assignee shall be a party to the Financing 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 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 Financing Agreement and the other Loan Documents.

6. Upon recording by the Administrative Agent, from and after the Settlement Date, the Administrative Agent shall make all payments under the Financing Agreement and the other Loan Documents in respect of the interest assigned hereby (including, without limitation, all payments of principal, interest and commitment fees (if applicable) with respect thereto) to the Assignee. The Assignor and the Assignee shall make all appropriate adjustments in payments under the Financing Agreement and the other Loan Documents for periods prior to the Settlement Date directly between themselves on the Settlement Date.

7. THIS ASSIGNMENT AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

8. EACH PARTY HERETO HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BASED UPON OR ARISING OUT OF THIS ASSIGNMENT AGREEMENT OR ANY OF THE TRANSACTIONS RELATED HERETO, AND AGREES THAT ANY SUCH ACTION, PROCEEDING OR COUNTERCLAIM SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

9. This Assignment Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all of which taken together shall constitute one and the

same agreement. Delivery of an executed counterpart of this Assignment Agreement by facsimile or electronic mail shall be equally effective as delivery of an original executed counterpart.

[Remainder of page left intentionally blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered by their respective officers thereunto duly authorized, as of the date first above written.

[ASSIGNOR]

By: __
Name:
Title:
Date:

[ASSIGNEE]

By: __
Name:
Title:
Date:

ACCEPTED AND CONSENTED TO this ___ day
of _____, 20__

**TCW ASSET MANAGEMENT COMPANY LLC,**
**as Administrative Agent**

By: __
Name:
Title:

**[DBM GLOBAL INC. ,**
**as Administrative Borrower**

By: __
Name:
Title:]

ANNEX FOR ASSIGNMENT AND ACCEPTANCE

ANNEX I

1. Borrowers: DBM Global Inc. and [ ]

2. Name and Date of Financing Agreement:

   Financing Agreement, dated as of November [ ], 2018 (as the same may be amended, restated, supplemented or otherwise modified from time to time, including any replacement agreement therefor, the "Financing Agreement"), by and among DBM Global Inc., a Delaware corporation ("DBM"), each subsidiary of DBM listed as a "Borrower" on the signature pages thereto (together with DBM and each other Person that executes a joinder agreement and becomes a "Borrower" thereunder, each a "Borrower" and collectively, the "Borrowers"), each subsidiary of DBM listed as a "Guarantor" on the signature pages thereto (together with each other Person that executes a joinder agreement and becomes a "Guarantor" thereunder, each a "Guarantor" and collectively, the "Guarantors"), the lenders from time to time party thereto (each a "Lender" and collectively, the "Lenders"), TCW Asset Management Company LLC ("TCW"), as collateral agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent"), and TCW, as administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent" and together with the Collateral Agent, each an "Agent" and collectively, the "Agents").

3. Date of Assignment Agreement: _____

4. Amount of Term Loan Commitment Assigned: $_____

5. Amount of Term Loan Assigned: $_____

6. Purchase Price: $_____

7. Settlement Date: _____

8. Notice and Payment Instructions, etc.

Assignee: Assignor:

_____ _____

Assignee: Assignor:

_____ _____
_____ _____
Attn: _____ Attn: _____
Fax No.:_____ Fax No.:_____

Bank Name: Bank Name:
ABA Number: ABA Number:
Account Name: Account Name:
Account Number: Account Number:
Sub-Account Name: Sub-Account Name:
Sub-Account Number: Sub-Account Number:
Reference: Reference:
Attn: Attn:

EXHIBIT C

FORM OF NOTICE OF BORROWING

[LETTERHEAD OF THE BORROWER]

_____ __, 20__

TCW Asset Management Company
as Administrative Agent for the Lenders
party to the Financing Agreement referred to below
200 Clarendon Street, 51st Floor
Boston, Massachusetts 02116
Attention: Michael Coster

Ladies and Gentlemen:

The undersigned, DBM Global Inc. (the "Administrative Borrower"), (i) refers to the Financing Agreement, dated as of November [ ], 2018 (as the same may be amended, restated, supplemented or otherwise modified from time to time, including any replacement agreement therefor, the "Financing Agreement"), by and among DBM Global Inc., a Delaware corporation ("DBM"), each subsidiary of DBM listed as a "Borrower" on the signature pages thereto (together with DBM and each other Person that executes a joinder agreement and becomes a "Borrower" thereunder, each a "Borrower" and collectively, the "Borrowers"), each subsidiary of DBM listed as a "Guarantor" on the signature pages thereto (together with each other Person that executes a joinder agreement and becomes a "Guarantor" thereunder, each a "Guarantor" and collectively, the "Guarantors"), the lenders from time to time party thereto (each a "Lender" and collectively, the "Lenders"), TCW Asset Management Company LLC ("TCW"), as collateral agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent"), and TCW, as administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent" and together with the Collateral Agent, each an "Agent" and collectively, the "Agents") and (ii) hereby gives you notice pursuant to Section 2.02(a) of the Financing Agreement that the undersigned hereby requests a Term Loan under the Financing Agreement (the "Proposed Loan"), and in connection therewith sets forth below the information relating to such Term Loan as required by Section 2.02(a) of the Financing Agreement. All capitalized terms used but not defined herein have the same meanings herein as set forth in the Financing Agreement.

a. The borrowing date of the Proposed Loan is _____.

b. The aggregate principal amount of the Proposed Loan is $_____.

c. The Proposed Loan is a [Reference Rate Loan][LIBOR Rate Loan with an initial Interest Period of [1][2][3] month(s)].

d. The proceeds of the Proposed Loan will be used as follows: _____.

e. The proceeds of the Proposed Loan are to be disbursed pursuant to the instructions set forth on Exhibit A attached hereto.

The undersigned certifies as of the date the Proposed Loan is made that (i) the representations and warranties contained in the Article VI of the Financing Agreement and in each other Loan Document, certificate or other writing delivered to any Agent or any Lender pursuant thereto on or prior to the date hereof are true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations or warranties that already are qualified or modified as to materiality or "Material Adverse Effect" in the text thereof, which representations and warranties are true and correct in all respects subject to such qualification) on and as of such date as though made on and as of such date, except to the extent that any such representation or warranty expressly relates solely to an earlier date (in which case such representation or warranty is true and correct on and as of such earlier date), and (ii) no Default or Event of Default has occurred and is continuing or would result from the making of the Proposed Loan to be made on such date.

[SIGNATURE PAGES FOLLOW]

Very truly yours,

DBM GLOBAL INC.,
as Administrative Borrower

By: __
Name:
Title:

**EXHIBIT A**

**WIRING INSTRUCTIONS**

| Payee | Wiring Instructions |
|---|---|
| _____ | **Bank:**<br>**[City/State]**<br>**ABA #**<br>**Account #**<br>**Ref:** |

EXHIBIT D

FORM OF LIBOR NOTICE

[LETTERHEAD OF BORROWERS]

TCW Asset Management Company LLC
as Administrative Agent for the Lenders
party to the Financing Agreement referred to below
200 Clarendon Street, 51st Floor
Boston, Massachusetts 02116
Attention: Michael Coster

Ladies and Gentlemen:

Reference is made to the Financing Agreement, dated as of November [ ], 2018 (as the same may be amended, restated, supplemented or otherwise modified from time to time, including any replacement agreement therefor, the "Financing Agreement"), by and among DBM Global Inc., a Delaware corporation ("DBM"), each subsidiary of DBM listed as a "Borrower" on the signature pages thereto (together with DBM and each other Person that executes a joinder agreement and becomes a "Borrower" thereunder, each a "Borrower" and collectively, the "Borrowers"), each subsidiary of DBM listed as a "Guarantor" on the signature pages thereto (together with each other Person that executes a joinder agreement and becomes a "Guarantor" thereunder, each a "Guarantor" and collectively, the "Guarantors"), the lenders from time to time party thereto (each a "Lender" and collectively, the "Lenders"), TCW Asset Management Company LLC ("TCW"), as collateral agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent"), and TCW, as administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent" and together with the Collateral Agent, each an "Agent" and collectively, the "Agents"). Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to them in the Financing Agreement.

This LIBOR Notice represents the Administrative Borrower's request to [convert into] [continue as] [LIBOR Rate Loans] [Reference Rate Loans] $_____ of the outstanding principal amount of the Term Loan (the "Requested LIBOR Rate Loan").

[Such Requested LIBOR Rate Loan will have an Interest Period of [1] [2] [3] month(s), commencing on _____.]

[This LIBOR Notice further confirms each Borrower's acceptance, for purposes of determining the rate of interest based on the LIBOR Rate under the Financing Agreement, of the LIBOR Rate as determined pursuant to the Financing Agreement.]

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

The undersigned certifies that (i) the representations and warranties contained in Article VI of the Financing Agreement and in each other Loan Document, certificate or other writing delivered to any Agent or any Lender pursuant thereto on or prior to the date of the [conversion] [continuation] of the Requested LIBOR Rate Loan are true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations or warranties that already are qualified or modified as to materiality or "Material Adverse Effect" in the text thereof, which representations and warranties shall be true and correct in all respects subject to such qualification) on and as of such date as though made on and as of such date, except to the extent that any such representation or warranty expressly relates solely to an earlier date (in which case such representation or warranty shall be true and correct on and as of such earlier date) and (ii) no Default or Event of Default has occurred and is continuing or would result from the [conversion] [continuation] of the Requested LIBOR Rate Loan.

Dated: __

By:
Name:
Title:

EXHIBIT E

FORM OF COMPLIANCE CERTIFICATE

[LETTERHEAD OF DBM]

TCW Asset Management Company LLC
as Administrative Agent for the Lenders
party to the Financing Agreement referred to below
200 Clarendon Street, 51st Floor
Boston, Massachusetts 02116
Attention: Michael Coster

Re: Compliance Certificate dated _____ __, 201 _

Ladies and Gentlemen:

Reference is made to that certain Financing Agreement, dated as of November [ ], 2018 (as amended, restated, supplemented or otherwise modified from time to time, the "Financing Agreement"), by and among DBM Global Inc., a Delaware corporation ("DBM"), each subsidiary of DBM listed as a "Borrower" on the signature pages thereto (together with DBM and each other Person that executes a joinder agreement and becomes a "Borrower" thereunder, each a "Borrower" and collectively, the "Borrowers"), each subsidiary of DBM listed as a "Guarantor" on the signature pages thereto (together with each other Person that executes a joinder agreement and becomes a "Guarantor" thereunder, each a "Guarantor" and collectively, the "Guarantors"), the lenders from time to time party thereto (each a "Lender" and collectively, the "Lenders"), TCW Asset Management Company LLC ("TCW"), as collateral agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent"), and TCW, as administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent" and together with the Collateral Agent, each an "Agent" and collectively, the "Agents"). Capitalized terms used in this Compliance Certificate have the meanings set forth in the Financing Agreement unless specifically defined herein.

Pursuant to the terms of the Financing Agreement, the undersigned officer of DBM hereby certifies that:

1. I have reviewed the provisions of the Financing Agreement and the other Loan Documents and have made, or caused to be made under my supervision, a review of the condition and operations of DBM and its Subsidiaries during the period covered by the financial statements delivered pursuant to Section 7.01(a)[(i)][(ii)][(iii)] of the Financing Agreement with a view to determining whether DBM and its Subsidiaries were in compliance with all of the provisions of the Financing Agreement and the other Loan Documents during such period.

2. Such review has not disclosed, and I have no knowledge of, the occurrence and continuance of a Default or Event of Default as of the date hereof, except as listed on Schedule

1 hereto, describing the nature and period of existence thereof and the action DBM and its Subsidiaries have taken, are taking, or propose to take with respect thereto.

3. [DBM and its Subsidiaries are in compliance with the applicable covenants contained in Section 7.03 of the Financing Agreement as demonstrated on Schedule 2 hereto.][1]

4. [Set forth on Schedule 3 hereto, is a discussion and analysis of the financial condition and results of operations of DBM and its Subsidiaries for the portion of the Fiscal Year elapsed for the period covered by the financial statements delivered in connection with this Compliance Certificate.][2]

5. [Set forth on Schedule 4 hereto, is a summary of all material insurance coverage maintained as of the date thereof by any Loan Party and all material insurance coverage planned to be maintained by any Loan Party.][3]

6. [There have been no changes to the information contained in any of the Perfection Certificates delivered on the Effective Date or the date of the most recently updated Perfection Certificate delivered pursuant to Section 7.01(a)(iv), except as contained in the updated Perfection Certificate attached hereto as Schedule 5.][4]

IN WITNESS WHEREOF, this Compliance Certificate is executed by the undersigned as of the date first set forth above.

DBM GLOBAL INC.

By:__
Name:
Title:

---

[1] To be included in certificates delivered pursuant to Section 7.01(a)(ii) or (iii).
[2] To be included in certificates delivered pursuant to Section 7.01(a)(ii) or (iii).
[3] To be included in certificates delivered pursuant to Section 7.01(a)(iii).
[4] To be included in certificates delivered pursuant to Section 7.01(a)(iii).

**SCHEDULE 1**

**Default or Event of Default**

[See Attached]

**SCHEDULE 2**

**Financial Covenants**

1. **Senior Leverage Ratio.**

DBM and its Subsidiaries' Senior Leverage Ratio, measured on a fiscal quarter-end basis, for the period of 4 consecutive fiscal quarters ended on _____, _____is _____:1.0, which **[is/is not]** greater than or equal to the ratio set forth in Section 7.03(a) of the Financing Agreement for the corresponding period ending on such date.

2. **Fixed Charge Coverage Ratio.**

DBM and its Subsidiaries' Fixed Charge Coverage Ratio, measured on a fiscal quarter-end basis, for the period of 4 consecutive fiscal quarters ended on _____, _____ is _____:1.0, which **[is/is not]** greater than or equal to the ratio set forth in Section 7.03(b) of the Financing Agreement for the corresponding period ending on such date.

**SCHEDULE 3**

**Discussion and Analysis**

[See Attached]

**SCHEDULE 4**

**Material Insurance Coverage**

[See Attached]

**SCHEDULE 5**

**Updated Perfection Certificate**

[See Attached]

EXHIBIT F-1

FORM OF U.S. TAX COMPLIANCE CERTIFICATE

*(For Foreign Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)*

Reference is made to that certain Financing Agreement, dated as of November [ ], 2018 (as amended, restated, supplemented or otherwise modified from time to time, the "Financing Agreement"), by and among DBM Global Inc., a Delaware corporation ("DBM"), each subsidiary of DBM listed as a "Borrower" on the signature pages thereto (together with DBM and each other Person that executes a joinder agreement and becomes a "Borrower" thereunder, each a "Borrower" and collectively, the "Borrowers"), each subsidiary of DBM listed as a "Guarantor" on the signature pages thereto (together with each other Person that executes a joinder agreement and becomes a "Guarantor" thereunder, each a "Guarantor" and collectively, the "Guarantors"), the lenders from time to time party thereto (each a "Lender" and collectively, the "Lenders"), TCW Asset Management Company LLC ("TCW"), as collateral agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent"), and TCW, as administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent" and together with the Collateral Agent, each an "Agent" and collectively, the "Agents"). .

Pursuant to the provisions of Section 2.09 of the Financing Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a "bank" within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, (iii) it is not a "ten percent shareholder" of any Borrower within the meaning of Section 871(h)(3)(B) of the Internal Revenue Code and (iv) it is not a "controlled foreign corporation" related to any Borrower as described in Section 881(c)(3)(C) of the Internal Revenue Code.

The undersigned has furnished the Administrative Agent and the Administrative Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BEN or IRS Form W-8BEN-E. By executing this certificate, the undersigned agrees that (1) if the information provided in this certificate changes, the undersigned shall promptly so inform the Administrative Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Administrative Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Financing Agreement and used herein shall have the meanings given to them in the Financing Agreement.

[NAME OF LENDER]

By:_____
Name:
Title:
Date: _____ __, 20[ ]

EXHIBIT F-2

FORM OF U.S. TAX COMPLIANCE CERTIFICATE

*(For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)*

Reference is made to that certain Financing Agreement, dated as of November [ ], 2018 (as amended, restated, supplemented or otherwise modified from time to time, the "Financing Agreement"), by and among DBM Global Inc., a Delaware corporation ("DBM"), each subsidiary of DBM listed as a "Borrower" on the signature pages thereto (together with DBM and each other Person that executes a joinder agreement and becomes a "Borrower" thereunder, each a "Borrower" and collectively, the "Borrowers"), each subsidiary of DBM listed as a "Guarantor" on the signature pages thereto (together with each other Person that executes a joinder agreement and becomes a "Guarantor" thereunder, each a "Guarantor" and collectively, the "Guarantors"), the lenders from time to time party thereto (each a "Lender" and collectively, the "Lenders"), TCW Asset Management Company LLC ("TCW"), as collateral agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent"), and TCW, as administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent" and together with the Collateral Agent, each an "Agent" and collectively, the "Agents").

Pursuant to the provisions of Section 2.09 of the Financing Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a "bank" within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, (iii) it is not a "ten percent shareholder" of any Borrower within the meaning of Section 871(h)(3)(B) of the Internal Revenue Code and (iv) it is not a "controlled foreign corporation" related to any Borrower as described in Section 881(c)(3)(C) of the Internal Revenue Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BEN or IRS Form W-8BEN-E. By executing this certificate, the undersigned agrees that (1) if the information provided in this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Financing Agreement and used herein shall have the meanings given to them in the Financing Agreement.

[NAME OF PARTICIPANT]

By:_____
Name:
Title:
Date: _____ __, 20[ ]

EXHIBIT F-3

FORM OF U.S. TAX COMPLIANCE CERTIFICATE

*(For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)*

Reference is made to that certain Financing Agreement, dated as of November [ ], 2018 (as amended, restated, supplemented or otherwise modified from time to time, the "Financing Agreement"), by and among DBM Global Inc., a Delaware corporation ("DBM"), each subsidiary of DBM listed as a "Borrower" on the signature pages thereto (together with DBM and each other Person that executes a joinder agreement and becomes a "Borrower" thereunder, each a "Borrower" and collectively, the "Borrowers"), each subsidiary of DBM listed as a "Guarantor" on the signature pages thereto (together with each other Person that executes a joinder agreement and becomes a "Guarantor" thereunder, each a "Guarantor" and collectively, the "Guarantors"), the lenders from time to time party thereto (each a "Lender" and collectively, the "Lenders"), TCW Asset Management Company LLC ("TCW"), as collateral agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent"), and TCW, as administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent" and together with the Collateral Agent, each an "Agent" and collectively, the "Agents").

Pursuant to the provisions of Section 2.09 of the Financing Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such participation, (iii) with respect such participation, neither the undersigned nor any of its direct or indirect partners/members is a "bank" extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, (iv) none of its direct or indirect partners/members is a "ten percent shareholder" of any Borrower within the meaning of Section 871(h)(3)(B) of the Internal Revenue Code and (v) none of its direct or indirect partners/members is a "controlled foreign corporation" related to any Borrower as described in Section 881(c)(3)(C) of the Internal Revenue Code.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided in this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.
Unless otherwise defined herein, terms defined in the Financing Agreement and used herein shall have the meanings given to them in the Financing Agreement.

[NAME OF PARTICIPANT]

By:_____
Name:
Title:
Date: _____ __, 20[ ]

EXHIBIT F-4

FORM OF U.S. TAX COMPLIANCE CERTIFICATE

*(For Foreign Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)*

Reference is made to that certain Financing Agreement, dated as of November [ ], 2018 (as amended, restated, supplemented or otherwise modified from time to time, the "Financing Agreement"), by and among DBM Global Inc., a Delaware corporation ("DBM"), each subsidiary of DBM listed as a "Borrower" on the signature pages thereto (together with DBM and each other Person that executes a joinder agreement and becomes a "Borrower" thereunder, each a "Borrower" and collectively, the "Borrowers"), each subsidiary of DBM listed as a "Guarantor" on the signature pages thereto (together with each other Person that executes a joinder agreement and becomes a "Guarantor" thereunder, each a "Guarantor" and collectively, the "Guarantors"), the lenders from time to time party thereto (each a "Lender" and collectively, the "Lenders"), TCW Asset Management Company LLC ("TCW"), as collateral agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent"), and TCW, as administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent" and together with the Collateral Agent, each an "Agent" and collectively, the "Agents")..

Pursuant to the provisions of Section 2.09 of the Financing Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Loan(s) (as well as any note(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to this Financing Agreement or any other Loan Document, neither the undersigned nor any of its direct or indirect partners/members is a "bank" extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, (iv) none of its direct or indirect partners/members is a "ten percent shareholder" of any Borrower within the meaning of Section 871(h)(3)(B) of the Internal Revenue Code and (v) none of its direct or indirect partners/members is a "controlled foreign corporation" related to any Borrower as described in Section 881(c)(3)(C) of the Internal Revenue Code.

The undersigned has furnished the Administrative Agent and the Administrative Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided in this certificate changes, the undersigned shall promptly so inform the Administrative Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Administrative Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Financing Agreement and used herein shall have the meanings given to them in the Financing Agreement.

[NAME OF LENDER]

By:_____
Name:
Title:
Date: _____ __, 20[ ]

EXHIBIT G

FORM OF PROMISSORY NOTE

$_____[1] _____[2]

{Issuance date}

FOR VALUE RECEIVED, each of the undersigned (each, a "Borrower" and together, the "Borrowers"), jointly and severally promises to pay to _____[3] ("Payee**"**) or its registered assigns the principal amount of _____[4] ($[_____]). The principal amount of this Note shall be payable on the dates and in the amounts specified in the Financing Agreement; provided that the last such installment shall be in an amount sufficient to repay the entire unpaid principal balance of this Note, together with all accrued and unpaid interest thereon.

Each Borrower also promises to pay interest on the unpaid principal amount hereof, until paid in full, at the rates and at the times which shall be determined in accordance with the provisions of that certain Financing Agreement dated as of November [ ], 2018 by and among DBM Global Inc., a Delaware corporation ("DBM"), each of the other Borrowers (together with DBM and each other Person that executes a joinder agreement and becomes a "Borrower" thereunder, each a "Borrower" and collectively, the "Borrowers"), each subsidiary of DBM listed as a "Guarantor" on the signature pages thereto (together with each other Person that executes a joinder agreement and becomes a "Guarantor" thereunder, each a "Guarantor" and collectively, the "Guarantors"), the lenders from time to time party thereto (each a "Lender" and collectively, the "Lenders"), TCW Asset Management Company LLC ("TCW") in its capacity as collateral agent for the Secured Parties (in such capacity, together with its successors and assigns in such capacity, if any, the "Collateral Agent") and TCW, as administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent" and together with the Collateral Agent, each an "Agent" and collectively, the "Agents") (said Financing Agreement, as it may be amended, supplemented or otherwise modified from time to time, being the "Financing Agreement", the terms defined therein and not otherwise defined herein being used herein as therein defined).

This Note is issued pursuant to and entitled to the benefits of the Financing Agreement, to which reference is hereby made for a more complete statement of the terms and conditions under which the Loan evidenced hereby was made and is to be repaid.

All payments of principal and interest in respect of this Note shall be made in lawful money of the United States of America in same day funds to the Administrative Agent's Account or at such other place as shall be designated in writing for such purpose in accordance with the terms of the Financing Agreement. Unless and until an Assignment and Acceptance

[1] Insert amount of Lender's Loan in numbers.
[2] Insert place of delivery of Note.
[3] Insert Lender's name in capital letters.
[4] Insert amount of Lender's Loan in words.

Agreement effecting the assignment or transfer of this Note shall have been accepted by Administrative Agent and recorded in the Register as provided in the Financing Agreement, each Borrower and Administrative Agent shall be entitled to deem and treat Payee as the owner and holder of this Note and the Loan evidenced hereby. Payee hereby agrees, by its acceptance hereof, that before disposing of this Note or any part hereof it will make a notation hereon of all principal payments previously made hereunder and of the date to which interest hereon has been paid; provided, however, that the failure to make a notation of any payment made on this Note shall not limit or otherwise affect the obligations of any Borrower hereunder with respect to payments of principal of or interest on this Note.

Whenever any payment on this Note shall be stated to be due on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall be included in the computation of the payment of interest on this Note.

This Note is subject to mandatory prepayment as provided in the Financing Agreement and to prepayment at the option of the Borrowers as provided in the Financing Agreement.

**THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED IN THE STATE OF NEW YORK.**

Upon the occurrence of an Event of Default, the unpaid balance of the principal amount of this Note, together with all accrued and unpaid interest thereon, may become, or may be declared to be, due and payable in the manner, upon the conditions and with the effect provided in the Financing Agreement.

The terms of this Note are subject to amendment only in the manner provided in the Financing Agreement.

This Note is subject to restrictions on transfer or assignment as provided in the Financing Agreement.

No reference herein to the Financing Agreement and no provision of this Note or the Financing Agreement shall alter or impair the obligations of the Borrowers, which are absolute and unconditional, to pay the principal of and interest on this Note at the place, at the respective times, and in the currency prescribed herein and in the Financing Agreement.

Each Borrower hereby accepts joint and several liability hereunder and under the other Loan Documents in consideration of the financial accommodations to be provided by the Agents and the Lenders under this Note and the other Loan Documents, for the mutual benefit, directly and indirectly, of each of the Borrowers and in consideration of the undertakings of the other Borrowers to accept joint and several liability for the Obligations.

Each Borrower promises to pay all costs and expenses, including reasonable attorneys' fees, all as provided in the Financing Agreement, incurred in the collection and enforcement of this Note. The Borrowers and any endorsers of this Note hereby consent to renewals and extensions of time at or after the maturity hereof, without notice, and hereby waive

diligence, presentment, protest, demand and notice of every kind and, to the full extent permitted by law, the right to plead any statute of limitations as a defense to any demand hereunder.

IN WITNESS WHEREOF, each Borrower has caused this Note to be duly executed and delivered by its officer thereunto duly authorized as of the date and at the place first written above.

BORROWERS:

DBM GLOBAL INC., a Delaware corporation

SCHUFF STEEL COMPANY, a Delaware corporation

SCHUFF STEEL - ATLANTIC, LLC, a Florida limited liability company

AITKEN MANUFACTURING INC., a Delaware corporation

DBM GLOBAL-NORTH AMERICA INC., a Delaware corporation

CB-HORN HOLDINGS, INC., a Delaware corporation

GRAYWOLF INDUSTRIAL, INC., a Delaware corporation

TITAN CONTRACTING & LEASING COMPANY, INC., a Kentucky corporation

TITAN FABRICATORS, INC., a Kentucky corporation

M. INDUSTRIAL MECHANICAL, INC., a Delaware corporation

MILCO NATIONAL CONSTRUCTORS, INC., a Delaware corporation

INCO SERVICES, INC., a Georgia corporation

By: __
Title: __

EXHIBIT H

FORM OF NOTICE OF OPTIONAL PREPAYMENT

Date: _____, 20__

To: TCW Asset Management Company LLC
as Administrative Agent for the Lenders
party to the Financing Agreement referred to below
200 Clarendon Street, 51st Floor
Boston, Massachusetts 02116
Attention: Michael Coster

Ladies and Gentlemen:

Reference is made to the Financing Agreement, dated as of November [ ], 2018 (as the same may be amended, restated, supplemented or otherwise modified from time to time, including any replacement agreement therefor, the "Financing Agreement"), by and among DBM Global Inc., a Delaware corporation ("DBM"), each subsidiary of DBM listed as a "Borrower" on the signature pages thereto (together with DBM and each other Person that executes a joinder agreement and becomes a "Borrower" thereunder, each a "Borrower" and collectively, the "Borrowers"), each subsidiary of DBM listed as a "Guarantor" on the signature pages thereto (together with each other Person that executes a joinder agreement and becomes a "Guarantor" thereunder, each a "Guarantor" and collectively, the "Guarantors"), the lenders from time to time party thereto (each a "Lender" and collectively, the "Lenders"), TCW Asset Management Company LLC ("TCW"), as collateral agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent"), and TCW, as administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent" and together with the Collateral Agent, each an "Agent" and collectively, the "Agents"). Capitalized terms used herein and not otherwise defined herein shall have the respective meanings assigned to such terms in the Financing Agreement.

The Administrative Borrower hereby gives you notice, pursuant to Section 2.05(a)(i) of the Financing Agreement, that the Borrowers intend to make an optional prepayment of the principal of the Term Loan on [_____], 20[__] in the aggregate principal amount of $[_____] in accordance with Section 2.05(a)(i) of the Financing Agreement.

[*The remainder of this page is intentionally left blank.*]

**DBM GLOBAL INC.**
as Administrative Borrower

By: ____
Name:
Title:

EXHIBIT I

FORM OF NOTICE OF MANDATORY PREPAYMENT

Date: _____, 20__

To: TCW Asset Management Company LLC
as Administrative Agent for the Lenders
party to the Financing Agreement referred to below
200 Clarendon Street, 51st Floor
Boston, Massachusetts 02116
Attention: Michael Coster

Ladies and Gentlemen:

Reference is made to the Financing Agreement, dated as of November [ ], 2018 (as the same may be amended, restated, supplemented or otherwise modified from time to time, including any replacement agreement therefor, the "Financing Agreement"), by and among DBM Global Inc., a Delaware corporation ("DBM"), each subsidiary of DBM listed as a "Borrower" on the signature pages thereto (together with DBM and each other Person that executes a joinder agreement and becomes a "Borrower" thereunder, each a "Borrower" and collectively, the "Borrowers"), each subsidiary of DBM listed as a "Guarantor" on the signature pages thereto (together with each other Person that executes a joinder agreement and becomes a "Guarantor" thereunder, each a "Guarantor" and collectively, the "Guarantors"), the lenders from time to time party thereto (each a "Lender" and collectively, the "Lenders"), TCW Asset Management Company LLC ("TCW"), as collateral agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent"), and TCW, as administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent" and together with the Collateral Agent, each an "Agent" and collectively, the "Agents"). Capitalized terms used herein and not otherwise defined herein shall have the respective meanings assigned to such terms in the Financing Agreement.

The Administrative Borrower hereby gives you notice, pursuant to Section 2.05(b) of the Financing Agreement, that the Borrowers intend to make a mandatory prepayment of the Loans on [_____], 20[__] in the aggregate principal amount of $[_____] representing Net Cash Proceeds from [ ], in accordance with Section 2.05(b)[( )] of the Financing Agreement.

[*The remainder of this page is intentionally left blank.*]

**DBM GLOBAL INC.**
as Administrative Borrower

By: ____
Name:
Title:

**FOURTH AMENDED AND RESTATED CREDIT AND SECURITY AGREEMENT**

Dated as of November 30, 2018

**DBM GLOBAL INC.**, a Delaware corporation, formerly known as Schuff International, Inc. ("DBM Global" or “DBM”), and the other Persons listed in **Schedule 1.1** (collectively, jointly and severally, the "Borrower"), and **WELLS FARGO BANK, NATIONAL ASSOCIATION**, successor in interest to Wells Fargo Credit, LLC, formerly known as Wells Fargo Credit, Inc. (the "Lender"), hereby agree as follows:

**RECITALS**

The Borrower and the Lender have entered into Third Amended and Restated Credit and Security Agreement dated as of November 6, 2017, as amended from time to time prior to the date hereof (as so amended, the “Third Amended and Restated Credit Agreement”).

The Lender has agreed to make certain loan advances to the Borrower pursuant to the terms and conditions set forth in the Third Amended and Restated Credit Agreement.

The parties wish to amend and restate the Third Amended and Restated Credit Agreement in its entirety.

NOW THEREFORE, in consideration of the premises and promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**ARTICLE I**

**DEFINITIONS**

Section 1.1 Definitions. For all purposes of this Agreement, except as otherwise expressly provided, the following terms shall have the meanings assigned to them in this Section or in the Section referenced after such term:

"Accounts" means, with respect to any Person, all of the accounts of the Person, as such term is defined in the UCC, including each and every right of the Person to payments that arise from the sale, leasing, licensing, assignment or other disposition of Inventory.

"Advance" means a Revolving Advance.

"Affiliate" or "Affiliates" means, with respect to any Person, any other Person controlled by, controlling or under common control with the Borrower, including any Subsidiary of the Person. For purposes of this definition, "control," when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise.

"Agreement" means this Fourth Amended and Restated Credit and Security Agreement.

“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 Borrower 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 Borrower 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.

"Availability" means the difference of (i) the Borrowing Base and (ii) the sum of (A) the outstanding principal balance of the Revolving Note and (B) the L/C Amount.

“Average Availability” means, with respect to any thirty (30) consecutive day period, the sum of the aggregate amount of Availability for each day in such period (as calculated by Lender as of the end of each respective day) divided by thirty (30).

“Bank Product” means any one or more of the following financial products or accommodations extended to a Borrower or any of their subsidiaries by a Bank Product Provider: (a) commercial credit cards, (b) commercial credit card processing services, (c) debit cards, (d) stored value cards, (e) purchase cards (including so-called “procurement cards” or “P-cards”), (f) Cash Management Services, or (g) transactions under Hedge Agreements.

“Bank Product Agreements” means those agreements entered into from time to time by a Borrower or any of their subsidiaries with a Bank Product Provider in connection with the obtaining of any of the Bank Products, including all Cash Management Documents.

“Bank Product Obligations” means (a) all obligations, indebtedness, liabilities, reimbursement obligations, fees, or expenses owing by a Borrower or any of their subsidiaries to Lender or another Bank Product Provider pursuant to or evidenced by a Bank Product Agreement and irrespective of whether for the payment of money, whether direct or indirect, absolute or contingent, liquidated or unliquidated, determined or undetermined, voluntary or involuntary, due, not due or to become due, incurred in the past or now existing or hereafter arising, however arising and (b) all Hedge Obligations.

“Bank Product Provider” means Lender or any of its Affiliates that provide Bank Products to a Borrower or any of their subsidiaries.

"Banking Day" means a day on which the Federal Reserve Bank of New York is open for business.

"Borrowing Base” means at any time the result of (x) the lesser of:

(a) the Maximum Line; or

(b) the sum of:

(i) 35% of Eligible DBM Accounts as of such date of determination, plus

(ii) 50% of Eligible Graywolf Accounts as of such date of determination, plus

(iii) the lesser of (a) $15,000,000.00 or (b) the lesser of (A) the product of 60% multiplied by the value (calculated at the lower of cost or market on a basis consistent with Borrower’s historical accounting practices) of Eligible Inventory at such time, and (B) 85% multiplied by the Net Orderly Liquidation Value identified in the most recent appraisal of Inventory that is satisfactory to Lender in its Permitted Discretion, multiplied by the value

(calculated at the lower of cost or market on a basis consistent with Borrower's historical accounting practices) of Eligible Inventory (such determination may be made as to different categories of Eligible Inventory based upon the Net Orderly Liquidation Value applicable to such categories) at such time, plus

(iv) the lesser of (a) $17,000,000.00 (which amount shall automatically be reduced by $202,380.95 on May 5, 2018, and on the first day of each month thereafter through and until May 31, 2025, at which point it shall be equal to $0.00), or (b) 80% of the Net Orderly Liquidation Value of the Eligible Equipment as identified in the most recent appraisal of Equipment that is satisfactory to Lender in its Permitted Discretion,

minus (y) Reserves.

"Capital Expenditures" means, with respect to any Person for any period, the aggregate of all expenditures by such Person and its Subsidiaries during such period that in accordance with GAAP are or should be included in "property, plant and equipment" or in a similar fixed asset account on its balance sheet, whether such expenditures are paid in cash or financed, including all capitalized lease obligations, obligations under synthetic leases and capitalized software costs that are paid or due and payable during such period, provided, however, that the following shall not constitute Capital Expenditures: (a) expenditures to the extent that they are made with net cash proceeds reinvested pursuant to Section 2.05(b)(iv) of the Term Loan Credit Agreement, (b) expenditures to the extent that they are made to effect leasehold improvements to any property leased by such Person as lessee, to the extent that such expenses have been reimbursed in cash by the landlord that is not a Loan Party or a Subsidiary thereof, and (c) expenditures to the extent that they are actually paid for by a third party (excluding any Loan Party or any Subsidiary thereof) and for which no Loan Party or any Subsidiary thereof has provided or is required to provide or incur, directly or indirectly, any consideration or monetary obligation to such third party or any other person (whether before, during or after such period).

"Cash" means, when used in connection with any Person, all monetary and non-monetary items (other than currency of any country of the United States of America) owned by that Person that are treated as cash in accordance with GAAP, consistently applied.

"Cash Equivalents" means, when used in connection with any Person, that Person's investments in:

(a) Government Securities due within one year after the date of the making of the investment;

(b) readily marketable direct obligations of any State of the United States of America or any political subdivision of any such State given on the date of such investment a credit rating of at least Aa by Moody's Investors Service, Inc. or AA by Standard & Poor's Rating Group (a division of McGraw-Hill, Inc.), in each case due within one year after the date of the making of the investment;

(c) certificates of deposit issued by, bank deposits in, eurodollar deposits through, bankers' acceptances of, and reverse repurchase agreements covering Government Securities executed by, the Lender or any bank, savings and loan or savings bank doing business in and incorporated under the laws of the United States of America or any State thereof and having on the date of such investment combined capital, surplus and undivided profits of at least $250,000,000.00, in each case due within one year after the date of the making of the investment;

(d) certificates of deposit issued by, bank deposits in, eurodollar deposits through, bankers' acceptances of, and reverse repurchase agreements covering Government Securities executed by, any branch or office located in the United States of America of a bank incorporated under the laws of any jurisdiction outside the United States of America having on the date of such investment combined capital surplus and undivided profits of at least $500,000,000.00, in each case due within one year after the date of the making of the investment; and

(e) readily marketable commercial paper of corporations doing business in and incorporated under the laws of the United States of America or any State thereof given on the date of such investment the highest credit rating by Moody's Investors Service, Inc. and Standard & Poor's Rating Group (a division of McGraw-Hill, Inc.), in each case due within two hundred seventy (270) days after the date of the making of the investment.

"Cash Equivalent Value" means, with respect to any Cash Equivalents, the value of the Cash Equivalents, in form and amount as valued by the Lender.

“Cash Management Documents” means the agreements governing each of the Cash Management Services of Lender utilized by a Borrower, which agreements shall currently include the Master Agreement for Treasury Management Services or other applicable treasury management services agreement, the “Acceptance of Services”, the “Service Description” governing each such treasury management service used by a Borrower, and all replacement or successor agreements which govern such Cash Management Services of Lender.

"Change of Control" means (a) a change in ownership or control that results in a conveyance of more than 51% (in the aggregate) of the stock of Borrower from the owners thereof as of November 30, 2018 to new owners or (b) a “Change of Control” (or any comparable term or provision) under or with respect to the Term Loan Indebtedness.

“Closing Date” means November 30, 2018.

"Collateral" means all of the Accounts, chattel paper, deposit accounts, documents, the Real Estate, Equipment, Fixtures, General Intangibles, goods, instruments, Inventory, Investment Property, letter-of-credit rights, and letters of credit of the Borrower (or any of them), all sums on deposit in any Collateral Account, all Supporting Obligations, and any commercial tort claims, including, without limitation, the commercial tort claims described in **Schedule 7** hereto; together with (i) all substitutions and replacements for and products of any of the foregoing; (ii) in the case of all goods, all accessions; (iii) all accessories, attachments, parts, equipment and repairs now or hereafter attached or affixed to or used in connection with any goods; (iv) all warehouse receipts, bills of lading and other documents of title now or hereafter covering such goods; (v) all collateral subject to the Lien of any Security Document; (vi) any money, or other assets of the Borrower (or any of them) that now or hereafter come into the possession, custody, or control of the Lender; (vii) all sums on deposit in the Special Account; and (viii) proceeds of any and all of the foregoing, in each case, whether now owned or hereafter acquired.

"Collateral Account" has the meaning given to it in Section 2.11.

"Commitment" means the Lender's commitment to make Advances to, and to cause the Issuer to issue Letters of Credit for the account of, the Borrower pursuant to Article II.

"Consolidated EBITDA" means, with respect to any Person for any period:

(a) the Consolidated Net Income of such Person for such period,

plus

(b) without duplication, the sum of the following amounts for such period, and, other than as expressly contemplated in the definition of Pro Forma EBITDA in connection with an adjustment pursuant to clause (xiii) or as expressly agreed in writing by the Lender in connection with an adjustment pursuant to clause (xii) below, to the extent deducted in the calculation of Consolidated Net Income for such period:

(i) any provision for United States federal income taxes or other taxes measured by net income,

(ii) Consolidated Net Interest Expense,

(iii) any depreciation and amortization expense,

(iv) any aggregate net loss on the disposition of property (other than Accounts and Inventory) outside the ordinary course of business,

(v) all costs and expenses incurred during such period in connection with the establishment and maintenance of, or any amendment or extension of, the Obligations and the Term Loan Indebtedness,

(vi) reasonable and documented out-of-pocket fees, costs and expenses incurred before, on or after (but not later than 120 days after) the Closing Date in connection with the execution and delivery of this Agreement and the Transaction Documents (as defined in the Term Loan Credit Agreement as of the date hereof (and regardless of whether the Term Loan Credit Agreement is then in effect)) in an amount not to exceed $5,000,000,

(vii) to the extent paid to any Person that is not an Affiliate of DBM or any of its Subsidiaries, non-recurring transaction costs, expenses or charges incurred during such period in connection with any acquisition permitted under this Agreement or consented to by Lender in an aggregate amount with respect to any single acquisition not to exceed the higher of $750,000 and 3.5% of the purchase price for such acquisition (excluding for avoidance of doubt the Graywolf Acquisition),

(viii) non-cash losses and expenses due to the application of FASB ASC 815-10 regarding hedging activity, FASB ASC 350 regarding the impairment of good will, FASB ASC 480-10 regarding accounting for financial instruments with debt and equity characteristics or FASB ASC 820 regarding the measurement of fair value,

(ix) non-cash expenses in connection with any issuance of Qualified Equity Interests (as such term is defined in the Term Loan Credit Agreement as of the date hereof (and regardless of whether the Term Loan Credit Agreement is then in effect)) permitted hereunder to employees, officers or directors of DBM or any of its Subsidiaries,

(x) any other unusual or extraordinary non-cash expenditure, charge or loss for such period (other than any non-cash expenditure, charge or loss relating to write-offs, write-downs or reserves with respect to accounts and Inventory) in an aggregate amount not to exceed $2,000,000 during any fiscal year; provided that any impairment of goodwill permitted by this clause (x) shall not be subject to, or taken into account as part of, the $2,000,000 limitation in this clause (x),

(xi) any non-recurring factually supported executive severance costs for senior level executive employees who are not then employed or engaged by Parent or any of its Affiliates in an aggregate amount not to exceed $1,700,000 during any fiscal year and $3,400,000 during the term of this Agreement, commencing with the 2019 fiscal year,

(xii) any adjustments agreed to in a writing expressly referring to this clause (xii) by Lender and Borrower,

(xiii) Pro Forma EBITDA from acquisitions permitted under this Agreement or consented to by Lender,

(xiv) any non-recurring restructuring expenses or charges incurred on or after (but not later than 18 months after) the Closing Date in connection with the Graywolf Acquisition in an aggregate amount not to exceed $3,000,000 for such 18 month period, and

(xv) any non-recurring operational realignment expenses or charges, any non-recurring extraordinary operating expenses or charges, any non-recurring consulting and business optimization expenses or charges, and any non-recurring transaction and integration expenses or charges incurred on or before June 30, 2020 in an aggregate amount not to exceed $5,000,000,

minus

(c) without duplication, the sum of the following amounts for such period to the extent included in the calculation of such Consolidated Net Income for such period:

(i) any credit for United States federal, state and local and income Taxes,

(ii) any aggregate net gain from the disposition of property (other than accounts and Inventory) outside the ordinary course of business,

(iii) non-cash gains and income due to the application of FASB ASC 815-10 regarding hedging activity, FASB ASC 350 regarding the impairment of good will or FASB ASC 480-10 regarding accounting for financial instruments with debt and equity characteristics, and

(iv) any other non-cash gain, including any reversal of a charge referred to in clause (b)(x) above by reason of a decrease in the value of any equity interests;

in each case, determined on a consolidated basis in accordance with GAAP.

Notwithstanding the foregoing, Consolidated EBITDA for the fiscal periods set forth in **Schedule 1.3(a)** shall be deemed to be in the amounts set forth therein for such fiscal periods.

"Consolidated Net Income" means, with respect to any Person, for any period, the consolidated Net Income (or Net Loss) of such Person and its Subsidiaries for such period; provided, however, that the following shall be excluded: (a) the Net Income of any other Person in which such Person or one of its Subsidiaries has a joint interest with a third-party (which interest does not cause the Net Income of such other Person to be consolidated into the Net Income of such Person), except to the extent of the amount of dividends or distributions paid to such Person or Subsidiary, (b) the Net Income of any Subsidiary of such Person that is, on the last day of such period, subject to any contractual restriction or limitation on the payment of dividends or the making of other distributions, to the extent of such restriction or limitation, and (c) the Net Income of any other Person arising prior to such other Person becoming a Subsidiary of such Person or merging or consolidating into such Person or its Subsidiaries (other than Pro Forma EBITDA).

"Consolidated Net Interest Expense" means, with respect to any Person for any period, (a) gross interest expense of such Person and its Subsidiaries for such period determined on a consolidated basis and in accordance with GAAP (including, without limitation, interest expense paid to Affiliates of such Person), less (b) interest income for such period, in each case, determined on a consolidated basis and in accordance with GAAP.

"Constituent Documents" means with respect to any Person, as applicable, such Person's certificate of incorporation, articles of incorporation, by-laws, certificate of formation, articles of organization, limited liability company agreement, management agreement, operating agreement, shareholder agreement, partnership agreement or similar document or agreement governing such Person's existence, organization or management or concerning disposition of ownership interests of such Person or voting rights among such Person's owners.

“Covenant Testing Period” means a period (a) commencing on the last day of the fiscal quarter of Borrower most recently ended prior to a Covenant Trigger Event for which Borrower is required to deliver to Lender monthly or annual financial statements pursuant to Section 6.1, and (b) continuing through and including the first day after such Covenant Trigger Event that Availability has equaled or exceeded the greater of (i) 20% of the Maximum Line, and (ii) $16,000,000 for 60 consecutive days.

“Covenant Trigger Event” means if at any time Availability is less than the greater of (a) 20% of the Maximum Line, and (b) $16,000,000.

"Credit Facility" means the credit facility being made available to the Borrower by the Lender under Article II.

"Daily Three Month LIBOR" means for any day, the rate of interest equal to LIBOR then in effect for delivery for a three (3) month period. When interest is determined in relation to Daily Three Month LIBOR, each change in the interest rate shall become effective each business day that Lender determines that Daily Three Month LIBOR has changed. If such rate of interest is below zero, then the rate determined pursuant to this definition shall be deemed to be zero.

“DBM Entities” means the Persons listed on **Schedule 1.2(a)** hereof.

"Debt" of a Person means as of a given date, all items of indebtedness or liability which in accordance with GAAP would be included in determining total liabilities as shown on the liabilities side of a balance sheet for such Person and shall also include the aggregate

payments required to be made by such Person at any time under any lease that is considered a capitalized lease under GAAP.

"Default" means an event that, with giving of notice or passage of time or both, would constitute an Event of Default.

"Default Period" means any period of time beginning on the day an Event of Default occurs and ending on the date the Lender notifies the Borrower in writing that such Event of Default has been waived.

"Default Rate" means an annual interest rate equal to three percent (3%) over the Floating Rate, which interest rate shall change when and as the Floating Rate changes.

"Director" means, with respect to any Person, a director if the Person is a corporation, a manager or a Person with similar authority if the Person is a limited liability company, or a general partner if the Person is a partnership.

“Effective Date Preferred Equity” means the Series A preferred shares of DBM issued on the Closing Date pursuant to the Effective Date Preferred Equity Documents.

“Effective Date Preferred Equity Issuance” means the issuance of the Effective Date Preferred Equity by DBM on or prior to the Closing Date.

“Effective Date Preferred Equity Documents” means the Certificate of Designation of Series A Fixed-to-Floating Rate Perpetual Preferred Stock of DBM filed with the Delaware Secretary of State on November 30, 2018 and the Series A Securities Purchase Agreement by and between DBM and DBM Global Intermediate Holdco Inc. dated as of November 30, 2018.

"ERISA" means the Employee Retirement income Security Act of 1974.

"ERISA Affiliate", with respect to any Person, means any trade or business (whether or not incorporated) that is a member of a group which includes the Person and which is treated as a single employer under Section 414 of the IRC.

"Eligible Accounts" means all unpaid Accounts of Borrower arising from the sale or lease of goods or the performance of services, net of any credits, but excluding any such Accounts having any of the following characteristics:

(i) that portion of Accounts unpaid more than 60 days past the stated due date or more than 120 days past the invoice date;

(ii) that portion of Accounts that is disputed or subject to a claim of offset or a contra account;

(iii) that portion of Accounts in excess of ten percent (10%) of Accounts in the aggregate which are not yet earned by the final delivery of goods or rendition of services, as applicable, by Borrower to the customer, including progress billings, and that portion of Accounts for which an invoice has not been sent to the applicable account debtor;

(iv) Accounts constituting (i) proceeds of copyrightable material unless such copyrightable material shall have been registered with the United States Copyright Office, or (ii) proceeds of patentable inventions unless such patentable inventions have been registered with the United States Patent and Trademark Office;

(v) Accounts owed by any unit of government, whether foreign or domestic (provided, however, that there shall be included in Eligible Accounts that portion of Accounts owed by such units of government for which the Borrower has provided evidence satisfactory to the Lender that (A) the Lender has a first priority perfected security interest and (B) such Accounts may be enforced by the Lender directly against such unit of government under all applicable laws);

(vi) Accounts owed by an account debtor located outside the United States which are not (A) backed by a bank letter of credit naming the Lender as beneficiary or assigned to the Lender, in the Lender's possession or control, and with respect to which a control agreement concerning the letter-of-credit rights is in effect, and acceptable to the Lender in all respects, in its sole discretion, or (B) covered by a foreign receivables insurance policy acceptable to the Lender in its sole discretion;

(vii) Accounts owed by an account debtor that is insolvent, the subject of bankruptcy proceedings or has gone out of business;

(viii) Accounts owed by an Owner, Subsidiary, Affiliate, Officer or employee of the Borrower or any of its Subsidiaries;

(ix) Accounts not subject to a duly perfected security Interest in the Lender's favor or which are subject to any Lien in favor of any Person other than the Lender;

(x) that portion of Accounts that has been restructured, extended, amended or modified;

(xi) that portion of Accounts that constitutes advertising, finance charges, service charges or sales or excise taxes;

(xii) Accounts owed by an account debtor other than a Permitted Account Debtor, regardless of whether otherwise eligible, to the extent that the balance of such Accounts exceeds 25% of the aggregate amount of all Eligible Accounts;

(xiii) Accounts owed by a Permitted Account Debtor, regardless of whether otherwise eligible, to the extent that the balance of such Accounts exceeds 40% of the aggregate amount of all Eligible Accounts;

(xiv) Accounts owed by an account debtor, regardless of whether otherwise eligible, if 25% or more of the total amount due under Accounts from such debtor is ineligible under clauses (i), (ii) or (x) above; and

(xv) Accounts, or portions thereof, otherwise deemed ineligible by the Lender in its Permitted Discretion.

“Eligible DBM Accounts” means that portion of Eligible Accounts owed to the DBM Entities.

“Eligible Equipment” means that Equipment of Borrower designated by Lender as eligible from time to time in its sole discretion, but excluding Equipment having any of the following characteristics:

(a) Equipment that has not been delivered to the Premises in the United States identified on Exhibit C attached hereto;

(c) Equipment in which Lender does not hold a first priority security interest or which is subject to any security interest in favor of any Person other than Lender;

(d) Equipment that is obsolete or not currently saleable;

(e) Equipment that is not covered by standard "all risk" hazard insurance for an amount equal to its forced liquidation value;

(f) Equipment that has been repossessed, attached, seized, made subject to a writ or distress warrant, levied upon or brought within the possession of any receiver, trustee, custodian or assignee for the benefit of creditors;

(g) Equipment that requires proprietary software in order to operate in the manner in which it is intended when such software is not freely assignable to Lender or any potential purchaser of such Equipment;

(h) Equipment that constitutes Fixtures;

(i) Equipment consisting of computer hardware, software, tooling, or molds;

(j) Equipment consigned to or from Borrower;

(k) Equipment “subject to” (within the meaning of Section 9-311 of the UCC) any certificate of title (or comparable) statute; and

(l) Equipment otherwise deemed unacceptable by Lender in its Permitted Discretion.

“Eligible Graywolf Accounts” means that portion of Eligible Accounts owed to the Graywolf Entities.

“Eligible Inventory” means raw steel Inventory of Borrower designated by Lender as eligible from time to time in its sole discretion, but excluding Inventory having any of the following characteristics:

(a) Borrower does not have good, valid, and marketable title thereto,

(b) Borrower does not have actual and exclusive possession thereof (either directly or through a bailee or agent of a Borrower),

(c) it is not located at one of the locations in the continental United States set forth on Exhibit C to this Agreement (as such Exhibit C may be amended from time to time with the prior written consent of Lender) (or in-transit from one such location to another such location),

(d) it is in-transit to or from a location of Borrower (other than in-transit from one location set forth on Exhibit C to this Agreement to another location set forth on Exhibit C to this Agreement (as such Exhibit C may be amended from time to time with the prior written consent of Lender)),

(f) it is located on real property leased by Borrower or in a contract warehouse or with a bailee, in each case, unless either (i) it is subject to a collateral access agreement executed by the lessor or warehouseman and satisfactory to Lender in its Permitted Discretion, 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) Lender has established a reserve with respect to such location,

(g) it is the subject of a bill of lading or other document of title,

(h) it is not subject to a valid and perfected first priority perfected Lien in favor of Lender,

(i) it consists of goods returned or rejected by a Borrower's customers,

(j) it consists of goods that are obsolete, slow moving, spoiled or are otherwise past the stated expiration, "sell-by" or "use by" date applicable thereto, restrictive or custom items or otherwise is manufactured in accordance with customer-specific requirements, work-in-process, or goods that constitute spare parts, packaging and shipping materials, supplies used or consumed in Borrowers' business, bill and hold goods, defective goods, "seconds," or Inventory acquired on consignment,

(k) it is subject to third party intellectual property, licensing or other proprietary rights, unless Lender is satisfied that such Inventory can be freely sold by Lender on and after the occurrence of an Event of a Default despite such third party rights,

(l) it is otherwise deemed unacceptable by Lender in its sole discretion, or

(m) it has not been subject to an appraisal or a field examination that is satisfactory to Lender in its Permitted Discretion.

"Environmental Law" means any federal, state, local or other governmental statute, regulation, law or ordinance dealing with the protection of human health and the environment

"Equipment" means, with respect to any Person, all of the Person's equipment, as such term is defined in the UCC, whether now owned or hereafter acquired, including but not limited to all present and future machinery, vehicles, manufacturing equipment, shop equipment, office and recordkeeping equipment, parts, tools, supplies, and including specifically the goods described in any equipment schedule or list herewith or hereafter furnished to the Lender by the Person.

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

"Existing Agents" means Wilmington Trust, National Association, as administrative and collateral agent under the term loan Existing Credit Facilities and PNC Bank, National Association, as administrative and collateral agent under the revolving Existing Credit Facilities.

"Existing Credit Facilities" means (a) the $90,000,000 term loan Credit Agreement, dated as of October 2, 2013, among a Graywolf Entity, as borrower, the financial institutions from time to time party thereto as lenders, and Wilmington Trust, National Association, as administrative and collateral agent for the lenders, as amended; and (b) the $25,000,000 Revolving Credit Agreement, dated as of October 2, 2013, among a Graywolf Entity, as borrower, the financial institutions from time to time party thereto as lenders, and PNC Bank, National Association, as administrative and collateral agent for the lenders, as amended.

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

“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 Lender 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).

"Financial Covenants" means the covenants set forth in Section 6.2.

"Fixed Charge Coverage Ratio" means (i) EBITDA, minus (a) unfinanced Capital Expenditures made (to the extent not already incurred in a prior period) or incurred during such period, and (b) cash taxes paid during such period, to the extent greater than zero, to (ii) Fixed Charges for such period. "Fixed Charges" means, with respect to any fiscal period and with respect to Borrower determined on a consolidated basis in accordance with GAAP, the sum, without duplication, of (a) cash Interest Expense paid during such period (other than interest paid-in-kind, amortization of financing fees, and other non-cash Interest Expense), (b) principal payments paid in cash in respect of Debt paid during such period, including cash payments with respect to capital leases, but excluding principal payments made with respect to the Revolving Advances (unless there is a corresponding reduction in the Lender's Commitment) and (c) dividends and distributions permitted to be paid hereunder and actually paid during such period and all management, consulting, monitoring, and advisory fees paid by Borrower to any of its Affiliates during such period.

"Fixtures" means, with respect to any Person, all of the Person's fixtures, as such term is defined in the UCC, whether now owned or hereafter acquired.

"Floating Rate” means, with respect to all Advances an interest rate equal to the sum of (i) Daily Three Month LIBOR, which interest rate shall change whenever Daily Three Month LIBOR changes, plus (ii) one and a half percent (1.50%).

"Flood Hazard Property" shall mean any parcel of any owned Real Property with improvements located thereon located in the United States that is subject to a Mortgage in an area designated by the Federal Emergency Management Agency as having special flood or mudslide hazards.

"Funding Date" has the meaning given in Section 2.1.

"GAAP" means generally accepted accounting principles, applied on a basis consistent with the accounting practices applied in the financial statements described in Section 5.6; provided, that if there occurs after the date of this Agreement any change in GAAP that affects in any respect the calculation of any Financial Covenant, the Lender and the Borrower shall negotiate in good faith amendments to the provisions of this Agreement that relate to the calculation of such Financial Covenant with the intent of having the respective positions of the Lender and the Borrower after such change in GAAP conform as nearly as possible to their respective positions as of the date of this Agreement and, until any such amendments have been agreed upon, the Financial Covenants shall be calculated as if no such change in GAAP has occurred.

"General Intangibles" means, with respect to any Person, all of the Person's general intangibles, as such term is defined in the UCC, whether now owned or hereafter acquired, including all present and future Intellectual Property Rights, customer or supplier lists and contracts, manuals, operating instructions, permits, franchises, the right to use the Person's name, and the goodwill of the Person's business.

"Government Securities" means readily marketable direct full faith and credit obligations of the United States of America or obligations unconditionally guaranteed by the full faith and credit of the United States of America.

"Graywolf Acquisition" means the Acquisition consummated pursuant to the Graywolf Acquisition Agreement.

"Graywolf Acquisition Agreement" means that certain Agreement and Plan of Merger, dated as of October 10, 2018, by and among DBM, DBM Merger Sub, Inc., CB-Horn Holdings, Inc. and Charlesbank Equity Fund VI, Limited Partnership, as stockholders' representative, as amended with the consent of Lender, and all exhibits, schedules and annexes thereto.

"Graywolf Acquisition Documents" means the Graywolf Acquisition Agreement, the Escrow Agreement (as defined in the Graywolf Acquisition Agreement), the Transition Services Agreement (as defined in the Graywolf Acquisition Agreement), and all schedules, exhibits and annexes to the foregoing.

"Graywolf Entities" means the Persons listed on **Schedule 1.2(b)** hereof.

"Guarantor(s)" means any Person now or hereafter guarantying the Obligations.

"Hazardous Substances" means pollutants, contaminants, hazardous substances, hazardous wastes, petroleum and fractions thereof, and all other chemicals, wastes, substances and materials listed in, regulated by or identified in any Environmental Law.

"Immaterial Subsidiary" means each of Addison Structural Services, Inc., Schuff Steel Management Company Southeast L.L.C., Schuff Steel Management Company Colorado, L.L.C., BDS Steel Detailers (USA) Inc., and Quincy Joist Company. Notwithstanding anything to contrary in this Agreement or any other Loan Document, no Subsidiary which is a borrower or a guarantor under or in connection with the Term Loan Loan Documents shall be an Immaterial Subsidiary hereunder.

"Infringe" means when used with respect to intellectual Property Rights, any infringement or other violation of Intellectual Property Rights.

"Intellectual Property Rights" means all actual or prospective rights arising in connection with any intellectual property or other proprietary rights, including all rights arising in connection with copyrights, patents, service marks, trade dress, trade secrets, trademarks, trade names or mask works (and including goodwill and any and all causes of action which may exist by reason of any past, present and future infringement or misappropriation thereof and any and all damages due and/or payable with respect thereto).

"Intercreditor Agreement" means the Intercreditor Agreement, dated as of the date hereof, by and among the Lender and the Term Loan Agent, and acknowledged by the Borrower.

"Inventory" means, with respect to any Person, all of the Person's inventory, as such term is defined in the UCC, whether now owned or hereafter acquired, whether consisting of whole goods, spare parts or components, supplies or materials, whether acquired, held or furnished for sale, for lease or under service contracts or for manufacture or processing, and wherever located.

"Investment Property" means, with respect to any Person, all of the Person's investment property, as such term is defined in the UCC, whether now owned or hereafter acquired, including but not limited to all securities, security entitlements, securities accounts, commodity contracts, commodity accounts, stocks, bonds, mutual fund shares, money market shares and U.S. Government securities.

"IRC" means the Internal Revenue Code of 1986.

"Issuer" means the issuer of any Letter of Credit.

"L/C Amount" means the sum of (i) the aggregate face amount of any issued and outstanding Letters of Credit and (ii) the unpaid amount of the Obligation of Reimbursement.

"L/C Application" means an application and agreement for letters of credit in a form acceptable to the Issuer and the Lender.

"Lender Affiliate" means with respect to the Lender, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Lender, including any Subsidiary of the Lender.

"Letter of Credit" has the meaning specified in Section 2.4.

"LIBOR" means the rate per annum determined pursuant to the following formula:

LIBOR =

(a) "Base LIBOR" means the rate per annum for United States dollar deposits quoted by Lender for the purpose of calculating the effective Floating Rate for loans that reference Daily Three Month LIBOR as the Inter-Bank Market Offered Rate in effect from time to time for three (3) month delivery of funds in amounts approximately equal to the principal amount of such loans. Borrower understands and agrees that Lender may base its quotation of the Inter-Bank Market Offered Rate upon such offers or other market indicators of the Inter-Bank Market as Lender in its discretion deems appropriate, including but not limited to the rate offered for U.S. dollar deposits on the London Inter-Bank Market.

(b) "LIBOR Reserve Percentage" means the reserve percentage prescribed by the Board of Governors of the Federal Reserve System (or any successor) for “Eurocurrency Liabilities” (as defined in Regulation D of the Federal Reserve Board, as amended), adjusted by Lender for expected changes in such reserve percentage during the applicable term of the Revolving Note.

“LIBOR Successor Rate” has the meaning specified therefor in Section 2.8(e) of the Agreement.

“LIBOR Successor Rate Conforming Changes” means, with respect to any proposed LIBOR Successor Rate, any conforming changes to the definitions of Floating Rate, timing and frequency of determining rates and making payments of interest and other administrative matters as may be appropriate, in the discretion of Lender in consultation with Borrower, to reflect the adoption of such LIBOR Successor Rate and to permit the administration thereof by Lender in a manner substantially consistent with market practice (or, if Lender determines that the adoption of any portion of such market practice is not administratively feasible or would not maintain the per annum rate of interest otherwise applicable hereunder with respect to the Advances but for the adoption of such LIBOR Successor Rate Conforming Changes or that no market practice for the administration of such LIBOR Successor Rate exists, in such other manner of administration as Lender determines in consultation with Borrower).

"Licensed Intellectual Property" has the meaning given in Section 5.11(c).

"Lien" means any security interest, mortgage, deed of trust, pledge, lien, charge, encumbrance, title retention agreement or analogous instrument or device, including the interest of each lessor under any capitalized lease and the interest of any bondsman under any payment or performance bond, in, of or on any assets or properties of a Person, whether now owned or hereafter acquired and whether arising by agreement or operation of law.

“Liquidity” means, with reference to any period, the aggregate amount of Qualified Cash of the Borrowers and Availability.

"Loan Documents” means this Agreement, the Revolving Note, the Intercreditor Agreement, the Security Documents, any guaranty entered into by any Guarantor, and each L/C Application, together with every other agreement, note, document, contract or instrument to which the Borrower or any Guarantor now or in the future may be a party and which is required by the Lender.

“Loan Party” means each of each Person composing the Borrower and each Guarantor.

"Material Lease" means any lease of real property to which any Loan Party or any of its Subsidiaries is a party as lessor or lessee and which (a) is the chief executive office of any Loan Party, (b) is a location at which the books and records relating to the operation of the business of any Loan Party are stored, or (c) is a location at which assets of the Loan Parties with a fair market value in excess of $750,000 are located

"Maturity Date" means the earlier of (a) March 31, 2023 and (b) the maturity date of the Term Loan Indebtedness.

"Maximum Line” means $80,000,000.

"Mortgage" means a mortgage, deed of trust or deed to secure debt, in form and substance reasonably satisfactory to the Lender, made by a Loan Party in favor of the Lender, securing the Obligations and delivered to the Lender.

"Multiemployer Plan" means, with respect to any Person, a multiemployer plan (as defined in Section 4001(a)(3) of ERISA) to which such Person or any ERISA Affiliate contributes or is obligated to contribute.

"Net Cash Proceeds" means the cash proceeds of any asset sale (including cash proceeds received as deferred payments pursuant to a note, installment receivable or otherwise, but only upon actual receipt) net of (a) attorney, accountant, and investment banking fees, (b) brokerage commissions, (c) amounts required to be applied to the repayment of debt secured by a Lien not prohibited by this Agreement on the asset being sold, and (d) taxes paid or reasonably estimated to be payable as a result of such asset sale.

"Net Income" (or "Net Loss") means, with respect to any Person, the fiscal year-to-date after-tax net income (or net loss) from continuing operations as determined in accordance with GAAP.

"Net Orderly Liquidation Value" means a professional opinion of the probable Net Cash Proceeds that could be realized at a properly advertised and professionally conducted liquidation sale, conducted under orderly sale conditions for an extended period of time (usually six to nine months), under the economic trends existing at the time of the appraisal.

"Note" or "Notes" collectively means the Revolving Note and any note issued in substitution or replacement thereof.

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

"Obligation of Reimbursement" has the meaning given in Section 2.6(a).

"Obligations" means the Advances (whether or not evidenced by the Notes), the Obligation of Reimbursement, any and all Swap Obligations, any and all Bank Product Obligations and each and every other debt, liability and obligation of every type and description which the Borrower may now or at any time hereafter owe to the Lender or any Lender Affiliate under this Agreement or any Loan Document, whether such debt, liability or obligation now exists or is hereafter created or incurred, whether it arises in a transaction involving the Lender alone, a Lender Affiliate alone, and whether it is direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquid or unliquid, or sole, joint, several or joint or joint and several, and including all indebtedness and obligations of the Borrower arising under any Loan Document, Swap Agreement or guaranty between Borrower and the Lender or between Borrower and any Lender Affiliate, whether now in effect or hereafter entered into (including, in each case, amounts that accrue after the filing of an insolvency or bankruptcy proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any such proceeding).

"Officer" means with respect to any Person, an officer if the Person is a corporation, a manager or a Person with similar authority if the Person is a limited liability company, or a partner if the Person is a partnership.

"Owned Intellectual Property" has the meaning given in Section 5.11(a).

"Owner" means with respect to any Person, each Person having legal or beneficial title to an ownership interest in such Person or a right to acquire such an interest.

"Parent" means HC2 Holdings, Inc., a Delaware corporation.

"Pass-Through Tax Liabilities" means the amount of state and federal income tax paid or to be paid by Borrower's Owners on taxable income earned by Borrower and attributable to the Owners as a result of Company's "pass- through" tax status, assuming

the highest marginal income tax rate for federal and state (for the state or states in which the highest marginal income tax rate for federal and state (for the state or states in which any Owner is liable for income taxes with respect to such income) income tax purposes, after taking into account any deduction for state income taxes in calculating the federal income tax liability and all other deductions, credits, deferrals and other reductions available to the Owners from or through Borrower.

“Patriot Act” has the meaning specified therefor in Section 5.18 of this Agreement.

"Pension Plan" means, with respect to any Person, a pension plan (as defined in Section 3(2) of ERISA) maintained for employees of the Person or any ERISA Affiliate and covered by Title IV of ERISA.

“Permitted Account Debtors” means Turner Construction Company and any of its Subsidiaries, The Perini Building Company and any of its Subsidiaries and The McCarthy Building Company and any of its Subsidiaries.

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

"Permitted Lien" has the meaning given in Section 6.3(a).

"Person" means any individual, corporation, partnership, joint venture, limited liability company, association, joint-stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

"Plan" means, with respect to any Person, an employee benefit plan (as defined in Section 3(3) of ERISA) maintained for employees of the Person or any ERISA Affiliate.

"Premises" means all premises where the Borrower conducts its business and has title or any rights of possession, including the premises described in **Exhibit C** attached hereto.

"Pro Forma EBITDA" means, with respect to (a) the Graywolf Acquisition, the amounts set forth in **Schedule 1.3(b)** for the fiscal periods set forth therein and (b) any assets acquired in an acquisition permitted hereunder or consented to by Lender, the amount of historical Consolidated EBITDA (with such historical pro forma adjustments for other unusual, non-operating or non-recurring expenses and losses set forth in a quality of earnings report prepared by a regional or national third party accounting firm reasonably acceptable to the Lender and delivered to the Lender in connection with such acquisition or, if no such quality of earnings report, exists, without any historical pro forma adjustments for other unusual, non-operating or non-recurring expenses and losses unless agreed otherwise by the Lender in writing in their sole discretion) that is attributable to such assets; provided that with respect to any acquisition permitted hereunder or consented to by the Lender, Consolidated EBITDA may be further adjusted to effect pro forma adjustments to reflect the amount of “run rate” cost savings, operating expense reductions and synergies arising in respect of any transactional or restructuring or business optimization actions taken and projected by the Borrower in good faith to be realized no later than 18 months after the consummation thereof (as though such cost savings, operating expense reductions and synergies had been realized on the first day of the relevant period), net of the amount of actual benefits realized from such actions; provided that (A) such cost savings, operating reductions and synergies are factually supportable and approved in writing by the Lender and (B) no such cost savings, operating expense reductions or synergies shall be included in the calculation of Consolidated EBITDA pursuant to this definition to the extent duplicative

of any expenses or charges or other amounts otherwise included in the calculation of Consolidated EBITDA (it being understood and agreed that “run rate” shall mean the full recurring benefit that is associated with any action taken).

“Qualified Cash" means, as of any date of determination, the aggregate amount of unrestricted Cash maintained in deposit accounts in the name of a Borrower in the United States as of such date, which deposit accounts are subject to control agreements, in form and substance reasonably satisfactory to Lender.

"Real Estate" means any estates or interests in real property now owned or hereafter acquired by any Loan Party or one of its Subsidiaries and the improvements thereto.

“Real Estate 2018 Term Note” means the $15,000,000 Real Estate 2018 Term Note, dated November 13, 2018 in favor of the Lender.

“Real Estate Collateral” means (a) the Real Estate identified on **Schedule 8** to this Agreement, and (b) any Real Estate hereafter acquired by any Loan Party or one of its Subsidiaries with a fair market value in excess of $500,000.

"Real Estate Deliverables" means each of the following agreements, instruments and other documents in respect of each parcel of Real Estate Collateral, each in form and substance reasonably satisfactory to the Lender:

(a) a Mortgage duly executed by the applicable Loan Party;

(b) evidence of the recording of each Mortgage in such office or offices as may be necessary to perfect the first-position Lien purported to be created thereby or otherwise to protect the rights of the Lender thereunder;

(c) a UCC-1 financing statement;

(d) a title insurance policy or final marked title commitment/proforma for each Mortgage;

(e) a current ALTA survey and a surveyor's certificate, certified to the Lender and to the issuer of the title insurance policy with respect thereto by a professional surveyor licensed in the state in which such parcel of Real Estate Collateral is located and reasonably satisfactory to the Lender or such other survey as is reasonably acceptable to the issuer of the title insurance policy;

(f) in the case of a leasehold interest (to the extent the Term Loan Agent has requested and obtained or will obtain the same), (i) a certified copy of the lease between the landlord and such Person with respect to such real property in which such Person has a leasehold interest, and the certificate of occupancy with respect thereto, and (ii) an attornment and nondisturbance agreement between the landlord (and any fee mortgagee) and the applicable Loan Party with respect to such leasehold interest and the Lender;

(g) a current zoning report or a current zoning verification letter;

(h) an opinion of counsel in the state where such parcel of Real Estate Collateral is located with respect to the enforceability of the Mortgage to be recorded;

(i) if requested by the Lender (which request may be made at any time before or after the delivery of any other Real Estate Deliverable) an ASTM 1527 Phase I Environmental Site Assessment ("Phase I ESA") (and, if reasonably requested by the Lender based upon the results of such Phase I ESA an ASTM Phase II Environmental Site Assessment) of each parcel of Real Estate Collateral by an independent firm reasonably satisfactory to the Lender;

(j) with respect to each parcel of Real Estate Collateral, evidence of the insurance coverage required by Section 6.14, with such endorsements as to the named insureds, mortgagees or lenders' loss payees thereunder as the Lender may reasonably request and providing that such policy may be terminated or canceled (by the insurer or the insured thereunder) only upon 30 days' (10 days' in the case of non-payment) prior written notice to the Lender and each such named insured or lenders loss payee, together with evidence of the payment of all premiums due in respect thereof for such period as the Lender may request;

(k) evidence as to (A) whether any parcel of Real Estate Collateral is a Flood Hazard Property and (B) if any Facility is a Flood Hazard Property, (x) whether the community in which such parcel of Real Estate Collateral is located is participating in the National Flood Insurance Program, (y) the applicable Loan Party's written acknowledgment of receipt of written notification from the Lender (I) as to the fact that such parcel of Real Estate Collateral is a Flood Hazard Property and (II) as to whether the community in which each such Flood Hazard Property is located is participating in the National Flood Insurance Program and (z) copies of insurance policies or certificates of insurance of the Loan Parties and their Subsidiaries evidencing flood insurance reasonably satisfactory to the Lender and naming the Lender as lenders loss payee; and

(l) such other agreements, instruments and other documents (including guarantees and opinions of counsel) as the Lender may reasonably require.

"Real Estate Facility Maturity Date" means November 13, 2026.

"Real Estate Security Documents" means the Mortgages and any other documents delivered to the Lender from time to time to encumber the Real Estate Collateral and assign the rents, issues and profits therefrom.

"Reportable Event" means a reportable event (as defined in Section 4043 of ERISA), other than an event for which the 30-day notice requirement under ERISA has been waived in regulations issued by the Pension Benefit Guaranty Corporation.

"Reserves" means reserves in such amounts, and with respect to such matters, as Lender in its Permitted Discretion shall deem necessary or appropriate, against the Borrowing Base, including reserves with respect to (i) sums that Borrower is required to pay (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 under any Section of this Agreement or any other Loan Document, and (ii) amounts owing by Borrower to any Person to the extent secured by a Lien on, or trust over, any of the Collateral, which Lien or trust, in the Permitted Discretion of Lender likely would have a priority superior to the Lender's Liens.

"Revolving Advance" has the meaning given in Section 2.1.

"Revolving Note" means the $80,000,000.00 Revolving Note in favor of the Lender, as the same may be renewed and amended from time to time and all replacements 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, or (d) a Person resident in or determined to be resident in a country, in each case of clauses (a) through (d) that is a target of Sanctions, including a target of any country sanctions program administered and enforced by OFAC.

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

“Sanctions” means individually and collectively, respectively, any and all economic sanctions, trade sanctions, financial sanctions, sectoral sanctions, secondary sanctions, trade embargoes anti-terrorism laws and other sanctions laws, regulations or embargoes, including those imposed, administered or enforced from time to time by: (a) the United States of America, including those administered by OFAC, the U.S. Department of State, the U.S. Department of Commerce, or through any existing or future executive order, (b) the United Nations Security Council, (c) the European Union or any European Union member state, (d) Her Majesty’s Treasury of the United Kingdom, or (d) any other Governmental Authority with jurisdiction over Lender or Borrower or any of its Subsidiaries or Affiliates.

"Security Documents" means this Agreement, the Real Estate Security Documents, and any other document delivered to the Lender from time to time to secure the Obligations.

"Security Interest" has the meaning given in Section 3.1.

“Senior Leverage Ratio” means, with respect to any period, the ratio of (a) the result of (i) all Senior Leverage Ratio Indebtedness of DBM and its Subsidiaries (determined on a consolidated basis in accordance with GAAP) as of the end of such period (it being understood for purposes of calculating the Senior Leverage Ratio, the outstanding amount under this Agreement shall be deemed to be an amount equal to the average outstanding principal balance thereunder for the 30 day period most recently ended), minus (ii) any subordinated Debt of DBM and its Subsidiaries permitted under this Agreement and then outstanding as of the end of such period minus (iii) an amount equal to the lesser of (x) the amount of all unrestricted cash on-hand held by the Loan Parties on such date that is free and clear of all Liens (other than Permitted Specified Liens (as such term is defined in the Term Loan Credit Agreement as set forth in the Term Loan Credit Agreement as of the date hereof (and regardless of whether the Term Loan Credit Agreement is then in effect)) and maintained in deposit accounts in the name of a Loan Party in the United States as of such date, which deposit accounts are subject to control agreements in form and substance reasonably satisfactory to Lender and (y) the Unrestricted Cash Cap Amount (as such term is defined in the Term Loan Credit Agreement as set forth in the Term Loan Credit Agreement as of the date hereof (and regardless of whether the Term Loan Credit Agreement is then in effect)) to (b) Consolidated EBITDA of DBM and its Subsidiaries for such period.

“Senior Leverage Ratio Indebtedness” means indebtedness described in clauses (a), (b), (c), (d), (e) and (f) in the definition of “Indebtedness”, in each case as set forth in

the Term Loan Credit Agreement as of the date hereof (and regardless of whether the Term Loan Credit Agreement is then in effect)).

"Special Account" means a specified cash collateral account maintained by a financial institution acceptable to the Lender in connection with Letters of Credit, as contemplated by Section 2.6.

"Subsidiary" means, with respect to any Person, any corporation of which more than 50% of the outstanding shares of capital stock having general voting power under ordinary circumstances to elect a majority of the board of Directors of such corporation, irrespective of whether or not at the time stock of any other class or classes shall have or might have voting power by reason of the happening of any contingency, is at the time directly or indirectly owned by the Person, by the Person and one or more other Subsidiaries of the Person, or by one or more other Subsidiaries of the Person.

"Supporting Obligations" means, with respect to any Person, all of the Person's supporting obligations, as such term is defined in the UCC, whether now owned or hereafter acquired.

"Swap Agreement" means any agreement between the Borrower or one of its Subsidiaries, the Lender or any affiliate of Lender with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or any Subsidiary shall be a Swap Agreement.

"Swap Obligations" of Borrower means any and all obligations of Borrower and its Subsidiaries, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor), under (a) any and all Swap Agreements, and (b) any and all cancellations, buy backs, reversals, terminations or assignments of any Swap Agreement transaction.

“Term Default” means an “Event of Default” as defined in the Term Loan Credit Agreement.

"Term Loan Agent" means TCW Asset Management Company LLC, as administrative agent and collateral agent under the Term Loan Credit Agreement (and its successors and permitted assigns).

"Term Loan Credit Agreement" means the Financing Agreement, dated as of November 30, 2018, as amended on or prior to the date hereof, by and among DBM, the other Persons party thereto as borrowers, the Term Loan Agent and the Term Loan Lenders.

"Term Loan Indebtedness" means the Indebtedness of the Borrower owing to the Term Loan Agent and the Term Loan Lenders under the Term Loan Credit Agreement.

"Term Loan Lenders" means the lenders from time to time party to the Term Loan Credit Agreement.

"Term Loan" means the term loan made by the Term Loan Lenders under the Term Loan Credit Agreement.

"Term Loan Loan Documents" means, collectively, (a) the Term Loan Credit Agreement and (b) all other agreements, instruments and other documents executed and delivered to the Term Loan Agent and/or any Term Loan Lender pursuant to the foregoing.

"Term Loan Maximum Amount" means the "Maximum Term Principal Obligations" as defined in the Intercreditor Agreement (as in effect on the date hereof or as amended pursuant to an amendment agreed to in writing by the Lender and the Term Loan Agent).

"Term Loan Priority Collateral" means the "Term Priority Collateral" as defined in the Intercreditor Agreement (as in effect on the date hereof or as amended pursuant to an amendment agreed to in writing by the Lender and the Term Loan Agent).

"Termination Date" means the earliest of (i) the Maturity Date, (ii) the date the Borrower terminates the Credit Facility, or (iii) the date the Lender demands payment of the Obligations after an Event of Default pursuant to Section 7.2.

“Test Period” means period of four consecutive fiscal quarters of Borrower (in each case taken as one accounting period).

"UCC" means the Uniform Commercial Code as in effect in the state designated in Section 8.13 as the state whose laws shall govern this Agreement, or in any other state whose laws are held to govern this Agreement, attachment or perfection of Lender’s security interest in the Collateral, or, in each case, any portion hereof or thereof.

"Wells Fargo Bank" means Wells Fargo Bank, National Association, unless the context otherwise requires.

Section 1.2 Other Definitional Terms; Rules of Interpretation. The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP. All terms defined in the UCC and not otherwise defined herein have the meanings assigned to them in the UCC. References to Articles, Sections, subsections, Exhibits, Schedules and the like, are to Articles, Sections and subsections of, or Exhibits or Schedules attached to or a part of, this Agreement unless otherwise expressly provided. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." Defined terms include in the singular number the plural and in the plural number the singular. Reference to any agreement (including the Loan Documents), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof (and, if applicable, in accordance with the terms hereof and the other Loan Documents), except where otherwise explicitly provided, and reference to any promissory note includes any promissory note which is an extension or renewal thereof or a substitute or replacement therefor, Reference to any law, rule, regulation, order, decree, requirement, policy, guideline, directive or interpretation means as amended, modified, codified, replaced or reenacted, in whole or in part, and in effect on the determination date, including rules and regulations promulgated thereunder.

## ARTICLE II

## AMOUNT AND TERMS OF THE CREDIT FACILITY

Section 2.1 Revolving Advances. The Lender agrees, on the terms and subject to the conditions herein set forth, to make advances to the Borrower from time to time from the date all of the conditions set

forth in Section 4.1 are satisfied (the "Funding Date") to the Termination Date (the "Revolving Advances") in an aggregate principal amount at any time outstanding not to exceed the Availability. The Lender shall have no obligation to make a Revolving Advance to the extent the amount of the requested Revolving Advance exceeds Availability.

The Borrower's obligation to pay the Revolving Advances shall be evidenced by the Revolving Note and shall be secured by the Collateral. Within the limits set forth in this Section 2.1, the Borrower may borrow, prepay pursuant to Section 2.12, and reborrow.

Section 2.2 Procedures for Requesting Advances. The Borrower shall comply with the following procedures in requesting Revolving Advances:

(a) ***Time for Requests***. The Borrower shall request each Advance not later than 11:00 a.m., Phoenix, Arizona time (the "Cut-Off Time") on the Banking Day which is the date the Advance is to be made. Each such request shall be effective upon receipt by the Lender, shall be in writing or by telephone or telecopy transmission, to be confirmed in writing by the Borrower if so requested by the Lender, shall be by (i) an Officer of the Borrower; or (ii) a person designated as the Borrower's agent by an Officer of the Borrower in a writing delivered to the Lender; or (iii) a person whom the Lender reasonably believes to be an Officer of the Borrower or such a designated agent. The Borrower shall repay all Advances even if the Lender does not receive such confirmation and even if the person requesting an Advance was not in fact authorized to do so. Any request for an Advance, whether written or telephonic, shall be deemed to be a representation by the Borrower that the conditions set forth in Section 4.2 have been satisfied as of the time of the request.

(b) ***Disbursement***. Upon fulfillment of the applicable conditions set forth in Article IV, the Lender shall disburse the proceeds of the requested Advance by crediting the same to the Borrower's demand deposit account maintained with Wells Fargo Bank unless the Lender and the Borrower shall agree in writing to another manner of disbursement.

Section 2.3

Section 2.3.1 [Intentionally Deleted]

Section 2.3.2 Increased Costs; Capital Adequacy; Funding Exceptions. If a Related Lender (as defined below) determines at any time that its Return (as defined below) has been reduced as a result of any Rule Change, such Lender may so notify the Borrower and require the Borrower, beginning fifteen (15) days after such notice, to pay it the amount necessary to restore its Return to what it would have been had there been no Rule Change. For purposes of this Section 2.3:

(a) "Capital Adequacy Rule" means any law, rule, regulation, guideline, directive, requirement or request regarding capital adequacy, or the interpretation or administration thereof by any governmental or regulatory authority, central bank or comparable agency, whether or not having the force of law, that applies to any Related Lender (as defined below), including rules requiring financial institutions to maintain total capital in amounts based upon percentages of outstanding loans, binding loan commitments and letters of credit. Notwithstanding anything herein to the contrary (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith, and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "Capital Adequacy Rule", regardless of the date enacted, adopted or issued.

(b) "L/C Rule" means any law, rule, regulation, guideline, directive, requirement or request regarding letters of credit, or the interpretation or administration thereof by any governmental or regulatory authority, central bank or comparable agency, whether or not having the force of law, that applies to any Related Lender, including those that impose taxes, duties or other similar charges, or mandate reserves, special deposits or similar requirements against assets of, deposits with or for the account of, or credit extended by any Related Lender, on letters of credit.

(c) "Related Lender" includes (but is not limited to) the Lender, any parent of the Lender, any assignee of any interest of the Lender hereunder and any participant in the Credit Facility.

(d) "Return," for any period, means the percentage determined by dividing (i) the sum of interest and ongoing fees earned by the Related Lender under this Agreement during such period, by (ii) the average capital such Lender is required to maintain during such period as a result of its being a party to this Agreement, as determined by such Lender based upon its total capital requirements and a reasonable attribution formula that takes account of the Capital Adequacy Rules and L/C Rules then in effect, costs of issuing or maintaining any Advance or Letter of Credit and amounts received or receivable under this Agreement or the Notes with respect to any Advance or Letter of Credit. Return may be calculated for each calendar quarter and for the shorter period between the end of a calendar quarter and the date of termination in whole of this Agreement.

(e) "Rule Change" means any change in any Capital Adequacy Rule or L/C Rule occurring after the date of this Agreement, or any change in the interpretation or administration thereof by any governmental or regulatory authority, but the term does not include any changes that at the Funding Date are scheduled to take place under the existing Capital Adequacy Rules or L/C Rules or any increases in the capital that the Lender is required to maintain to the extent that the increases are required due to a regulatory authority's assessment of such Related Lender's financial condition.

The initial notice sent by the Related Lender shall be sent as promptly as practicable after such Lender learns that its Return has been reduced, shall include a demand for payment of the amount necessary to restore such Lender's Return for the quarter in which the notice is sent, and shall state in reasonable detail the cause for the reduction in its Return and its calculation of the amount of such reduction. Thereafter, such Related Lender may send a new notice during each calendar quarter setting forth the calculation of the reduced Return for that quarter and including a demand for payment of the amount necessary to restore its Return for that quarter. The Related Lender's calculation in any such notice shall be conclusive and binding absent demonstrable error.

Section 2.4 Letters of Credit.

(a) The Lender agrees, on the terms and subject to the conditions herein set forth, to cause an Issuer to issue, from the Funding Date to the Termination Date, one or more irrevocable standby or documentary letters of credit (each, a "Letter of Credit") for the Borrower's account by guaranteeing payment of the Borrower's obligations or being a co-applicant. The Lender shall have no obligation to cause an Issuer to issue any Letter of Credit if the face amount of the Letter of Credit to be issued would exceed the lesser of (i) $14,500,000.00 less the Letter of Credit Amount, or (ii) Availability.

Each Letter of Credit, if any, shall be issued pursuant to a separate L/C Application entered into between the Borrower and the Lender for the benefit of the issuer, completed in a manner satisfactory to the Lender and the Issuer. The terms and conditions set forth in each such L/C Application shall supplement the terms and conditions hereof, but if the terms of any

such L/C Application and the terms of this Agreement are inconsistent, the terms hereof shall control.

(b) No Letter of Credit shall be issued with an expiry date later than the Termination Date in effect as of the date of issuance.

(c) Any request to cause an Issuer to issue a Letter of Credit shall be deemed to be a representation by the Borrower that the conditions set forth in Section 4.2 have been satisfied as of the date of the request.

Section 2.5 Special Account. If the Credit Facility is terminated for any reason while any Letter of Credit is outstanding, the Borrower shall thereupon pay the Lender in immediately available funds for deposit in the Special Account an amount equal to the L/C Amount. The Special Account shall be an interest bearing account maintained for the Lender by any financial institution acceptable to the Lender. Any interest earned on amounts deposited in the Special Account shall be credited to the Special Account. The Lender may apply amounts on deposit in the Special Account at any time or from time to time to the Obligations in the Lender's sole discretion. The Borrower may not withdraw any amounts on deposit in the Special Account as long as the Lender maintains a security interest therein. The Lender agrees to transfer any balance in the Special Account to the Borrower when the Lender is required to release its security interest in the Special Account under applicable law.

Section 2.6 Payment of Amounts Drawn Under Letters of Credit; Obligation of Reimbursement. The Borrower acknowledges that the Lender, as co-applicant, will be liable to the Issuer for reimbursement of any and all draws under Letters of Credit and for all other amounts required to be paid under the applicable L/C Application. Accordingly, the Borrower shall pay to the Lender any and all amounts required to be paid under the applicable L/C Application, when and as required to be paid thereby, and the amounts designated below, when and as designated:

(a) The Borrower shall pay to the Lender on the day a draft is honored under any Letter of Credit a sum equal to all amounts drawn under such Letter of Credit plus any and all reasonable charges and expenses that the Issuer or the Lender may pay or incur relative to such draw and the applicable L/C Application, plus interest on all such amounts, charges and expenses as set forth below (the Borrower's obligation to pay all such amounts is herein referred to as the "Obligation of Reimbursement").

(b) Whenever a draft is submitted under a Letter of Credit, the Borrower authorizes the Lender to make a Revolving Advance in the amount of the Obligation of Reimbursement and to apply the proceeds of such Revolving Advance thereto. Such Revolving Advance shall be repayable in accordance with and be treated in all other respects as a Revolving Advance hereunder.

(c) if a draft is submitted under a Letter of Credit when the Borrower is unable, because a Default Period exists or for any other reason, to obtain a Revolving Advance to pay the Obligation of Reimbursement, the Borrower shall pay to the Lender on demand and in immediately available funds, the amount of the Obligation of Reimbursement together with interest, accrued from the date of the draft until payment in full at the Default Rate. Notwithstanding the Borrower's inability to obtain a Revolving Advance for any reason, the Lender is irrevocably authorized, in its sole discretion, to make a Revolving Advance in an amount sufficient to discharge the Obligation of Reimbursement and all accrued but unpaid interest thereon.

(d) The Borrower's obligation to pay any Revolving Advance made under this Section 2.6 shall be evidenced by the Revolving Note and shall bear interest as provided in Section 2.8.

Section 2.7 Obligations Absolute. The Borrower's obligations arising under Section 2.6 shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of Section 2.7, under all circumstances whatsoever, including (without limitation) the following circumstances:

(a) any lack of validity or enforceability of any Letter of Credit or any other agreement or instrument relating to any Letter of Credit (collectively the "Related Documents");

(b) any amendment or waiver of or any consent to departure from all or any of the Related Documents;

(c) the existence of any claim, setoff, defense or other right which the Borrower may have at any time, against any beneficiary or any transferee of any Letter of Credit (or any persons or entities for whom any such beneficiary or any such transferee may be acting), or other person or entity, whether in connection with this Agreement, the transactions contemplated herein or in the Related Documents or any unrelated transactions;

(d) any statement or any other document presented under any Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect whatsoever;

(e) payment by or on behalf of the Issuer under any Letter of Credit against presentation of a draft or certificate which does not strictly comply with the terms of such Letter of Credit; or

(f) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing.

Section 2.8 Interest; Default interest; Participations; Usury.

(a) ***Note***. Except as set forth in subsections (b) and (d), the outstanding principal balance of the Revolving Note and each Revolving Advance shall bear interest at the Floating Rate.

(b) ***Default Interest Rate***. Upon notice to the Borrower from the Lender from time to time, the principal of the Advances outstanding from time to time shall bear interest at the Default Rate, effective as of the first day of the fiscal month during which any Default Period begins through the last day of such Default Period. The Lender's election to charge the Default Rate shall be in its sole discretion and shall not be a waiver of any of its other rights and remedies. The Lender's election to charge interest at the Default Rate for less than the entire period during which the Default Rate may be charged shall not be a waiver of its right to later charge the Default Rate for the entire such period.

(c) ***Participations***. If any Person shall acquire a participation in the Advances or the Obligation of Reimbursement, the Borrower shall be obligated to the Lender to pay the full amount of all interest calculated under this Section 2.8(c), along with all other fees, charges and other amounts due under this Agreement, regardless if such Person elects to accept interest with respect to its participation at a lower rate than that calculated under this Section 2.8, or otherwise elects to accept less than its pro rata share of such fees, charges and other amounts due under this Agreement.

(d) ***Usury***, In any event no rate change shall be put into effect which would result in a rate greater than the highest rate permitted by law. Notwithstanding anything to the contrary contained in any Loan Document, all agreements which either now are or which shall become agreements between the Borrower and the Lender are hereby limited so that in no contingency or event whatsoever shall the total liability for payments in the nature of interest, additional interest, Default Interest, fees payable hereunder, and other charges exceed the applicable limits imposed by any applicable usury laws, if any payments in the nature of interest, additional interest, Default Interest, fees payable hereunder, and other charges made under any Loan Document are held to be in excess of the limits imposed by any applicable usury laws, it will be deemed a mutual mistake and any such amount held to be in excess shall be considered payment of principal hereunder, and the indebtedness evidenced hereby shall be reduced by such amount (or if there is no existing indebtedness, refunded to the Borrower) so that the total liability for payments in the nature of interest, additional interest and other charges shall not exceed the applicable limits imposed by any applicable usury laws, in compliance with the desires of the Borrower and the Lender. All amounts constituting interest will be spread throughout the full term of the indebtedness evidenced hereby in determining whether interest exceeds lawful amounts. The Borrower agrees that the interest rate contracted for herein includes the interest rate set forth in this Section 2.8 plus any other charges or fees set forth herein and costs and expenses incident to this transaction paid by the Borrower to the extent that they are deemed interest under applicable law. This provision shall never be superseded or waived and shall control every other provision of the Loan Documents and all agreements between the Borrower and the Lender, or their successors and assigns.

(e) ***LIBOR Successor Rate***. Notwithstanding anything to the contrary in this Agreement or any other Loan Documents, if Lender determines (which determination shall be conclusive absent manifest error), or the Borrower notifies Lender that Borrower has determined, that:

(i) adequate and reasonable means do not exist for ascertaining LIBOR and such circumstances are unlikely to be temporary;

(ii) the administrator of the Lender's source for LIBOR (the "Screen Rate") or a governmental authority having jurisdiction over Lender has made a public statement identifying a specific date after which LIBOR or the Screen Rate shall no longer be made available, or used for determining the interest rate of loans (such specific date, the "Scheduled Unavailability Date"); or

(iii) syndicated loans currently being executed, or that include language similar to that contained in this Section, are being executed or amended (as applicable) to incorporate or adopt a new benchmark interest rate to replace LIBOR,

then, reasonably promptly after such determination by Lender or receipt by Lender of such notice, as applicable, Lender and Borrower may agree to amend this Agreement to replace Daily Three Month LIBOR with an alternate benchmark rate (including any mathematical or other adjustments to the benchmark (if any) incorporated therein or to the Floating Rate), giving due consideration to any evolving or then existing convention for similar Dollar denominated credit facilities for such alternative benchmarks (any such proposed rate, a "LIBOR Successor Rate"), together with any proposed LIBOR Successor Rate Conforming Changes. If no LIBOR Successor Rate has been determined and the circumstances under clause (e)(i) above exist or the Scheduled Unavailability Date has occurred (as applicable), Lender will promptly so notify Borrower. Thereafter, until any LIBOR Successor Rate

Conforming Changes or amendment pursuant to this Section has occurred, the Floating Rate shall be equal to the Base Rate (as defined below) plus one and one half percent (1.50%). Upon receipt of such notice, Borrower may revoke any pending request for an Advance. Notwithstanding anything else herein, any definition of LIBOR Successor Rate shall provide that in no event shall such LIBOR Successor Rate be less than zero for purposes of this Agreement. As used herein, "Base Rate" means the greater of (a) the Federal Funds Rate plus ½% and (b) the rate of interest announced, from time to time, within Wells Fargo Bank at its principal office in San Francisco as its "prime rate", with the understanding that the "prime rate" is one of Wells Fargo Bank'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 Bank may designate (and, if any such announced rate is below zero, then the rate determined pursuant to this definition shall be deemed to be zero).

Section 2.9 Fees.

(a) ***Fourth Amended and Restated Fee***. The Borrower shall pay to the Lender, on the date hereof, a fully earned, non-refundable, amended, restated and origination fee in the amount of $50,000.00.

(b) **Audit Fees**. The Borrower shall pay the Lender, on demand, reasonable audit fees in connection with any audits or inspections conducted by or on behalf of the Lender of any Collateral or the Borrower's operations or business at the rates established from time to time by the Lender as its audit fees (which fees are currently $125.00 per hour per auditor), together with all actual out-of-pocket costs and expenses reasonably incurred in conducting any such audit or inspection.

(c) ***Letter of Credit Fees***. The Borrower shall pay to the Lender a fee with respect to each Letter of Credit (the "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 2.9(d)) that shall accrue at a rate equal to two percent (2.00%) per annum times the average amount of the L/C Amount during the immediately preceding month; provided that during Default Periods, in the Lender's sole discretion and without waiving any of its other rights and remedies, such Letter of Credit Fee shall increase to five percent (5.00%) per annum times the average amount of the L/C Amount during the immediately preceding month. The foregoing fee shall be in addition to any and all fees, commissions and charges of the Issuer with respect to or in connection with such Letter of Credit.

(d) ***Letter of Credit Fronting Fees***. The Borrower shall pay immediately upon demand to the Lender for the account of the Issuer as non-refundable fees, commissions, and charges: (i) a fronting fee which shall be imposed by the Issuer equal to 0.125% per annum times the average amount of the L/C Amount during the immediately preceding month, plus (ii) any and all other customary commissions, fees and charges then in effect imposed by, and any and all expenses incurred by, the Issuer, or by any adviser, confirming institution or entity or other nominated person, relating to Letters of Credit, at the time of issuance of any Letter of Credit and upon the occurrence of any other activity with respect to any Letter of Credit (including transfers, assignments of proceeds, amendments, drawings, renewals or cancellations).

(e) ***Termination and Line Reduction Fees***. If (i) the Borrower terminates the Credit Facility or reduces the Maximum Line, on a date prior to the Maturity Date for any reason, or (ii) the Lender terminates the Credit Facility prior to the Maturity Date (A) due to the existence of an Event of Default, (B) due to any acceleration of the Obligations, (C) due

to any foreclosure and sale of, or collection of, the Collateral, (D) due to the sale of the Collateral in any insolvency or bankruptcy proceeding, or (E) due to the restructure, reorganization, or compromise of the Obligations by the confirmation of a plan of reorganization or any other plan of compromise, restructure, or arrangement in any insolvency or bankruptcy proceeding, then, in view of the impracticability and extreme difficulty of ascertaining the actual amount of damages to Lender or profits lost by the Lender as a result of such termination or reduction, and by mutual agreement of the parties as to a reasonable estimation and calculation of the lost profits or damages of the Lender, then the Borrower shall pay the Lender as liquidated damages and not as a penalty a termination fee in an amount equal to a percentage of the Maximum Line (or the reduction of the Maximum Line, as the case may be) calculated as follows: (A) two percent (2.0%) if the termination or reduction occurs on or before April 30, 2019; (B) one and a half percent (1.5%) if the termination or reduction occurs after April 30, 2019 but on or before April 30, 2020; and (C) one percent (1.0%) if the termination or reduction occurs after April 30, 2020.

(f) ***Waiver of Termination Fees***. The Borrower will not be required to pay the termination fees otherwise due under subsection (e) if such termination is made because of refinancing by an affiliate of the Lender.

(g) ***Unused Line Fee***. For the purposes of this Section 2.9(g), "Unused Amount" means the Maximum Line reduced by outstanding Revolving Advances. The Borrower agrees to pay to the Lender an unused line fee at the rate of three hundred seventy-five thousandths of one percent (0.375%) per annum on the average daily Unused Amount from the date of this Agreement to and including the Termination Date, due and payable monthly in arrears on the first Banking Day of the month and on the Termination Date.

(h) ***Other Fees***. The Lender may from time to time charge additional fees: (i) for Revolving Advances made and Letters of Credit issued in excess of Availability (which over-advance fees are currently $500 per day when there is no Default Period and $1,000 per day when a Default Period exists, and may be charged for each day that the over-advance exists); (ii) in lieu of imposing interest at the Default Rate during a Default Period; (iii) for wire transfer fees; and (iv) for other fees which are customarily charged by the Lender and are reasonable in amount. Fees charged pursuant to clause (ii) above will not exceed the Default Rate which could be charged because of the Default or Event of Default permitting the fees. Neither the charging nor the payment of over- advance fees shall be deemed to excuse or waive the Borrower's obligation to comply with provisions of Section 2.13 or to waive any Default of the Borrower arising from the Borrower's failure to comply with the provisions of Section 2.13. The Borrower's request for a Revolving Advance in excess of Availability, the issuance of a Letter of Credit in excess of Availability or the Borrower's failure to comply with the provisions of Section 2.13 shall constitute the Borrower's agreement to pay the over-advance fees described in such notice.

(i) ***[Intentionally Deleted]***

(j) ***Real Estate Term Note Prepayment Fee***. Upon the effectiveness of this Agreement, Lender hereby waives payment of the Real Estate 2018 Term Note prepayment fee payable pursuant to Section 2.9(j) of the Third Amended and Restated Credit Agreement.

(k) ***[Intentionally Deleted]***

(l) ***[Intentionally Deleted]***

(m) ***[Intentionally Deleted]***

(n) ***[Intentionally Deleted]***

(o) ***[Intentionally Deleted]***

(p) ***Facility Fee***. The Borrower agrees to pay an annual facility fee in the amount of $100,000.00 on each February 1st. All such amounts shall be paid in full when due regardless of whether they become due in any partial year.

Section 2.10 Time for Interest Payments; Payment on Non-Banking Days; Computation of Interest and Fees.

(a) ***Time For Interest Payments***. Accrued and unpaid interest accruing on Advances shall be due and payable on the first day of each month and on the Termination Date (each an "Interest Payment Date"), or if any such day is not a Banking Day, on the next succeeding Banking Day. Interest will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of advance to the Interest Payment Date. If an Interest Payment Date is not a Banking Day, payment shall be made on the next succeeding Banking Day.

(b) ***Payment on Non-Banking Days***. Whenever any payment to be made hereunder shall be stated to be due on a day which is not a Banking Day, such payment may be made on the next succeeding Banking Day, and such extension of time shall in such case be included in the computation of interest on the Advances or the fees hereunder, as the case may be.

(c) ***Computation of Interest and Fees***. Interest accruing on the outstanding principal balance of the Advances and fees hereunder outstanding from time to time shall be computed on the basis of actual number of days elapsed in a year of 360 days.

Section 2.11 Collateral Account; Application of Payments.

(a) ***Collateral Account***

(i) If the Borrower receives any payments on Accounts or other Collateral (excluding Term Loan Priority Collateral), the Borrower shall deposit such payments into a collateral account maintained with Lender (the “Collateral Account”). In addition, all proceeds of Collateral (excluding Term Loan Priority Collateral) received by Borrower shall be immediately deposited in the Collateral Account. In all such events, until so deposited, the Borrower shall hold all such payments and cash proceeds received by it in trust for and as the property of the Lender and shall not commingle such property with any of its other funds or property. All deposits in the Collateral Account shall constitute proceeds of Collateral and shall not constitute payment of the Obligations.

(ii) All items deposited in the Collateral Account shall be subject to final payment. If any such item is returned uncollected, the Borrower will immediately pay the Lender, or, for items deposited in the Collateral Account, the bank maintaining such account, the amount of that item, or such bank at its discretion may charge any uncollected item to the commercial or other accounts. Borrower shall be liable as an endorser on

all items deposited by it in the Collateral Account, whether or not in fact endorsed by it.

(b) ***Application of Payments***.

(i) If there are funds in the Collateral Account, the Borrower shall, from time to time, cause funds in the Collateral Account to be transferred to the Lender's general account for payment of the Obligations. Except as provided in the preceding sentence, amounts deposited in the Collateral Account shall not be subject to withdrawal by the Borrower, except after full payment and discharge of all Obligations and termination of the Credit Facility.

(ii) All payments to the Lender shall be made in immediately available funds and shall be applied to the Obligations upon receipt by the Lender. Funds received from the Collateral Account shall be deemed to be immediately available. The Lender may hold all payments not constituting immediately available funds for three (3) additional days before applying them to the Obligations.

(c) ***Control Agreements***. Each Loan Party shall establish and maintain control agreements in form reasonably satisfactory to Lender for each of its deposit accounts and securities accounts (excluding deposit accounts and securities accounts with an aggregate amount on deposit therein of not more than $100,000 at any one time for all such deposit accounts or securities accounts or deposit accounts specially and exclusively used for payroll, payroll taxes and other employee wage and benefit payments to or for any Loan Party's employees). Each such control agreement shall provide, among other things, that (i) the bank or securities intermediary will comply with any instructions originated by Lender directing the disposition of the funds in each applicable account without further consent by the applicable Loan Party, (ii) the bank or securities intermediary waives, subordinates, or agrees not to exercise any rights of setoff or recoupment or any other claim against each applicable account other than for payment of its service fees and other charges directly related to the administration of such account and for returned checks or other items of payment, and (iii) with respect to deposit accounts, the bank will forward, by daily sweep, all amounts in each applicable deposit account to the Lender's general account for payment of the Obligations.

Section 2.12 Voluntary Prepayment; Reduction of the Maximum Line; Termination of the Credit Facility by the Borrower. Except as otherwise provided herein, the Borrower may prepay the Advances in whole at any time or from time to time in part. The Borrower may terminate the Credit Facility or reduce the Maximum Line at any time if it (i) gives the Lender at least 30 days' prior written notice and (ii) pays the Lender termination or Maximum Line reduction fees in accordance with Section 2.9(e). Any reduction in the Maximum Line must be in an amount of not less than $500,000.00 or an integral multiple thereof. If the Borrower reduces the Maximum Line to zero, all Obligations shall be immediately due and payable. Subject to termination of the Credit Facility and payment and performance of all Obligations, the Lender shall, at the Borrower's expense, release or terminate the Security Interest and the Security Documents to which the Borrower is entitled by law.

Section 2.13 Mandatory Prepayment. Without notice or demand, if the sum of the outstanding principal balance of the Revolving Advances plus the L/C Amount shall at any time exceed the Borrowing Base, the Borrower shall (i) first, immediately prepay the Revolving Advances to the extent necessary to eliminate such excess; and (ii) if prepayment in full of the Revolving Advances is insufficient to eliminate such excess, pay to the Lender in immediately available funds for deposit in the Special Account an amount equal to the remaining excess. Any payment received by the Lender under this Section 2.13, or under

Section 2.12, may be applied to the Obligations, in such order and in such amounts as the Lender, in its discretion, may from time to time determine.

Section 2.14 Revolving Advances to Pay Obligations. Notwithstanding anything in Section 2.1, the Lender may, in its discretion at any time or from time to time, without the Borrower's request and even if the conditions set forth in Section 4.2 would not be satisfied, make a Revolving Advance in an amount equal to the portion of the Obligations from time to time due and payable.

Section 2.15 Use of Proceeds. The Borrower shall use the proceeds of Advances and each Letter of Credit for ordinary working capital purposes and for any other business purposes determined by Borrower.

Section 2.16 Liability Records. The Lender may maintain from time to time, at its discretion, records as to the Obligations. All entries made on any such record shall be presumed correct until the Borrower establishes the contrary. Upon the Lender's demand, the Borrower will admit and certify in writing the exact principal balance of the Obligations that the Borrower then asserts to be outstanding. Any billing statement or accounting rendered by the Lender shall be conclusive and fully binding on the Borrower unless the Borrower gives the Lender specific written notice of exception within 30 days after receipt.

Section 2.17 Appraisals; Field Examinations; Environmental Site Assessments. Borrower shall reimburse the Lender for Lender's fees, costs and expenses incurred in connection with (a) one appraisal per year which is performed on Inventory (with quarterly updates thereto) and (b) one appraisal per year which is performed on Equipment. Borrower shall reimburse the Lender for Lender’s fees, costs and expenses incurred in connection with one field examination per year, provided however, in the event that Availability is less than the greater of $16,000,000.00 and 20% of the Maximum Line at any time during a fiscal year, Borrower shall reimburse the Lender for Lender’s fees, costs and expenses incurred in connection two field examinations in such fiscal year, or more if the Lender so requires. Borrower shall reimburse the Lenders for Lender’s fees, costs and expenses incurred in connection with any appraisals or field examinations performed during the existence of an Event of Default or Default Period. During the existence of an Event of Default or Default Period, Borrower shall reimburse Lender for any environmental site assessments.

Section 2.18 [Intentionally Deleted]

Section 2.19 [Intentionally Deleted]

Section 2.20 [Intentionally Deleted]

Section 2.21 [Intentionally Deleted]

## ARTICLE III

## SECURITY INTEREST; OCCUPANCY; SETOFF

Section 3.1 Grant of Security Interest. The Borrower (and each Person composing the Borrower) hereby pledges, assigns and grants to the Lender a lien and security interest (collectively referred to as the "Security Interest") in the Collateral, as security for the payment and performance of the Obligations. Notwithstanding anything herein or in any other Loan Document to the contrary, in no event shall the Security Interest attach to, or the term "Collateral" be deemed to include (a) any of the outstanding equity interests in a foreign Subsidiary (i) in excess of 65% of the voting power of all classes of equity interests of such foreign Subsidiary entitled to vote in the election of directors or other similar body of such foreign Subsidiary, or (ii) to the extent that the pledge thereof is prohibited by the laws of the jurisdiction of such foreign Subsidiary's organization; (b) any equity interest in any foreign Subsidiary that is not a first-tier Subsidiary of a Borrower; (c) any lease, license, contract, property rights or agreement to which a Borrower is a party or any of such Borrower's rights or interests thereunder, if, and for so long as and to the extent that, the grant of the security

interest would constitute or result in (i) the abandonment, invalidation or unenforceability of any material right, title or interest of such Borrower therein, or (ii) a breach or termination pursuant to the terms of, or a default under, any such lease, license, contract, property rights or agreement (other than to the extent that any such breach, termination or default would be rendered ineffective pursuant to Section 9-406, 9-407, 9-408 or 9-409 of the Uniform Commercial Code (or any successor provision or provisions) of any relevant jurisdiction, any other applicable law or principles of equity), provided, however, that the security interest (x) shall attach immediately when the condition causing such abandonment, invalidation or unenforceability Is remedies, (y) shall attach immediately to any severable term or such lease, license, contract, property rights or agreement to the extent that such attachment does not result in any of the consequences specified in (i) or (ii) above, and (z) shall attach immediately to any such lease, license, contract, property rights or agreement to which the account debtor or such Borrower's counterparty has consented to such attachment; (d) any equity interest acquired after the date hereof that is an equity interest in an entity other than a Subsidiary of any Borrower, solely to the extent such acquisition is permitted under this Agreement, if the terms of the organizational documents of the issuer of such equity interests do not permit the grant of the security interest in such equity interests by the owner thereof or the applicable Borrower, after employing commercially reasonable efforts, has been unable to obtain any approval or consent to the creation of the security interest therein that is required under such organizational documents; and (e) any application to register any trademark or service mark prior to the filing under applicable law of a verified statement of use (or the equivalent) for such trademark or service mark to the extent the creation of a security interest therein or the grant of a mortgage thereon would void or invalidate such trademark or service mark; provided, however, that this sentence setting forth certain exclusions from the Collateral shall not apply to any assets that are pledged to secure the Term Loan Indebtedness.

Section 3.2 Notification of Account Debtors and Other Obligors. The Lender may at any time during a Default Period notify any account debtor or other person obligated to pay the amount due that such right to payment has been assigned or transferred to the Lender for security and shall be paid directly to the Lender. The Borrower will join in giving such notice if the Lender so requests. At any time after the Borrower or the Lender gives such notice to one of its account debtors or other obligors, the Lender may, but need not, in the Lender's name or in the name of the Borrower, (a) demand, sue for, collect or receive any money or property at any time payable or receivable on account of, or securing, any such right to payment, or grant any extension to, make any compromise or settlement with or otherwise agree to waive, modify, amend or change the obligations (including collateral obligations) of any such account debtor or other obligor; and (b) as the agent and attorney-in-fact of the Borrower, notify the United States Postal Service to change the address for delivery of the mail of the Borrower to any address designated by the Lender, otherwise intercept the mail of the Borrower, and receive, open and dispose of the Borrower's mail, applying all Collateral as permitted under this Agreement and holding all other mail for the Borrower's account or forwarding such mail to the last known address of either the Borrower to whom addressed or DBM Global.

Section 3.3 Assignment of Insurance. As additional security for the payment and performance of the Obligations, the Borrower hereby assigns to the Lender any and all monies (including proceeds of insurance and refunds of unearned premiums) due or to become due under, and all other rights of the Borrower with respect to, any and all policies of insurance now or at any time hereafter covering the Collateral or any evidence thereof or any business records or valuable papers pertaining thereto, and the Borrower hereby directs the issuer of any such policy to pay all such monies directly to the Lender. At any time, whether or not a Default Period then exists, the Lender may (but need not), in the Lender's name or in the Borrower's name, execute and deliver proof of claim, receive all such monies, endorse checks and other instruments representing payment of such monies, and adjust, litigate, compromise or release any claim against the issuer of any such policy.

Section 3.4 Occupancy.

(a) The Borrower hereby irrevocably grants to the Lender the right to take exclusive possession of the Premises at any time during a Default Period.

(b) The Lender may use the Premises only to hold, process, manufacture, sell, use, store, liquidate, realize upon or otherwise dispose of goods that are Collateral and for other purposes that the Lender may in good faith deem to be related or incidental purposes.

(c) The Lender's right to hold the Premises shall cease and terminate upon the earlier of (i) payment in full and discharge of all Obligations and termination of the Credit Facility, and (ii) final sale or disposition of all goods constituting Collateral and delivery of all such goods to purchasers.

(d) The Lender shall not be obligated to pay or account for any rent or other compensation for the possession, occupancy or use of any of the Premises; provided, however, that if the Lender does pay or account for any rent or other compensation for the possession, occupancy or use of any of the Premises, the Borrower shall reimburse the Lender promptly for the full amount thereof. In addition, the Borrower will pay, or reimburse the Lender for, all taxes, fees, duties, imposts, charges and expenses at any time incurred by or imposed upon the Lender by reason of the execution, delivery, existence, recordation, performance or enforcement of this Agreement or the provisions of this Section 3.4.

Section 3.5 License. Without limiting the generality of any other Security Document, the Borrower hereby grants to the Lender a non-exclusive, worldwide and royalty-free license to use or otherwise exploit all Intellectual Property Rights of the Borrower for the purpose of: (a) completing the manufacture of any in-process materials during any Default Period so that such materials become saleable Inventory, all in accordance with the same quality standards previously adopted by the Borrower for its own manufacturing and subject to the Borrower's reasonable exercise of quality control; and (b) selling, leasing or otherwise disposing of any or all Collateral during any Default Period.

Section 3.6 Financing Statement. The Borrower authorizes the Lender to file from time to time where permitted by law, such financing statements against collateral described as "all personal property" or describing specific items of collateral including commercial tort claims as the Lender deems necessary or useful to perfect the Security Interest. A carbon, photographic or other reproduction of this Agreement or of any financing statements signed by the Borrower is sufficient as a financing statement and may be filed as a financing statement in any state to perfect the security interests granted hereby. For this purpose, the following information is set forth: Name and address of each Debtor:

The names, addresses, federal employer identification numbers and organizational identification number of each Debtor are set forth in **Schedule 3.6**

Name and address of Secured Party:

Wells Fargo Bank, NA
100 West Washington Street, 15th Floor
MAC S4101-158
Phoenix, Arizona 85003
Federal Employer Identification No. 41-1712687

Section 3.7 Setoff. The Lender may at any time or from time to time, at its sole discretion and without demand and without notice to anyone, setoff any liability owed to the Borrower by the Lender, whether or not due, against any Obligation, whether or not due. In addition, each other Person holding a participating interest in any Obligations shall have the right to appropriate or setoff any deposit or other liability then owed by such Person to the Borrower, whether or not due, and apply the same to the payment of said participating interest, as fully as if such Person had lent directly to the Borrower the amount of such participating interest.

Section 3.8 Collateral. This Agreement does not contemplate a sale of accounts, contract rights or chattel paper, and, as provided by law, the Borrower is entitled to any surplus and shall remain liable for any deficiency. The Lender's duty of care with respect to Collateral in its possession (as imposed by law)

shall be deemed fulfilled if it exercises reasonable care in physically keeping such Collateral, or in the case of Collateral in the custody or possession of a bailee or other third person, exercises reasonable care in the selection of the bailee or other third person, and the Lender need not otherwise preserve, protect, insure or care for any Collateral. The Lender shall not be obligated to preserve any rights the Borrower may have against prior parties, to realize on the Collateral at all or in any particular manner or order or to apply any cash proceeds of the Collateral in any particular order of application. The Lender has no obligation to clean-up or otherwise prepare the Collateral for sale. The Borrower waives any right it may have to require the Lender to pursue any third person for any of the Obligations.

Section 3.9 Term Loan Loan Documents. Each Loan Party agrees that, in the event any Loan Party, pursuant to any Term Loan Loan Document, takes any action to grant, protect or perfect any security interest in favor of the Term Loan Agent in any assets, such Loan Party shall also take such action to grant, protect or perfect a Lien in favor of the Lender to secure the Obligations without request of the Lender. Upon the Lender's reasonable request, Borrower or its Subsidiaries shall enter into such amendments to this Agreement (including Section 3.1 hereof) or new Loan Documents, as may be reasonably requested by Lender to effect this Section 3.9.

Section 3.10 Legal Name. No Loan Party will change its legal name, organizational identification number, jurisdiction of organization or organizational identity; provided, that any Loan Party may change its legal name upon at least 10 days prior written notice to Lender of such change.

Section 3.11 Intercreditor Agreement. The liens and security interests securing the obligations as evidenced by this Agreement are subject to the provisions of the Intercreditor Agreement dated as of November 30, 2018 (as amended or modified from time to time) by and among Wells Fargo Bank, as ABL Agent and TCW Asset Management Company LLC, as Term Agent. In the event of any conflict between the terms of the Intercreditor Agreement and the terms of the Agreement, the terms of the Intercreditor Agreement shall govern and control.

## ARTICLE IV

## CONDITIONS OF LENDING

Section 4.1 [Intentionally Deleted]

Section 4.2 Conditions Precedent to All Advances and Letters of Credit. The Lender's obligation to make each Advance and to cause each Letter of Credit to be issued shall be subject to the further conditions precedent that:

(a) the representations and warranties contained in Article V are correct on and as of the date of such Advance or issuance of a Letter 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; and

(b) no event has occurred and is continuing, or would result from such Advance or issuance of a Letter of Credit which constitutes a Default or an Event of Default.

Section 4.3 Conditions Precedent to Effectiveness of Fourth Amended and Restated Credit Agreement. This Agreement shall be effective when the Lender shall have received an executed original hereof, together with each of the following, each in substance and form acceptable to the Lender in its sole discretion:

(a) The Revolving Note, duly executed by the Borrower.

(b) The Intercreditor Agreement, duly executed by the parties thereto.

(c) Current searches of appropriate filing offices showing that (i) no Liens have been filed and remain in effect against the Borrower except Permitted Liens or Liens held by Persons who have agreed in writing that upon receipt of proceeds of the initial Advances, they will satisfy, release or terminate such Liens in a manner satisfactory to the Lender, and (ii) the Lender has duly filed all financing statements necessary to perfect the Security Interest, to the extent the Security Interest is capable of being perfected by filing.

(d) A Certificate of the Secretary of the Borrower certifying as to (i) the resolutions of the board of directors of the Borrower approving the execution and delivery of this Agreement, (ii) the fact that the articles of incorporation and bylaws of the Borrower, which were certified and delivered to the Lender pursuant to the Certificate of Authority of the Borrower's secretary continue in full force and effect and have not been amended or otherwise modified except as set forth in the Certificate to be delivered, and (iii) certifying that the officers and agents of the Borrower who have been certified to the Lender, pursuant to the Certificate of Authority of the Borrower's secretary or assistant secretary dated on or about the date hereof.

(e) A current certificate issued by the Secretary of State of incorporation of the Borrower, certifying that such Person is in compliance with all applicable organizational requirements of such State.

(f) Payment in full of the principal and accrued and unpaid interest under the Real Estate 2018 Term Note.

(g) Payment of the fees due under Section 2.9, through the date of this Agreement and expenses incurred by the Lender through such date and required to be paid by the Borrower under Section 8.5, including all legal expenses incurred through the date of this Agreement.

(h) A certificate of the Secretary of the Borrower certifying that (i) the attached copies of all Term Loan Loan Documents as in effect on the Closing Date are true, complete and correct copies thereof and (ii) such agreements remain in full force and effect and that none of the Borrowers has breached or defaulted in any of its obligations under such agreements.

(i) On or prior to the Closing Date, (i) each of the conditions precedent to the obligations of each of the parties to the Term Loan Loan Documents shall have been satisfied or waived in accordance with the terms thereof, (ii) the Term Loan Loan Documents shall have been consummated in all material respects in accordance with all requirements of applicable law and regulations, (iii) there shall be no breach of any material term or condition of the Term Loan Loan Documents, (iv) neither the Borrowers nor any other Person party to the Term Loan Loan Documents shall be in default in the performance or compliance with any of the provisions of the Term Loan Loan Documents, and (v) the Term Loan Loan Documents shall be in full force and effect and not be terminated, rescinded or withdrawn.

(j) Concurrently with the making of the Term Loan, (i) DBM. shall have purchased pursuant to the Graywolf Acquisition Agreement (no provision of which shall have been amended or otherwise modified or waived without the prior written consent of the Term Loan Agent and Lender), and shall have become the owner, free and clear of all Liens other than Permitted Liens, of all of the equity interests and assets contemplated to be purchased thereunder for a Purchase Price (as such term is defined in the Term Loan Credit Agreement) not in excess of $135,000,000, and (ii) DBM Global, Inc., DBM Merger Sub, Inc., CB-Horn

Holdings, Inc. and the Stockholders' Representative (as defined in the Graywolf Acquisition Agreement) shall have fully performed all of the obligations to be performed by it thereunder.

(k) On or prior to the Closing Date, DBM shall have received net cash proceeds of at least $40,000,000 from the Effective Date Preferred Equity Issuance on the terms conditions set forth in the Effective Date Preferred Purchase Agreement which shall be satisfactory to Lender in its sole discretion.

(l) Lender shall have received evidence reasonably satisfactory that Liquidity (calculated on a pro forma basis to give effect to all Advances made, the Term Loan Indebtedness incurred, and the consummation of the transactions under the GrayWolf Acquisition Agreement, on the Closing Date and the payment of all fees, costs and expenses incurred in connection herewith) is not less than $20,000,000.

(m) Lender shall have received evidence of the payment in full of all Indebtedness under the Existing Credit Facilities substantially contemporaneously with the Closing Date, together with (i) a termination and release agreement with respect to the Existing Credit Facilities and all related documents, duly executed by the Loan Parties and the Existing Agents, (ii) a satisfaction of mortgage for each mortgage filed by each Existing Agent on the Real Estate Collateral, (iii) a termination of security interest in Intellectual Property for each assignment for security recorded by the Existing Agents at the United States Patent and Trademark Office or the United States Copyright Office and covering any U.S. Registered Intellectual Property of the Loan Parties, and (iv) UCC-3 termination statements for all UCC-1 financing statements filed by the Existing Agents and covering any portion of the Collateral.

(n) Such other documents as the Lender in its sole discretion may require.

## ARTICLE V

## REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Lender as follows, except as otherwise disclosed in the **Disclosure Schedules** at the end of this Agreement:

Section 5.1 Existence and Power; Name; Chief Executive Office; Inventory and Equipment Locations; Federal Employer Identification Number. Each Person comprising the Borrower is a corporation, or limited liability company, as applicable, duly organized, validly existing and in good standing under the laws of the State specified in **Schedule 1.1 (Borrower**) and is duly licensed or qualified to transact business in all jurisdictions where the character of the property owned or leased or the nature of the business transacted by it makes such licensing or qualification necessary except when failure to be licensed or qualified would not have a material adverse effect on the financial condition, properties or operations of Borrower. The Borrower has all requisite power and authority to conduct its business, to own its properties and to execute and deliver, and to perform all of its obligations under, the Loan Documents. During its existence, the Borrower has not done business except under the names set forth in **Schedule 5.1**. The chief executive office and principal place of business of each Person comprising the Borrower is located at the address set forth in **Schedule 5.1**; all of its records relating to its business or the Collateral given by it are kept at that location set forth in **Schedule 5.1**; and all of its Inventory and Equipment is located at that location or at one of the other locations listed in **Schedule 5.1**. The Borrower's federal employer identification number is correctly set forth in **Schedule 3.6.**

Section 5.2 Authorization of Borrowing; No Conflict as to Law or Agreements. The execution, delivery and performance by the Borrower of the Loan Documents executed by it and the borrowings from time to time hereunder have been duly authorized by all necessary corporate action and do not and will not

(i) require any consent or approval of its Owners; (ii) require any authorization, consent or approval by, or registration, declaration or filing with, or notice to, any governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, or any third party, except such authorization, consent, approval, registration, declaration, filing or notice as has been obtained, accomplished or given prior to the date hereof; (iii) violate any provision of any law, rule or regulation (including Regulation X of the Board of Governors of the Federal Reserve System) or of any order, writ, injunction or decree presently in effect having applicability to the Borrower or of the Borrower's Constituent Documents; (iv) result in a breach of or constitute a default under any indenture or loan or credit agreement or any other material agreement, lease or instrument to which the Borrower is a party or by which it or its properties may be bound or affected; or (v) result in, or require, the creation or imposition of any Lien (other than the Security Interest) upon or with respect to any of the properties now owned or hereafter acquired by the Borrower.

Section 5.3 Legal Agreements. This Agreement constitutes and, upon due execution by the Borrower, the other Loan Documents executed by it will constitute the legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their respective terms.

Section 5.4 Subsidiaries. Except as set forth in the **Schedule 5.4** hereto, the Borrower has no Subsidiaries as of the date hereof.

Section 5.5 Financial Condition; No Adverse Change. The Borrower has furnished to the Lender its audited financial statements for its fiscal year ended December 31, 2016 and unaudited financial statements for the fiscal-year-to-date period ended April 1, 2017 and those statements fairly present in all material respects the financial condition of the Borrower and its Affiliates, on a consolidated basis, on the dates thereof and the results of its operations and cash flows for the periods then ended and were prepared in accordance with generally accepted accounting principles. Since the date of the most recent audited financial statements, there has been no material adverse change in the financial condition, properties or operations of Borrower or any of its Affiliates.

Section 5.6 Litigation. There are no actions, suits or proceedings pending or, to the Borrower's knowledge, threatened against or affecting the Borrower or any of its Subsidiaries or the properties of the Borrower or any of its Subsidiaries before any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, which, if determined adversely to the Borrower or any of its Subsidiaries, could reasonably be expected to have a material adverse effect on the financial condition, properties or operations of the Borrower or any of its Subsidiaries taken as a whole.

Section 5.7 Regulation U. Neither the Borrower nor any of its Subsidiaries is engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System), and no part of the proceeds of any Advance 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.

Section 5.8 Capitalization. **Schedule 5.8** constitutes: (a) a correct and complete list of all Persons holding ownership interests, and/or and having rights to acquire ownership interests which if fully exercised would cause such Person to hold ownership interests, in excess of five percent (5%) of all ownership interests of the Borrower on a fully diluted basis as of the date hereof and (b) an organizational chart showing the ownership structure of all Subsidiaries of the Borrower as of the date hereof.

Section 5.9 Taxes. The Borrower and its Subsidiaries have paid or caused to be paid to the proper authorities when due all federal, state and local taxes required to be withheld by each of them, provided that Borrower shall not be required to pay any such taxes, assessments, charges or claims whose amount, applicability or validity is being contested in good faith by appropriate proceedings and for which proper reserves have been made. The Borrower and its Subsidiaries have filed all federal, state and local tax returns which to the knowledge of the Officers of the Borrower or any Subsidiaries, as the case may be, are required to be filed, and the Borrower and its Subsidiaries have paid or caused to be paid to the respective

taxing authorities all taxes as shown on said returns or on any assessment received by any of them to the extent such taxes have become due, provided that Borrower shall not be required to pay any such taxes, assessments, charges or claims whose amount, applicability or validity is being contested in good faith by appropriate proceedings and for which proper reserves have been made.

Section 5.10 Titles and Liens. The Borrower has good and absolute title to all Collateral given by it free and clear of all Liens other than Permitted Liens. No financing statement naming the Borrower as debtor is on file in any office except to perfect only Permitted Liens.

Section 5.11 Intellectual Property Rights.

(a) ***Owned Intellectual Property***. **Schedule 5.11** is a complete list of all patents, applications for patents, trademarks, applications for trademarks, service marks, applications for service marks, mask works, trade dress and copyrights for which the Borrower or any of its Subsidiaries is the registered owner (the "Owned Intellectual Property"). Except as disclosed on **Schedule 5.11**, (i) each Person identified on **Schedule 5.11** as owning Intellectual Property owns the Owned Intellectual Property free and clear of all restrictions (including covenants not to sue a third party), court orders, injunctions, decrees, writs or Liens, whether by written agreement or otherwise, (ii) no Person other than the Person identified on **Schedule 5.11** as owning Intellectual Property owns or has been granted any right in its Owned Intellectual Proper, (iii) all Owned Intellectual Property is valid, subsisting and enforceable and (iv) each Person identified on **Schedule 5.11** as owning Intellectual Property has taken all commercially reasonable action necessary to maintain and protect its Owned Intellectual Property.

(b) ***Agreements with Employees and Contractors***. Each Person identified on **Schedule 5.11** as owning Intellectual Property has entered into a legally enforceable agreement with each of its employees and subcontractors obligating each such Person to assign to it, without any additional compensation, any Intellectual Property Rights created, discovered or invented by such Person in the course of such Person's employment or engagement with it (except to the extent prohibited by law), and further requiring such Person to cooperate with it, without any additional compensation, in connection with securing and enforcing any Intellectual Property Rights therein; provided, however, that the foregoing shall not apply with respect to employees and subcontractors whose job descriptions are of the type such that no such assignments are reasonably foreseeable.

(c) ***Intellectual Property Rights Licensed from Others*****. Schedule 5.11** is a complete list of all agreements under which the Borrower or any of its Subsidiaries has licensed intellectual Property Rights from another Person ("Licensed Intellectual Property") other than readily available, non-negotiated licenses of computer software and other intellectual property used solely for performing accounting, word processing and similar administrative tasks ("Off- the-shelf Software") and a summary of any ongoing payments the licensee is obligated to make with respect thereto. Except as disclosed on **Schedule 5.11** and in written agreements copies of which have been given to the Lender, the licenses of the Borrower and its Subsidiaries to use the Licensed Intellectual Property are free and clear of all restrictions, Liens, court orders, injunctions, decrees, or writs, whether by written agreement or otherwise. Except as disclosed on **Schedule 5.11**, neither the Borrower nor any of its Subsidiaries is obligated or under any liability whatsoever to make any payments of a material nature by way of royalties, fees or otherwise to any owner of, licensor of, or other claimant to, any Intellectual Property Rights.

(d) ***Other Intellectual Property Needed for Business***. Except for Off-the-shelf Software and as disclosed on **Schedule 5.11**, the Owned Intellectual Property and the Licensed Intellectual Property constitute all Intellectual Property Rights used or necessary to conduct the businesses of the Borrower and its Subsidiaries as they presently conducted or as the Borrower reasonably foresees conducting it.

(e) ***Infringement***. Except as disclosed on **Schedule 5.11**, the Borrower and its Subsidiaries have no knowledge of, and have not received any written claim or notice alleging, any Infringement of another Person's Intellectual Property Rights (Including any written claim that the Borrower or any of its Subsidiaries must license or refrain from using the Intellectual Property Rights of any third party) nor, to the knowledge of the Borrower or any of its Subsidiaries, is there any threatened claim or any reasonable basis for any such claim.

Section 5.12 Plans. Except as disclosed to the Lender in writing prior to the date hereof, neither the Borrower nor any of its ERISA Affiliate (i) maintains or has maintained any Pension Plan, (ii) contributes or has contributed to any Multiemployer Plan or (iii) provides or has provided post-retirement medical or insurance benefits with respect to employees or former employees (other than benefits required under Section 601 of ERISA, Section 4980B of the IRC or applicable state law). Neither the Borrower nor any of its ERISA Affiliate has received any notice or has any knowledge to the effect that it is not in full compliance with any of the requirements of ERISA, the IRC or applicable state law with respect to any Plan. No Reportable Event exists in connection with any Pension Plan. Each Plan which is intended to qualify under the IRC is so qualified, and no fact or circumstance exists which may have an adverse effect on the Plan's tax-qualified status. Neither the Borrower nor any of its ERISA Affiliate has (i) any accumulated funding deficiency (as defined in Section 302 of ERISA and Section 412 of the IRC) under any Plan, whether or not waived, (ii) any liability under Section 4201 or 4243 of ERISA for any withdrawal, partial withdrawal, reorganization or other event under any Multiemployer Plan or (iii) any liability or knowledge of any facts or circumstances which could result in any liability to the Pension Benefit Guaranty Corporation, the Internal Revenue Service, the Department of Labor or any participant in connection with any Plan (other than routine claims for benefits under the Plan).

Section 5.13 Default. The Borrower and its Subsidiaries are in compliance with all provisions of all agreements, instruments, decrees and orders to which they are parties or by which they or their property is bound or affected, the breach or default of which could have a material adverse effect on the financial condition, properties or operations of the Borrower or any of its Subsidiaries taken as a whole.

Section 5.14 Environmental Matters.

(a) To the best knowledge of the Borrower, there are not present in, on or under the Premises any Hazardous Substances in such form or quantity as to create any material liability or obligation for either the Borrower, any of the Borrower's Subsidiaries or the Lender under common law of any jurisdiction or under any Environmental Law, and no Hazardous Substances have ever been stored, buried, spilled, leaked, discharged, emitted or released in, on or under the Premises in such a way as to create any such material liability.

(b) To the best knowledge of the Borrower, neither the Borrower nor any of its Subsidiaries has disposed of Hazardous Substances in such a manner as to create any material liability under any Environmental Law.

(c) There are not and there never have been any requests, claims, notices, investigations, demands, administrative proceedings, hearings or litigation, relating in any way to the Premises, the Borrower or any Subsidiary of the Borrower, alleging material liability under, violation of, or noncompliance with any Environmental Law or any license,

permit or other authorization issued pursuant thereto. To the best knowledge of the Borrower, no such matter is threatened or impending.

(d) To the best knowledge of the Borrower, the businesses of the Borrower and its Subsidiaries are and have in the past always been conducted in all material respects in accordance with all Environmental Laws and all licenses, permits and other authorizations required pursuant to any Environmental Law and necessary for the lawful and efficient operation of such businesses are in the possession of the Person conducting such Business and are in full force and effect. No permit required under any Environmental Law is scheduled to expire within 12 months and there is no threat that any such permit will be withdrawn, terminated, limited or materially changed.

(e) To the best knowledge of the Borrower, the Premises are not and never have been listed on the National Priorities List, the Comprehensive Environmental Response, Compensation and Liability Information System or any similar federal, state or local list, schedule, log, inventory or database.

(f) The Borrower has delivered to Lender all environmental assessments, audits, reports, permits, licenses and other documents describing or relating in any way to the Premises or the businesses of the Borrower and the Subsidiaries of the Persons comprising Borrower.

Section 5.15 Submissions to Lender. All financial and other information provided to the Lender by or on behalf of the Borrower or any of its Subsidiaries in connection with the Borrower's request for the credit facilities contemplated hereby is (i) true and correct in all material respects, (ii) does not omit any material fact necessary to make such information not misleading and, (iii) as to projections, valuations or proforma financial statements, present a good faith opinion as to such projections, valuations and proforma condition and results.

Section 5.16 Financing Statements. The Borrower has authorized the filing of financing statements sufficient when filed to perfect the Security Interest and the other security interests created by the Security Documents. When such financing statements are filed in the offices noted therein, the Lender will have a valid and perfected security interest in all Collateral which is capable of being perfected by filing financing statements. None of the Collateral is or will become a fixture on real estate, unless a sufficient fixture filing is in effect with respect thereto.

Section 5.17 Rights to Payment. Each right to payment and each instrument, document, chattel paper and other agreement constituting or evidencing Collateral is (or, in the case of all future Collateral, will be when arising or issued) the valid, genuine and legally enforceable obligation, subject to no defense, setoff or counterclaim, of the account debtor or other obligor named therein or in the Borrower's records pertaining thereto as being obligated to pay such obligation.

Section 5.18 Patriot Act. To the extent applicable, Borrower 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, as amended) (the “Patriot Act”).

Section 5.19 Investment Company Act. Neither Borrower 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. Neither Borrower 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.

Section 5.20 OFAC; Sanctions; Anti-Corruption Laws; Anti-Money Laundering Laws. Neither Borrower nor any of its Subsidiaries is in violation of any Sanctions. Neither Borrower nor any of its Subsidiaries nor, to the knowledge of Borrower, any director, officer, employee, agent or Affiliate of Borrower 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 Borrower 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 Borrower and its Subsidiaries, and to the knowledge of Borrower, each director, officer, employee, agent and Affiliate of Borrower and each such Subsidiary, is in compliance with all Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws. No proceeds of any Advance made or Letter of Credit issued hereunder will be used to fund any operations in, finance any investments or activities in, or make any payments to, a Sanctioned Person or a Sanctioned Entity, or otherwise used in any manner that would result in a violation of any Sanction, Anti-Corruption Law or Anti-Money Laundering Law by any Person (including Lender, Bank Product Provider, or other individual or entity participating in any transaction).

Section 5.21 Financial Solvency. Both before and after giving effect to all of the transactions contemplated in the Loan Documents, neither the Borrower nor any of its Subsidiaries taken as a whole:

(a) was or will be insolvent, as that term is used and defined in Section 101(32) of the United States Bankruptcy Code and Section 2 of the Uniform Fraudulent Transfer Act;

(b) has unreasonably small capital or is engaged or about to engage in a business or a transaction for which any remaining assets of the Borrower or such Subsidiary are unreasonably small;

(c) by executing, delivering or performing its obligations under the Loan Documents or other documents to which it is a party or by taking any action with respect thereto, intends to, nor believes that it will, incur debts beyond its ability to pay them as they mature;

(d) by executing, delivering or performing its obligations under the Loan Documents or other documents to which it is a party or by taking any action with respect thereto, intends to hinder, delay or defraud either its present or future creditors; and

(e) at this time contemplates filing a petition in bankruptcy or for an arrangement or reorganization or similar proceeding under any law any jurisdiction, nor, to the best knowledge of the Borrower, is the subject of any actual, pending or threatened bankruptcy, insolvency or similar proceedings under any law of any jurisdiction.

## ARTICLE VI

## COVENANTS

So long as the Obligations shall remain unpaid, or the Credit Facility shall remain outstanding, the Borrower will comply with the following requirements, unless the Lender shall otherwise consent in writing:

Section 6.1 Reporting Requirements. The Borrower will deliver, or cause to be delivered, to the Lender each of the following, which shall be in form and detail acceptable to the Lender:

(a) ***Annual Financial Statements***. As soon as available, and in any event within 90 days after the end of each fiscal year of the Borrower, the Borrower will deliver, or cause to be delivered, to the Lender, the Borrower's audited financial statements with the unqualified opinion of independent certified public accountants selected by the Borrower and acceptable to the Lender, which annual financial statements shall include the Borrower's balance sheet as at the end of such fiscal year and the related statements of the Borrower's income, retained earnings and cash flows for the fiscal year then ended, prepared, if the Lender so requests, on a consolidating and consolidated basis to include any Subsidiary of the Borrower, all in reasonable detail and prepared in accordance with GAAP, together with (i) copies of all management letters prepared by such accountants; (ii) a report signed by such accountants stating that in making the investigations necessary for said opinion they obtained no knowledge, except as specifically stated, of any Default or Event of Default and all relevant facts in reasonable detail to evidence, and the computations as to, whether or not the Borrower is in compliance with the Financial Covenants; and (iii) a certificate of the Borrower's chief financial officer stating that such financial statements have been prepared in accordance with GAAP, fairly represent the Borrower's financial position and the results of its operations, and whether or not such officer has knowledge of the occurrence of any Default or Event of Default and, if so, stating in reasonable detail the facts with respect thereto.

(b) ***Monthly Financial Statements***. As soon as available and in any event within 30 days after the end of each month, the Borrower will deliver to the Lender an unaudited/internal balance sheet and statements of income and retained earnings of the Borrower as at the end of and for such month and for the year to date period then ended, prepared, if the Lender so requests, on a consolidating and consolidated basis to include any Subsidiary of the Borrower, in reasonable detail and stating in comparative form the figures for the corresponding date and periods in the previous year, all prepared in accordance with GAAP, subject to year-end audit adjustments; and accompanied by a certificate of the Borrower's chief financial Officer, substantially in the form of **Exhibit B** hereto stating (i) that such financial statements have been prepared in accordance with GAAP, subject to year-end audit adjustments and fairly represent the Borrower's financial position and the results of its operations, (it) whether or not such officer has knowledge of the occurrence of any Default or Event of Default not theretofore reported and remedied and, if so, stating in reasonable detail the facts with respect thereto, and (iii) all relevant facts in reasonable detail to evidence, and the computations as to, whether or not the Borrower is in compliance with the Financial Covenants.

(c) ***Collateral Reports***. Monthly, or more frequently if the Lender so requires, the Borrower shall deliver to the Lender a calculation of the Borrowing Base showing in reasonable detail the respective amounts of Eligible Accounts, Eligible Equipment and Eligible Inventory as of the date of the reporting, provided however, in the event that Availability is less than the greater of $16,000,000.00 and 20% of the Maximum Line, said reporting shall be provided once every other week or more frequently if the Lender so requires, until the date that Availability has equaled or exceeded the greater of $16,000,000.00 and 20% of the Maximum Line for 60 consecutive days.

(d) ***Projections***. At least 30 days before the beginning of each fiscal year of the Borrower, the Borrower will deliver to the Lender the projected balance sheets and income statements for each month of such year, each in reasonable detail, representing the Borrower's good faith projections and certified by the Borrower's chief financial Officer as being the most accurate projections available and identical to the projections used by the Borrower for internal planning purposes, together with a statement of underlying assumptions and such supporting schedules and information as the Lender may in its discretion require.

(e) ***Litigation***. Immediately after the commencement thereof, the Borrower will deliver to the Lender notice in writing of all litigation and of all proceedings before any governmental or regulatory agency affecting the Borrower or any of its Subsidiaries (i) of the type described in Section 5.14(c) or (ii) which seek a monetary recovery against the Borrower in excess of $500,000.00.

(f) ***Defaults***. As promptly as practicable (but in any event not later than five business days) after an Officer of the Borrower obtains knowledge of the occurrence of any Default or Event of Default, the Borrower will deliver to the Lender notice of such occurrence, together with a detailed statement by a responsible Officer of the Borrower of the steps being taken by the Borrower to cure the effect thereof.

(g) ***Plans***. As soon as possible, and in any event within 30 days after the Borrower knows or has reason to know that any Reportable Event with respect to any Pension Plan of the Borrower or any of its Subsidiaries has occurred, the Borrower will deliver to the Lender a statement of the Borrower's chief financial Officer setting forth details as to such Reportable Event and the action which the Borrower or its Subsidiary proposes to take with respect thereto, together with a copy of the notice of such Reportable Event to the Pension Benefit Guaranty Corporation. As soon as possible, and in any event within 10 days after the Borrower or any Subsidiary fails to make any quarterly contribution required with respect to any Pension Plan under Section 412(m) of the IRC, the Borrower will deliver to the Lender a statement of the Borrower's chief financial Officer setting forth details as to such failure and the action which the Borrower or its Subsidiary proposes to take with respect thereto, together with a copy of any notice of such failure required to be provided to the Pension Benefit Guaranty Corporation. As soon as possible, and in any event with 10 days after the Borrower knows or has reason to know that it has or is reasonably expected to have any liability under Section 4201 or 4243 of ERISA for any withdrawal, partial withdrawal, reorganization or other event under any Multiemployer Plan, the Borrower will deliver to the Lender a statement of the Borrower's chief financial Officer setting forth details as to such liability and the action which Borrower proposes to take with respect thereto.

(h) ***Disputes***. Promptly upon knowledge thereof, the Borrower will deliver to the Lender notice of (i) any disputes or claims by the customers of the Borrower or any of its Subsidiaries exceeding $500,000.00 individually or $1,000,000.00 in the aggregate during any fiscal year; (ii) credit memos; and (iii) any goods returned to or recovered by the Borrower.

(i) ***Collateral***. Promptly upon knowledge thereof, the Borrower will deliver to the Lender notice of any loss of or damage (valued in excess of $100,000.00) to any Collateral or of any material adverse change in any Collateral or the prospect of payment thereof.

(j) ***Commercial Tort Claims***. Promptly upon knowledge thereof, the Borrower will deliver to the Lender notice of any commercial tort claims it or any of its Subsidiaries may bring against any Person, including the name and address of each defendant, a summary of the facts, an estimate of the damages of the Borrower or its Subsidiary, copies of any complaint or demand letter submitted by the Borrower or its Subsidiary, and such other information as the Lender may request,

(k) **Intellectual Property**.

(i) The Borrower will give the Lender 10 days prior written notice of the intent of it or any of its Subsidiaries to acquire or dispose of material Intellectual Property Rights (other than transfers permitted under Section 6.17); and upon request, shall provide the Lender with copies of all applicable documents and agreements.

(ii) Promptly upon knowledge thereof, the Borrower will deliver to the Lender notice of (A) any Infringement by others of the Intellectual Property Rights of it or any of its Subsidiaries to acquire material Intellectual Property Rights, (B) claims that the Borrower or any of its Subsidiaries is Infringing another Person's Intellectual Property Rights and (C) any threatened cancellation, termination or material limitation of the Intellectual Property Rights of the Borrower or any of its Subsidiaries.

(iii) Promptly upon receipt, the Borrower will give the Lender copies of all registrations and filings with respect to the Intellectual Property Rights of the Borrower or any of its Subsidiaries.

(l) ***Reports to Owners***. The Borrower will promptly file with the Securities and Exchange Commission copies of all financial statements, reports and proxy statements which the Borrower has sent to its Owners and endeavor to deliver them to the Lender.

(m) ***SEC Filings***. The Borrower will endeavor to deliver to the Lender copies of all regular and periodic reports which the Borrower shall file with the Securities and Exchange Commission or any national securities exchange.

(n) ***Violations of Law***. Promptly upon knowledge thereof, the Borrower will deliver to the Lender notice of the violation of any law, rule or regulation by the Borrower or any of its Subsidiaries, the non-compliance with which could materially and adversely affect the business or financial condition of the Borrower or any of its Subsidiaries.

(o) ***Debt Documents***. Concurrently with the execution, receipt or delivery thereof (but without duplication of any notices provided to Lender under this Agreement), (i) copies of all material notices (including, without limitation, default notices), reports, statements or other material information that any Borrower executes, receives or delivers in connection with any Term Loan Loan Document, and (ii) copies of any amendments, restatements, supplements or other modifications, waivers, consents or forbearances that any Borrower executes, receives or delivers with respect to any Term Loan Loan Document.

(p) ***Other Reports***. From time to time, with reasonable promptness, the Borrower will deliver, or cause to be delivered, to the Lender any and all receivables schedules, collection reports, deposit records, equipment schedules, copies of invoices to account debtors, shipment documents and delivery receipts for goods sold, and such other material, reports, records or information as the Lender may request.

Section 6.2 Financial Covenants.

(a) ***Fixed Charge Coverage Ratio.*** Borrower shall for the Test Period ending immediately prior to the first day of any Covenant Testing Period and for each Test Period ending of the last day of each fiscal quarter occurring thereafter until the end of such Covenant Testing Period (including the last day thereof), maintain a Fixed Charge Coverage Ratio for such Test Period of not less than (i) at all times during the first eighteen (18) months after the Closing date, 1.10 to 1.00, and (ii) after the eighteenth (18th) month after the Closing Date, 1.20 to 1.00.

(b) ***Senior Leverage Ratio***. The Borrower shall not permit the Senior Leverage Ratio for any Test Period for which the last fiscal quarter ends on or about the date set forth below to be greater than the ratio set forth opposite such date:

| Fiscal Quarter End | Senior Leverage Ratio |
|---|---|
| March 31, 2019 | 3.00:1.00 |
| June 30, 2019 | 3.00:1.00 |
| September 30, 2019 | 3.00:1.00 |
| December 31, 2019 | 3.00:1.00 |
| March 31, 2020 | 3.00:1.00 |
| June 30, 2020 | 3.00:1.00 |
| September 30, 2020 | 2.75:1.00 |
| December 31, 2020 | 2.75:1.00 |
| March 31, 2021 | 2.75:1.00 |
| June 30, 2021 | 2.75:1.00 |
| September 30, 2021 | 2.50:1.00 |
| December 31, 2021 | 2.50:1.00 |
| March 31, 2022 | 2.50:1.00 |
| June 30, 2022 | 2.50:1.00 |
| September 30, 2022 and the last day of each fiscal quarter thereafter | 2.25:1.00 |

(c) ***Minimum Monthly Stop Loss***. The Borrower will not permit the Net Loss of Borrower and its Subsidiaries on a consolidated basis to exceed $600,000.00 in the aggregate in any one month or $1,000,000.00 in the aggregate during any two consecutive months during any fiscal year.

Section 6.3 Permitted Liens; Financing Statements.

(a) Neither the Borrower, any of its Subsidiaries, nor any of their ERISA Affiliates will create, incur or suffer to exist any Lien upon or of any of its assets, now owned or hereafter acquired, to secure any indebtedness; excluding, however, from the operation of the foregoing, the following (collectively, "Permitted Liens"):

(i) covenants, restrictions, rights, easements and minor irregularities in title which do not materially interfere with the Borrower's business or operations as presently conducted;

(ii) Liens in existence on the date hereof and listed in **Schedule 6.3** hereto, securing indebtedness for borrowed money permitted under Section 6.4;

(iii) the Security Interest and Liens created by the Security Documents;

(iv) purchase money Liens relating to the acquisition of machinery and equipment not exceeding the lesser of cost or fair market value thereof, not exceeding $50,000.00 for any one purchase or $200,000.00 in the aggregate for the Borrower and its Subsidiaries during any fiscal year, and so long as no Default Period is then in existence and none would exist immediately after such acquisition;

(v) Liens related to precautionary financing statements filed by customers of Borrower or its Subsidiaries describing only materials sold to, and paid for in full by, such customers;

(vi) Liens arising solely by virtue of any statutory or common law provision relating to bankers' liens, rights of set-off or similar rights and remedies as to deposit accounts or other funds maintained with a creditor depository institution;

(vii) Liens imposed by law, such as landlord, carriers', warehousemen's and mechanics' liens and other similar liens arising in the ordinary course of business that secure payment of obligations not more than 60 days past due or that are being contested in good faith by appropriate proceedings and for which adequate reserves have been set aside on its books;

(viii) Liens for taxes, assessments or governmental charges or levies on its property if the same are not at the time delinquent or thereafter can be paid without penalty, or are being contested in good faith and by appropriate proceedings and for which adequate reserves in accordance with GAAP have been set aside on its book;

(ix) attachments, appeal bonds, judgments and other similar Liens, for sums not exceeding $1,000,000.00 arising in connection with court proceedings, provided the execution or other enforcement of such Liens is effectively stayed and the claims secured thereby are being actively contested in good faith and by appropriate proceedings;

(x) Liens on deposits to secure and Borrower’s and its Subsidiaries’ obligations in connection with worker’s compensation, unemployment insurance, old age pensions, or other social security or retirement benefits;

(xi) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(xii) Liens securing the Indebtedness permitted by Section 6.4(i), so long as such Liens are subject to the terms and conditions of the Intercreditor Agreement; and

(xiii) Liens not otherwise permitted by this section so long as neither (i) the aggregate outstanding principal amount of the obligations secured thereby nor (ii) the aggregate fair market value (determined as of the date such Lien is incurred) of the assets subject thereto exceeds $250,000.00 at any one time.

(b) The Borrower will not amend any financing statements in favor of the Lender except as permitted by law. Any authorization by the Lender to any Person to amend financing statements in favor of the Lender shall be in writing.

Section 6.4 Indebtedness. Neither the Borrower nor any of its Subsidiaries will incur, create, assume or permit to exist any indebtedness or liability on account of deposits or advances or any indebtedness for borrowed money or letters of credit issued on behalf of Borrower or any of its Subsidiaries to, or any other indebtedness or liability evidenced by notes, bonds, debentures or similar obligations, except:

(a) indebtedness arising hereunder;

(b) indebtedness in existence on the date hereof and listed in **Schedule 6.4** hereto;

(c) indebtedness associated with trade payables and short term debt incurred in the ordinary course of business;

(d) indebtedness relating to Permitted Liens (other than Term Loan Indebtedness) or composing investments permitted pursuant to Section 6.6;

(e) unsecured indebtedness representing deferred compensation to employees or directors of the Borrower and its Subsidiaries incurred in the ordinary course of business and in an aggregate outstanding amount not to exceed $5,000,000;

(f) indebtedness incurred in the ordinary course of business and owed in respect of any overdrafts and related liabilities arising from treasury, depository and cash management services or in connection with any automated clearing-house transfers of funds;

(g) indebtedness (other than for borrowed money) that may be deemed to exist pursuant to any warranty or contractual service obligations, performance, surety, statutory, appeal, bid, payment (other than payment of indebtedness) or completion of performance guarantees or similar obligations incurred in the ordinary course of business;

(h) indebtedness in respect of workers' compensation claims, payment obligations in connection with health, disability or other types of social security benefits, unemployment or other insurance obligations, reclamation and statutory obligations, in each case in the ordinary course of business;

(i) Term Loan Indebtedness, in an aggregate principal amount not exceeding the Term Loan Maximum Amount, so long as such Indebtedness is subject to the terms and conditions of the Intercreditor Agreement; and

(j) additional indebtedness of the Borrower or any of its Subsidiaries in an aggregate principal amount (for the Borrower and all Subsidiaries) not to exceed $250,000.00 at any one time outstanding.

Section 6.5 Guaranties. Neither the Borrower nor any of its Subsidiaries will permit any of its Subsidiaries to, assume, guarantee, endorse or otherwise become directly or contingently liable in connection with any obligations of any other Person, except:

(a) the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business; and

(b) guaranties, endorsements and other direct or contingent liabilities in connection with the obligations of other Persons, in existence on the date hereof and listed in **Schedule 6.5** hereto.

(c) guaranties incurred in the ordinary course of business with respect to surety and appeal bonds, performance bonds and other similar obligations;

(d) guaranties of the Borrower or any Subsidiary of contractual obligations (other than indebtedness) of the Borrower or any Subsidiary that are not prohibited by this Agreement.

Section 6.6 Investments and Subsidiaries. Neither the Borrower nor any of its Subsidiaries will purchase or hold beneficially any stock or other securities or evidences of indebtedness of, make or permit to exist any loans or advances to, or make any investment or acquire any interest whatsoever in, any other Person, including any partnership or joint venture, except:

(a) investments in direct obligations of the United States of America or any agency or instrumentality thereof whose obligations constitute full faith and credit obligations of the United States of America having a maturity of one year or less, commercial paper issued by U.S. corporations rated "A-1" or "A-2" by Standard & Poors Corporation or "P-1" or "P-2" by Moody's Investors Service or certificates of deposit or bankers' acceptances having a maturity of one year or less issued by members of the Federal Reserve System having deposits in excess of $100,000,000 (which certificates of deposit or bankers' acceptances are fully insured by the Federal Deposit Insurance Corporation);

(b) travel advances or loans to the Officers and employees of the Borrower and its Subsidiaries not exceeding at any one time $ 100,000.00 for the Borrower and its Subsidiaries in the aggregate;

(c) advances in the form of progress payments, prepaid rent not exceeding two (2) months or security deposits;

(d) current investments in the Subsidiaries in existence on the date hereof and listed in **Schedule 5.4** hereto;

(e) extensions of trade credit in the ordinary course of business;

(f) promissory notes or other non-cash consideration received in connection with any dispositions permitted under this Agreement;

(g) investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with, customers and suppliers, in each case in the ordinary course of business;

(h) Investments constituting Permitted Indebtedness;

(i) deposit accounts maintained with any 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;

(j) deposits of cash made in the ordinary course of business to secure performance of operating leases;

(k) addition to investments otherwise expressly permitted by this Section, investments by the Borrower or any of its Subsidiaries in an aggregate amount (valued at cost) not to exceed $250,000.00 during the term of this Agreement;

(l) the Graywolf Acquisition to the extent consummated on the Closing Date in accordance with the Graywolf Acquisition Documents.

If the Borrower forms or acquires in accordance herewith any new Subsidiary, the Borrower will execute a Collateral Security Agreement covering such Subsidiary and will cause such Subsidiary to execute a guaranty of the Obligations in favor of the Lender or, if the Lender elects, join in this Agreement, as a co- borrower; provided, however, that the foregoing requirements shall not apply to any Subsidiary that is a controlled foreign corporation (as that term is defined in the IRC).

Section 6.7 Dividends and Distributions and Other Payment Restrictions.

(a) Except as provided in this Section 6.7, neither the Borrower nor any of its Subsidiaries will declare or pay any dividends (other than dividends payable solely in stock of the Borrower) on any class of its stock or other ownership interests or make any payment on account of the purchase, redemption or other retirement of any such stock or other ownership interests or make any distribution in respect thereof, either directly or indirectly, without the consent of the Lender, which consent may not be unreasonably withheld. So long as Borrower is a "pass-through" tax entity for United States federal income tax purposes, and after first providing such supporting documentation as Lender may reasonably request (including the personal state and federal tax returns (and all related schedules) of each Owner net of any prior year loss carry-forward, Borrower may pay Pass-Through Tax Liabilities. In addition, so long as (i) there is not a then existing Event of Default or Default Period both before and after giving effect to the applicable dividend or distribution, (ii) there is not less than $15,000,000.00 of Average Availability after giving effect to the applicable dividend or distribution, and (iii) there is not less than $15,000,000.00 of Availability immediately prior to and after giving effect to the applicable dividend or distribution, the Borrower may declare and pay dividends and distributions.

(b) Neither the Borrower nor any of its Subsidiaries will, except in connection with refinancing Indebtedness permitted by Section 6.4, optionally prepay, redeem, defease, purchase, or otherwise optionally acquire any Indebtedness of any Loan Party or any of their respective Subsidiaries, other than (i) the Obligations in accordance with this Agreement, (ii) purchase money Indebtedness that is permitted under Section 6.4 or intercompany Indebtedness that is permitted under Section 6.4 and (iii) as permitted under the subordination terms and conditions of any Indebtedness that has been contractually subordinated in right of payment to the Obligations.

Section 6.8 Post-Closing Covenants. Borrower hereby covenants and agrees to the following:

(a) Within thirty (30) days of the Closing Date (or such later date as determined by the Lender in its sole discretion), the Lender shall have received, with respect to the insurance coverage required by Section 6.14, to the extent not delivered to the Lender on or prior to the Closing Date, evidence of such endorsements as to the named insureds

or loss payees, or in the case of business interruption insurance, collateral assignees, thereunder as the Lender may request and providing that the applicable policies may be terminated or cancelled (by the insurer or the insured thereunder) only upon 30 days' (10 days' in the case of non-payment) prior written notice to the Lender and each such named insured or loss payee.

(b) Within sixty (60) days of the Closing Date (or such later date as determined by the Lender in its sole discretion), the Lender shall have received with respect to Real Estate Collateral owned in fee by a Loan Party that is a DBM Entity, to the extent not delivered to the Lender on or prior to the Closing Date, a Mortgage (or amended and restated Mortgage) duly executed by the applicable Loan Party, in recordable form, together with such other Real Estate Deliverables as the Lender may request.

(c) Within forty-five (45) days of the Closing Date (or such later date as determined by the Lender in its sole discretion), the Lender shall have received, to the extent not delivered to the Lender on or prior to the Closing Date, all control agreements with respect to any deposit account, securities account, commodity account, securities entitlement or commodity contract of any Loan Party existing on the Closing Date that, in the reasonable judgment of Lender, is required for the Loan Parties to comply with the Loan Documents, each duly executed by, in addition to the applicable Loan Party, the applicable financial institution.

(d) Within sixty (60) of the Closing Date (or such later date as determined by the Lender in its sole discretion), the Lender shall have received with respect to Real Estate Collateral owned in fee by a Loan Party that is a Graywolf Entity (other than the Real Estate with the address of 3029 S. Suncoast Blvd., Homosassa, FL 34448), to the extent not delivered to the Lender on or prior to the Closing Date, a Mortgage duly executed by the applicable Loan Party, in recordable form, together with such other Real Estate Deliverables as the Lender may request.

(e) Within ninety (90) days of the Closing Date (or such later date as determined by the Lender in its reasonable discretion), the Loan Parties shall have used commercially reasonable efforts to deliver to the Lender shall have received a landlord waiver or a collateral access agreement, as applicable, in form and substance reasonably satisfactory to the Lender, with respect to each of the Material Leases set forth on Schedule III to the Security Agreement (as defined in the Term Loan Credit Agreement), duly executed by each landlord, bailee, warehouseman, or other Person counterparty to such Material Lease, as applicable.

(f) Within one hundred and twenty (120) days of the Closing Date (or such later date as determined by the Lender in its reasonable discretion), the Lender shall have received evidence reasonably satisfactory to it that the Loan Parties have caused Wells Fargo Bank to be the principal depository bank of each Loan Party, including for the maintenance of all operating, collection, disbursement and other deposition accounts and for cash management services. The Loan Parties shall keep Wells Fargo Bank as its principal depository bank during the term of this Agreement.

(g) Within ten (10) days of the Closing Date (or such later date as determined by the Lender in its sole discretion), the Lender shall have received a customary opinion of outside counsel to the Loan Parties, in form and substance reasonably satisfactory to the Lender.

(h) Within ten (10) days of the Closing Date (or such later date as determined by the Lender in its sole discretion), Borrower shall deliver or cause to be delivered to Lender evidence reasonably satisfactory to Lender of the termination of (i) that certain Receivables Purchase Agreement, dated as of May 7, 2015, by and among Inco Services, Inc., a Georgia corporation, JPMorgan Chase Bank, N.A., and the other parties thereto and (ii) that certain UCC-1 filing, filed and recorded on May 13, 2015 at the Georgia Superior Court Clerks' Cooperative Authority with File Number 007-2015-013803 in favor of JPMorgan Chase Bank, N.A.

(i) Within ten (10) days of the Closing Date (or such later date as determined by the Lender in its sole discretion), Borrower shall deliver or cause to be delivered to Lender evidence reasonably satisfactory to Lender of the termination of that certain State Tax Lien Filing in the Commonwealth of Kentucky against Midwest Environmental Inc., Lien No. 20170672, recorded on July 24, 2017 by the Kentucky Division of Unemployment Insurance with Document No. 1598393.

Section 6.9 Books and Records; Inspection and Examination. The Borrower will keep accurate books of record and account (a) pertaining to the Collateral, (b) for itself, and (c) pertaining to its businesses and financial condition and such other matters as the Lender may from time to time request in which true and complete entries will be made in accordance with GAAP and, upon the Lender's request, will permit any officer, employee, attorney or accountant for the Lender to audit, review, make extracts from or copy any and all of its company and financial books and records at all times during ordinary business hours, to send and discuss with account debtors and other obligors requests for verification of amounts owed to it, and to discuss its affairs with any of its Directors, Officers, employees or agents. The Borrower hereby irrevocably authorizes all accountants and third parties to disclose and deliver to Lender, at its expense and the expense of the Borrower, all financial information, books and records, work papers, management reports and other information in their possession regarding it and its Subsidiaries. The Borrower will permit the Lender or its employees, accountants, attorneys or agents, to examine and inspect any Collateral or any of its properties at any time during ordinary business hours and, so long as not Event of Default then exists, upon reasonable advance notice. The Borrower will, and will cause each of its Subsidiaries to, permit Lender and each of its duly authorized representatives or agents to conduct field examinations, appraisals or valuations at such reasonable times and intervals as Lender may designate, at Borrower's expense, subject to the limitations set forth below in Section 2.17

Section 6.10 Account Verification, At any time during the existence of an Event of Default or Default Period, the Lender may at any time and from time to time send or require the Borrower to send requests for verification of accounts or notices of assignment to account debtors and other obligors. At any time during the existence of an Event of Default or Default Period, the Lender may also at any time and from time to time, after notice to the Borrower, telephone account debtors and other obligors to verify accounts.

Section 6.11 Compliance with Laws.

(a) The Borrower and its Subsidiaries will (i) comply with the requirements of applicable laws and regulations, the non-compliance with which would materially and adversely affect their respective businesses or financial condition and (ii) use and keep the Collateral given by it, and require that others use and keep the Collateral given by it, only for lawful purposes, without violation of any federal, state or local law, statute or ordinance.

(b) Without limiting the foregoing undertakings, the Borrower and each of its Subsidiaries will comply in all material respects with all applicable Environmental Laws and obtain and comply with all permits, licenses and similar approvals required by any Environmental Laws, and will not generate, use, transport, treat, store or dispose of any Hazardous Substances in such a manner as to create any material liability or obligation under the common law of any jurisdiction or any Environmental Law.

Section 6.12 Payment of Taxes and Other Claims. The Borrower and its Subsidiaries will pay or discharge when due (a) all taxes, assessments and governmental charges levied or imposed upon it or upon their respective income or profits, upon any of their respective properties (including the Collateral given by them) or upon or against the creation, perfection or continuance of the Security Interest, prior to the date on which penalties attach thereto, (b) all federal, state and local taxes that they are respectively required to be withheld by them, and (c) all lawful claims for labor, materials and supplies which, if unpaid, might by law become a Lien upon any properties of the Borrower or any of its Subsidiaries; provided that neither the Borrower nor any of its Subsidiaries shall be required to pay any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith by appropriate proceedings and for which proper reserves have been made.

Section 6.13 Maintenance of Properties.

(a) The Borrower and its Subsidiaries will keep and maintain, all of their respective property (including the Collateral given by it) and necessary or useful in their respective businesses in good condition, repair and working order (normal wear and tear excepted) and will from time to time replace or repair any worn, defective or broken parts; provided, however, that nothing in this Section 6.13 shall prevent the Borrower or any of its Subsidiaries from discontinuing the operation and maintenance of any of its properties if such discontinuance is, in such Person's judgment, desirable in the conduct of such Person's business and not disadvantageous in any material respect to the Lender. The Borrower and its Subsidiaries will take all commercially reasonable steps necessary to protect and maintain their respective Intellectual Property Rights.

(b) The Borrower will defend the Collateral given by it against all Liens, claims or demands of all other Persons claiming the Collateral or any interest therein. The Borrower will keep all Collateral given by it free and clear of all Liens except Permitted Liens. The Borrower and its Subsidiaries will take all commercially reasonable steps necessary to prosecute any Person Infringing their respective Intellectual Property Rights and to defend themselves against any Person accusing them of Infringing any Person's Intellectual Property Rights.

Section 6.14 Insurance. The Borrower and its Subsidiaries will obtain and maintain, insurance with insurers believed by them to be responsible and reputable, in such amounts and against such risks as may from time to time be reasonably required by the Lender, but in all events in such amounts and against such risks as is usually carried by companies engaged in similar business and owning similar properties in the same general areas in which they operate. Without limiting the generality of the foregoing, the Borrower will at all times maintain business interruption insurance including coverage for force majeure; and the Borrower will at all times keep all tangible Collateral given by it insured against risks of fire (including so-called extended coverage), theft, collision (for Collateral consisting of motor vehicles) and such other risks and in such amounts as the Lender may reasonably request, with any loss payable to the Lender to the extent of its interest, and all policies of such insurance shall contain a lender's loss payable endorsement for the Lender's benefit. All policies of liability insurance required hereunder shall name the Lender as an additional insured. If at any time the area in which any Real Property is located is designated (i) a "flood hazard area" in any Flood Insurance Rate Map published by the Federal Emergency Management Agency (or any successor agency), obtain flood insurance in such total amount as is reasonable and customary for companies engaged in the business of operating supermarkets, and otherwise comply with the National Flood Insurance Program as set forth in the Flood Disaster Protection Act of 1973, as amended from time to time, or (ii) a "Zone 1" area, obtain earthquake insurance in such total amount as is reasonable and customary for companies engaged in the same business as the Borrower.

Section 6.15 Preservation of Existence. Except as permitted hereunder, the Borrower and its Subsidiaries will preserve and maintain their respective existence and their rights, privileges and franchises

necessary or desirable in the normal conduct of their respective business and shall conduct their respective businesses in an orderly, efficient and regular manner.

Section 6.16 Delivery of Instruments, Further Assurances, etc. Upon request by the Lender, the Borrower will promptly deliver to the Lender in pledge all instruments, documents and chattel paper constituting Collateral given by it, duly endorsed or assigned by it.

Section 6.17 Sale or Transfer of Assets; Suspension of Business Operations. Except for transfers among the entities constituting Borrower, neither the Borrower nor any of its Subsidiaries will sell, lease, assign, transfer or otherwise dispose of (i) the stock of any Subsidiary of such Person, (ii) all or a substantial part of its assets, or (iii) any Collateral given by it or any interest therein (whether in one transaction or in a series of transactions) to any other Person other than the sale of Inventory in the ordinary course of business and will not liquidate, dissolve or suspend business operations; provided however, subject to the provisions of Section 6.2(d), the Borrower may replace obsolete or damaged machinery, equipment, fixtures or furniture in the ordinary course of business. Neither the Borrower nor any of its Subsidiaries will transfer any part of its ownership interest in any Intellectual Property Rights or permit any agreement under which it has licensed Licensed Intellectual Property to lapse, except that such Person may transfer such rights or permit such agreements to lapse if it shall have reasonably determined that the applicable Intellectual Property Rights are no longer useful in its business. If the Borrower transfers any Intellectual Property Rights for value, such Person will pay over the proceeds to the Lender for application to the Obligations. Neither the Borrower nor any of its Subsidiaries will and will not permit any of its Subsidiaries to, license any other Person to use any of such Person's Intellectual Property Rights, except that the Borrower and its Subsidiaries may grant licenses in the ordinary course of its business in connection with sales of Inventory or provision of services to its customers.

Section 6.18 Consolidation and Merger; Asset Acquisitions. Except for mergers between entities constituting the Borrower or mergers of a Subsidiary into a Borrower so long as such Borrower is the survivor or such merger, neither the Borrower nor any of its Subsidiaries will consolidate with or merge into any other Person, or permit any other Person to merge into it, or acquire (in a transaction analogous in purpose or effect to a consolidation or merger) all or substantially all the assets of any other Person.

Section 6.19 Sale and Leaseback. Neither the Borrower nor any of its Subsidiaries will enter into any arrangement, directly or indirectly, with any other Person whereby the Borrower or any of its Subsidiaries, as the case may be, shall sell or transfer any real or personal property, whether now owned or hereafter acquired, and then or thereafter rent or lease as lessee such property or any part thereof or any other property which the Person selling or transferring the property intends to use for substantially the same purpose or purposes as the property being sold or transferred.

Section 6.20 Restrictions on Nature of Business. Neither the Borrower nor any of its Subsidiaries will engage in any line of business materially different from that presently engaged in by such Person or purchase, lease or otherwise acquire assets not related to its business.

Section 6.21 Accounting. Neither the Borrower nor any of its Subsidiaries will make any material change in accounting principles other than as required by GAAP. Neither the Borrower nor any of its Subsidiaries will adopt, permit or consent to any change in such Person's fiscal year.

Section 6.22 Discounts, etc. After notice from the Lender, neither the Borrower nor any of its Subsidiaries will grant, any discount, credit or allowance to any customer of the Borrower or the Subsidiary, as the case may be, or accept any return of goods sold. Neither the Borrower nor any of its Subsidiaries will modify, amend, subordinate, cancel or terminate, the obligation of any account debtor or other obligor of the Borrower or the Subsidiary, as the case may be.

Section 6.23 Plans. Unless disclosed to the Lender pursuant to Section 5.12, neither the Borrower nor any ERISA Affiliate will (i) adopt, create, assume or become a party to any Pension Plan, (ii)

incur any obligation to contribute to any Multiemployer Plan, (iii) incur any obligation to provide post-retirement medical or insurance benefits with respect to employees or former employees (other than benefits required by law) or (iv) amend any Plan in a manner that would materially increase its funding obligations.

Section 6.24 Place of Business; Name. Neither the Borrower nor any of its Subsidiaries will transfer its chief executive office or principal place of business, or move, relocate, close or sell any business location. The Borrower will not permit any tangible Collateral or any records pertaining to the Collateral to be located in any state or area in which, in the event of such location, a financing statement covering such Collateral would be required to be, but has not in fact been, filed in order to perfect the Security Interest. The Borrower will not change its name or jurisdiction of organization without providing at least 20 days prior written notice of such name change.

Section 6.25 Constituent Documents and Other Documents. The Borrower will not (i) amend its Constituent Documents in any manner materially adverse to Lender and (ii) amend, modify or otherwise change (or permit the amendment, modification or other change in any manner of) any of the provisions of the Term Loan Indebtedness or of any instrument or agreement (including, without limitation, any purchase agreement, indenture, loan agreement or security agreement) relating to any such Indebtedness, if such amendment, modification or change would be prohibited by the terms of the Intercreditor Agreement.

Section 6.26 Performance by the Lender. If an Event of Default occurs due to Borrower's failure to perform or observe any of the foregoing covenants contained in this Article VI or elsewhere herein, and if such Event of Default shall continue for a period of ten calendar days after the Lender gives the Borrower written notice thereof, the Lender may, but need not, perform or observe such covenant on behalf and in the name, place and stead of the Borrower (or, at the Lender's option, in the Lender's name) and may, but need not, take any and all other actions which the Lender may reasonably deem necessary to cure or correct such failure (including the payment of taxes, the satisfaction of Liens, the performance of obligations owed to account debtors or other obligors, the procurement and maintenance of insurance, the execution of assignments, security agreements and financing statements, and the endorsement of instruments); and the Borrower shall thereupon pay to the Lender on demand the amount of all monies expended and all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by the Lender in connection with or as a result of the performance or observance of such agreements or the taking of such action by the Lender, together with interest thereon from the date expended or incurred at the Default Rate. To facilitate the Lender's performance or observance of such covenants of the Borrower, the Borrower hereby irrevocably appoints the Lender, or the Lender's delegate, after the occurrence and during the continuance of an Event of Default, acting alone, as the Borrower's attorney in fact (which appointment is coupled with an interest) with the right (but not the duty) from time to time to create, prepare, complete, execute, deliver, endorse or file in the name and on behalf of the Borrower any and all instruments, documents, assignments, security agreements, financing statements, applications for insurance and other agreements and writings required to be obtained, executed, delivered or endorsed by the Borrower under this Section 6.26.

Section 6.27 Transactions with Affiliates. Neither the Borrower nor any of its Subsidiaries will engage in any transaction with any of such Person's Affiliates, except (a) for reasonable allocations of overhead to such Affiliate; (b) in the ordinary course of business, pursuant to the reasonable requirements of such Person's business, upon fair and reasonable terms no less favorable to such Person than such Person would obtain in a comparable arms' length transaction, and with the obligations owing to the Affiliate fully subordinated to the Obligations pursuant to a subordination agreement executed by the Affiliate and the Lender in form and substance satisfactory to the Lender; and the transactions described in **Schedule 6.27.**

Section 6.28 Proceeds of Sale, Loss, Destruction or Condemnation of Collateral. Except as provided in Section 6.17, if the Borrower or any of its Subsidiaries sells any of the Collateral or if any of the Collateral is lost or destroyed or taken by condemnation, the Borrower shall, unless otherwise agreed by Lender or unless constituting proceeds of Term Loan Priority Collateral, pay to Lender as and when received by the Borrower or such Subsidiary and as a mandatory reduction of the outstanding principal balance of the Revolving Advances, a sum equal to the proceeds (including insurance payments but net of reasonable

costs and taxes incurred in connection with such sale or event) received by the Borrower or such Subsidiary from such sale, loss, destruction or condemnation. Notwithstanding the foregoing, if the proceeds of insurance (net of reasonable costs and taxes incurred) with respect to any loss or destruction of Equipment or Inventory (i) are less than $1,000,000.00, unless an Event of Default or Default Period is then in existence, the Lender shall remit such proceeds to the Borrower for use in replacing or repairing the damaged Collateral, or (ii) are equal to or greater than $1,000,000.00 and the Borrower has requested that the Lender agree to permit the Borrower or the applicable Subsidiary to repair or replace the damaged Collateral, such amounts may, with the consent of the Lender, be remitted to the Borrower to permit such repair or replacement under this clause (ii); provided that such amounts shall remain deposited at all times in the Collateral Account and, to the extent the Borrower or its respective Subsidiary has not used such amounts to repair or replace such damaged Collateral within one-hundred eighty (180) days after the Borrower's receipt thereof, such amounts shall be paid to the Lender for application to the outstanding principal balance of the Revolving Advances.

Section 6.29 OFAC; Sanctions; Anti-Corruption Laws; Anti-Money Laundering Laws. Borrower will, and will cause each of its Subsidiaries to comply with all applicable Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws. Each of Borrower and its Subsidiaries shall implement and maintain in effect policies and procedures designed to ensure compliance by Borrower and its Subsidiaries and their respective directors, officers, employees, agents and Affiliates with all Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws. Borrower shall and shall cause its Subsidiaries to comply with all Sanctions, Anti-Corruption Laws and Anti-Money Laundering Laws.

Section 6.30 Immaterial Subsidiaries. Borrower will not permit the Immaterial Subsidiaries to (a) own any assets (other than assets of a *de minimis* nature), (b) have any liabilities (other than liabilities of a *de minimis* nature), or (c) engage in any business activity.

Section 6.31 Credit Enhancements. If the Term Loan Agent or any holder of the Term Loan Indebtedness receives any additional guaranty, letter of credit, or any other credit enhancement after the Closing Date from any Borrower or any of its Subsidiaries, Borrower shall cause the same to be granted to the Lender and upon the Lender's reasonable request, Borrower or its Subsidiaries shall enter into such amendments to this Agreement (including Section 3.1 hereof) or new Loan Documents, as may be reasonably requested by Lender to effect this Section 6.31.

## ARTICLE VII

### EVENTS OF DEFAULT, RIGHTS AND REMEDIES

Section 7.1 Events of Default. "Event of Default," wherever used herein, means any one of the following events:

(a) Default in the payment of any Obligations when they become due and payable and the continuation of such default for three (3) business days;

(b) Default in the performance, or breach, of any covenant or agreement of the Borrower contained in this Agreement, except the covenants and agreements described in Section 7.1(a) or 7.1(d);

(c) A Change of Control shall occur;

(d) A Default in the performance, or breach of any covenant or agreement of the Borrower in (i) Section 6.9 or 6.15 which is not cured within ten (10) days after the Lender gives the Borrower notice of such default, or (ii) Sections 6.10-6.13 (inclusive) or 6.16 which is not cured within thirty (30) days after the Lender gives the Borrower notice of such default; provided that, in each case, no notice or cure period shall be applicable with respect to the

third and subsequent defaults in respect of the same provisions of this Agreement during the same fiscal year of the Borrower;

(e) The Borrower, any of its Subsidiaries or any Guarantor shall be or become insolvent, or admit in writing its or his inability to pay its or his debts as they mature, or make an assignment for the benefit of creditors; or the Borrower, any of its Subsidiaries or any Guarantor shall apply for or consent to the appointment of any receiver, trustee, or similar officer for it or him or for all or any substantial part of its or his property; or such receiver, trustee or similar officer shall be appointed without the application or consent of the Borrower, any of its Subsidiaries or such Guarantor, as the case may be; or the Borrower, any of its Subsidiaries or any Guarantor shall institute (by petition, application, answer, consent or otherwise) any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, liquidation or similar proceeding relating to it or him under the laws of any jurisdiction; or any such proceeding shall be instituted (by petition, application or otherwise) against the Borrower, any of its Subsidiaries or any such Guarantor; or any judgment, writ, warrant of attachment or execution or similar process shall be issued or levied against a substantial part of the property of the Borrower, any of its Subsidiaries or any Guarantor;

(f) A petition shall be filed by or against the Borrower, any of its Subsidiaries or any Guarantor under the United States Bankruptcy Code naming the Borrower, any of its Subsidiaries or such Guarantor as debtor; provided, however, that in the case of a filing of a petition against a Person, if the Person has commenced controverting such petition within thirty (30) days after the filing of the petition and is diligently continuing to controvert the petition, the Lender's remedy shall be limited to ceasing to make Revolving Advances and to ceasing to cause Letters of Credit to be issued until the earlier (the "Full Remedies Date") of the date ninety (90) days after the filing of the petition or the date an order for relief is entered against the Person;

(g) Any representation or warranty made by the Borrower in this Agreement, by any Guarantor in any guaranty delivered to the Lender, or by the Borrower (or any of its Officers) or any Guarantor in any agreement, certificate, instrument or financial statement or other statement contemplated by or made or delivered pursuant to or in connection with this Agreement or any such guaranty shall prove to have been incorrect in any material respect when deemed to be effective;

(h) The rendering against the Borrower or any of its Subsidiaries or any Guarantor of an arbitration award, final judgment, decree or order for the payment of money, which when aggregated with all other such awards, judgments, decrees and orders against the Borrower and its Subsidiaries or any Guarantor, exceeds the sum of $1,000,000.00 in excess of any insurance coverage plus any reserves made for such awards, judgments, decrees and orders, and the continuance of such award, judgment, decree or order unsatisfied and in effect for any period of 30 consecutive days without a stay of execution;

(i) If there is a default in one or more agreements to which the Borrower, any Guarantor, or any of their respective Subsidiaries is a party with one or more third Persons relative to any such Person’s indebtedness 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 Borrower’s, such Guarantor’s, or such Subsidiary’s obligations thereunder;

(j) Any Reportable Event, which the Lender determines in good faith might constitute grounds for the termination of any Pension Plan of the Borrower or any of its Subsidiaries or for the appointment by the appropriate United States District Court of a trustee to administer any Pension Plan, shall have occurred and be continuing 30 days after

written notice to such effect shall have been given to the Borrower by the Lender; or a trustee shall have been appointed by an appropriate United States District Court to administer any Pension Plan of the Borrower or any of its Subsidiaries; or the Pension Benefit Guaranty Corporation shall have instituted proceedings to terminate any Pension Plan of the Borrower or any of its Subsidiaries or to appoint a trustee to administer any Pension Plan of the Borrower or any of its Subsidiaries; or the Borrower, any of its Subsidiaries or any of their ERISA Affiliates shall have filed for a distress termination of any Pension Plan under Title IV of ERISA; or the Borrower, any of its Subsidiaries or any of their ERISA Affiliates shall have failed to make any quarterly contribution required with respect to any Pension Plan under Section 412(m) of the IRC, which the Lender determines in good faith may by itself, or in combination with any such failures that the Lender may determine are likely to occur in the future, result in the imposition of a Lien on the assets of the Borrower or any of its Affiliates in favor of the Pension Plan; or any withdrawal, partial withdrawal, reorganization or other event occurs with respect to a Multiemployer Plan which results or could reasonably be expected to result in a material liability of the Borrower or any of its Subsidiaries to the Multiemployer Plan under Title IV of ERISA,

(k) An event of default shall occur under any Security Document;

(l) Except as expressly permitted hereunder, the Borrower or any of its Subsidiaries shall liquidate, dissolve, terminate or suspend its business operations or otherwise fail to operate its business in the ordinary course, or sell or attempt to sell all or substantially all of its assets, without the Lender's prior written consent;

(m) A Term Default shall have occurred and be continuing; provided that if a Term Default occurs at a time when no Advances have been outstanding for a period of thirty (30) consecutive days, then an Event of Default shall not arise under this Agreement until such Term Default has been continuing for thirty (30) days;

(n) Any Guarantor or person signing a support agreement in favor of the Lender shall repudiate, purport to revoke or fail to perform his obligations under his guaranty or support agreement in favor of the Lender, or any other Guarantor shall cease to exist;

(o) Any material adverse change in the business or financial condition of the Borrower (taken as a whole) shall occur; or

(p) [Intentionally Deleted]

(q) [Intentionally Deleted]

(r) [Intentionally Deleted]

Section 7.2 Rights and Remedies. During any Default Period, the Lender may exercise any or all of the following rights and remedies:

(a) the Lender may, by notice to the Borrower, declare the Commitment to be terminated, whereupon the same shall forthwith terminate;

(b) the Lender may, by notice to the Borrower (the "Actual Acceleration Notice"), declare the Obligations to be forthwith due and payable, whereupon all Obligations shall become and be forthwith due and payable, without demand, presentment, protest, or other notice of any kind (including, without limitation, notice of dishonor, notice of default, and notice of intent to accelerate the maturity of the Obligation), all of which the Borrower waives except for the Actual Acceleration Notice;

(c) the Lender may, without notice to the Borrower and without further action, apply any and all money owing by the Lender to the Borrower to the payment of the Obligations;

(d) the Lender may exercise and enforce any and all rights and remedies available upon default to a secured party under the UCC, including the right to take possession of Collateral, or any evidence thereof, proceeding without judicial process or by judicial process (without a prior hearing or notice thereof, which the Borrower hereby expressly waives) and the right to sell, lease or otherwise dispose of any or all of the Collateral (with or without giving any warranties as to the Collateral, title to the Collateral or similar warranties), and, in connection therewith, the Borrower will on demand assemble the Collateral given by and make it available to the Lender at a place to be designated by the Lender which is reasonably convenient to both parties;

(e) the Lender may make demand upon the Borrower and, forthwith upon such demand, the Borrower will pay to the Lender in immediately available funds for deposit in the Special Account pursuant to Section 2.5, an amount equal to the aggregate maximum amount available to be drawn under all Letters of Credit then outstanding, assuming compliance with all conditions for drawing thereunder;

(f) the Lender may exercise and enforce its rights and remedies under the Loan Documents; and

(g) the Lender may exercise any other rights and remedies available to it by law or agreement.

Notwithstanding the foregoing or anything to the contrary in any of the other Loan Documents, upon the occurrence of an Event of Default described in subsections (e) or (f) of Section 7.1, the Obligations shall be immediately due and payable automatically without presentment, demand, protest or notice of any kind; provided, however, that in the case of an involuntary petition resulting in an Event of Default under subsection (f) of Section 7.1, the Obligations shall be immediately due and payable automatically on the Full Remedies Date without demand, presentment, protest, or notice of any kind (including, without limitation, notice of dishonor, notice of default, notice of intent to accelerate the maturity of the Obligation and actual notice of acceleration), all of which the Borrower waives without presentment, demand, protest or notice of any kind. If the Lender sells any of the Collateral on credit, the Obligations will be reduced only to the extent of payments actually received. If the purchaser fails to pay for the Collateral, the Lender may resell the Collateral and shall apply any proceeds actually received to the Obligations.

Section 7.3 Certain Notices. If notice to the Borrower of any intended disposition of Collateral or any other intended action is required by law in a particular instance, such notice shall be deemed commercially reasonable if given (in the manner specified in Section 8.3) at least ten calendar days before the date of intended disposition or other action.

## ARTICLE VIII

## MISCELLANEOUS

Section 8.1 No Waiver; Cumulative Remedies; Compliance with Laws. No failure or delay by the Lender in exercising any right, power or remedy under the Loan Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy under the Loan Documents. The remedies provided in the Loan Documents are cumulative and not exclusive of any remedies provided by law. The Lender may comply with any applicable state or federal law requirements in connection with a

disposition of the Collateral and such compliance will not be considered adversely to affect the commercial reasonableness of any sale of the Collateral.

Section 8.2 Amendments, Etc. No amendment, modification, termination or waiver of any provision, of any Loan Document or consent to any departure by the Borrower therefrom or any release of a Security Interest shall be effective unless the same shall be in writing and signed by the Lender, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No notice to or demand on the Borrower in any case shall entitle such Person or any other Person to any other or further notice or demand in similar or other circumstances.

Section 8.3 Addresses for Notices; Requests for Accounting. Except as otherwise expressly provided herein, all notices, requests, demands and other communications provided for under the Loan Documents shall be in writing and shall be (a) personally delivered, (b) sent by first class United States mail, (c) sent by overnight courier of national reputation, or (d) transmitted by telecopy, in each case addressed or telecopied to the party to whom notice is being given at its address or telecopier number as set forth below next to its signature or, as to each party, at such other address or telecopier number as may hereafter be designated by such party in a written notice to the other party complying as to delivery with the terms of this Section. All such notices, requests, demands and other communications shall be deemed to have been given on (a) the date received if personally delivered, (b) when deposited in the mail if delivered by mail, (c) the date sent if sent by overnight courier, or (d) the date of transmission if delivered by telecopy, except that notices or requests to the Lender pursuant to any of the provisions of Article II shall not be effective until received by the Lender. All requests under Section 9-210 of the UCC (i) shall be made in a writing signed by a person authorized under Section 2.2(b), (ii) shall be personally delivered, sent by registered or certified mail, return receipt requested, or by overnight courier of national reputation (iii) shall be deemed to be sent when received by the Lender and (iv) shall otherwise comply with the requirements of Section 9-210. The Borrower requests that the Lender respond to all such requests which on their face appear to come from an authorized individual and releases the Lender from any liability for so responding. The Borrower shall pay Lender the maximum amount allowed by law for responding to such requests.

Section 8.4 Further Documents. The Borrower will from time to time execute and deliver or endorse any and all instruments, documents, conveyances, assignments, security agreements, mortgages, deeds of trust, financing statements, control agreements and other agreements and writings that the Lender may reasonably request in order to secure, protect, perfect or enforce the Security Interest or the Lender's rights under the Loan Documents (but any failure to request or assure that the Borrower executes, delivers or endorses any such item shall not affect or impair the validity, sufficiency or enforceability of the Loan Documents and the Security Interest, regardless of whether any such item was or was not executed, delivered or endorsed in a similar context or on a prior occasion).

Section 8.5 Costs and Expenses. The Borrower shall pay on demand all costs and expenses, including reasonable attorneys' fees, incurred by the Lender or its Affiliates in connection with the Obligations, this Agreement, the Loan Documents, any Letter of Credit and any other document or agreement related hereto or thereto, and the transactions contemplated hereby, including all such costs, expenses and fees incurred in connection with the negotiation, preparation, execution, amendment, administration, performance, collection and enforcement of the Obligations and all such documents and agreements and the creation, perfection, protection, satisfaction, foreclosure or enforcement of the Security Interest.

Section 8.6 Indemnity. In addition to the payment of expenses pursuant to Section 8.5, the Borrower shall indemnify, defend and hold harmless the Lender, and any of its participants, parent corporations, subsidiary corporations, affiliated corporations, successor corporations, and all present and future officers, directors, employees, attorneys and agents of the foregoing (the ''Indemnitees") from and against any of the following (collectively, "indemnified Liabilities"):

(i) any and all transfer taxes, documentary taxes, assessments or charges made by any governmental authority by reason of the execution and delivery of the Loan Documents or the making of the Advances;

(ii) any claims, loss or damage to which any Indemnitee may be subjected if any representation or warranty contained in Section 5.14 proves to be incorrect in any respect or as a result of any violation of the covenant contained in Section 6.11(b); and

(iii) except to the extent arising from judgments in favor of the Borrower against the Lender on account of the Lender's breach of its obligations under this Agreement, any and all other liabilities, losses, damages, penalties, judgments, suits, claims, costs and expenses of any kind or nature whatsoever (including the reasonable fees and disbursements of counsel) in connection with the foregoing and any other investigative, administrative or judicial proceedings, whether or not such indemnitee shall be designated a party thereto, which may be imposed on, incurred by or asserted against any such Indemnitee, in any manner related to or arising out of or in connection with the making of the Advances and the Loan Documents or the use or intended use of the proceeds of the Advances.

If any investigative, judicial or administrative proceeding arising from any of the foregoing is brought against any Indemnitee, upon such Indemnitee's request, the Borrower, or counsel designated by the Borrower and satisfactory to the Indemnitee, will resist and defend such action, suit or proceeding to the extent and in the manner directed by the Indemnitee, at the Borrower's sole costs and expense. Each Indemnitee will use its best efforts to cooperate in the defense of any such action, suit or proceeding. If the foregoing undertaking to indemnify, defend and hold harmless may be held to be unenforceable because it violates any law or public policy, the Borrower shall nevertheless make the maximum contribution to the payment and satisfaction of each of the Indemnified Liabilities which is permissible under applicable law. The Borrower's obligation under this Section 8.6 shall survive the termination of this Agreement and the discharge of the Borrower's other obligations hereunder.

Section 8.7 Participants. The Lender and its participants, if any, are not partners or joint venturers, and the Lender shall not have any liability or responsibility for any obligation, act or omission of any of its participants. All rights and powers specifically conferred upon the Lender may be transferred or delegated to any of the Lender's participants, successors or assigns.

Section 8.8 Execution in Counterparts; Electronic Transmission. This Agreement and other Loan Documents may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same instrument. Delivery of an executed counterpart of this Agreement by telefacsimile or electronic 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 electronic 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.

Section 8.9 Retention of Borrower's Records. The Lender shall have no obligation to maintain any electronic records or any documents, schedules, invoices, agings, or other papers delivered to the Lender by the Borrower or in connection with the Loan Documents for more than four months after receipt by the Lender.

Section 8.10 Binding Effect; Assignment; Complete Agreement; Exchanging information. The Loan Documents shall be binding upon and inure to the benefit of the Borrower and the Lender and their respective successors and assigns, except that the Borrower shall not have the right to assign its rights thereunder or any interest therein without the Lender's prior written consent. To the extent permitted by law, the Borrower waives and will not assert against any assignee any claims, defenses or set-offs which the Borrower could assert against the Lender. This Agreement shall also bind all Persons who become a party to this Agreement as a borrower. THIS AGREEMENT, TOGETHER WITH THE LOAN DOCUMENTS, COMPRISES THE COMPLETE AND INTEGRATED AGREEMENT OF THE PARTIES ON THE SUBJECT MATTER THEREOF AND SUPERSEDES ALL PRIOR AGREEMENTS, WRITTEN OR ORAL, ON THE SUBJECT MATTER THEREOF; AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS BETWEEN THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. Without limiting the Lender's right to share information regarding the Borrower and its Affiliates with the Lender's participants, accountants, participant's accountants, lawyers, participant's lawyers and Lender's and participant's other advisors, the Lender, Wells Fargo & Company, and all direct and indirect subsidiaries of Wells Fargo & Company, may exchange any and all information they may have in their possession regarding the Borrower and its Affiliates, and the Borrower waives any right of confidentiality it may have with respect to such exchange of such information.

Section 8.11 Severability of Provisions. Any provision of this Agreement which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

Section 8.12 Headings. Article, Section and subsection headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

Section 8.13 Governing Law; Jurisdiction, Venue; Waiver of Jury Trial. Except as expressly provided in another Loan Document, the Loan Documents shall be governed by and construed in accordance with the substantive laws (other than conflict laws) of the State of Arizona. The parties hereto hereby (i) consent to the personal jurisdiction of the state and federal courts located in the State of Arizona in connection with any controversy related to this Agreement; (ii) waive any argument that venue in any such forum is not convenient, (iii) agree that any litigation initiated by the Lender or the Borrower in connection with this Agreement or the other Loan Documents may be venued in either the State or Federal courts located in Maricopa County, Arizona; and (iv) agree that a final judgment in any such suit, 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.

Section 8.14 Co-Borrowers.

(a) All Advances may be made solely to, and all Letters of Credit may be issued for solely the account of, DBM Global, at the Lender's election, any other Person comprising the Borrower; and in such case they shall be deemed received by all Persons comprising the Borrower. Any payments on the Advances received by the Lender shall be credited to the Advances for the benefit of all Persons comprising the Borrower. It is expressly agreed and understood by each Person comprising the Borrower that Lender shall have no responsibility to inquire into the apportionment, allocation or disposition of any Advances made to another Borrower. Each Person comprising the Borrower hereby irrevocably appoints DBM Global and each other Borrower as its agent and attorney-in-fact for all purposes of the Loan Documents, including, without limitation, the giving and receiving of notices and other communications, the making of requests for Advances and Letters of Credit, the execution and delivery of certificates and the receiving and allocating of Advances from the Lender.

(b) Each Person comprising the Borrower represents and warrants to Lender that the joint handling of the Loan is jointly desired by all Persons comprising the Borrower. Each Person comprising the Borrower expects to derive benefit, directly or indirectly, from the joint borrowing.

(c) Neither demand on, nor the pursuit of any remedies against, any Borrower shall be required as a condition precedent to, and neither the pendency nor the prior termination of any action, suit or proceeding against any other Borrower (whether for the same or a different remedy) shall bear on or prejudice the making of a demand on any Borrower by the Lender and commencement against any other Borrower after such demand, of any action, suit or proceeding, at law or in equity, for the specific performance of any covenant or agreement contained herein or for the enforcement of any other appropriate legal or equitable remedy.

(d) Each Person comprising the Borrower agrees to perform the Obligations of the other Persons comprising the Borrower, whether or not it is a party to the Loan Document creating the Obligations. Each Borrower's liability under the Loan Documents is primary, direct, immediate, joint and several with that of the other Persons comprising the Borrower. Neither (i) the exercise or the failure to exercise by the Lender of any rights or remedies conferred on it under the Loan Documents, hereunder or existing at law or otherwise, or against any security for performance of the Obligations, (ii) the commencement of an action at law or the recovery of a judgment at law against any other Borrower or any surety and the enforcement thereof through levy or execution or otherwise, (iii) the taking or institution or any other action or proceeding against any other Borrower or any surety nor (iv) any delay in taking, pursuing or exercising any of the foregoing actions, rights, powers or remedies (even though requested by any of the Persons comprising Borrower) by Lender or anyone acting for the Lender, shall extinguish or affect the obligations of any of the Persons comprising the Borrower under the Loan Documents.

(e) Each Borrower hereby expressly waives: (i) all diligence in collection or protection of or realization on the Obligations or any part thereof, any obligation hereunder, or any security for or guarantee of any of the foregoing; (ii) any defense based upon a marshaling of assets; (iii) any defense arising because of the Lender's election under Section 1111(b)(2) of the United States Bankruptcy Code ("Bankruptcy Code") in any proceeding instituted under the Bankruptcy Code; (iv) any defense based on post-petition borrowing or the grant of a security interest by any other Borrower under Section 364 of the Bankruptcy Code; (v) any duty on the part of the Lender to disclose to any other Person comprising Borrower any facts Lender may now or hereafter know about any other Person comprising the Borrower, regardless of whether Lender has reason to believe that any such facts materially increase the risk beyond that which such Person intends to assume or has reason to believe that such facts are known such Person or has a reasonable opportunity to communicate such facts to such Person, because each Person comprising the Borrower represents and warrants that it is fully responsible for being and keeping informed of the financial condition of the other Persons comprising the Borrower and of all circumstances bearing on the risk of non-payment of any Obligations; (vi) any and all suretyship defenses and defenses in the nature thereof under Arizona and/or any other applicable law, including, without limitation, the benefits of the provisions of Sections 12-1641 through 12-1646, of the Arizona Revised Statutes, Sections 17 and 21, A.R.C.P., and all other laws of similar import; and (vii) all rights and defenses arising out of an election of remedies by the Lender, even though that election of remedies, such as a nonjudicial foreclosure with respect to security for a guaranteed obligation, has destroyed the Person's rights of subrogation and reimbursement against the principal by the operation of law or otherwise.

(f) Each Person comprising the Borrower agrees that it will not assert against the Lender any defense of waiver, release, discharge in bankruptcy, statute of limitations, ***res judicata***, statute of frauds, anti-deficiency statute, fraud, usury, illegality or unenforceability which may be available to the other Persons comprising the Borrower with respect to the Loan Documents (or the Loan), or any set off available to the other Persons comprising the Borrower against the Lender, whether or not on account of a related transaction.

(g) The benefits, remedies and rights provided or intended to be provided hereby for the Lender are in addition to and without prejudice to any rights, benefits, remedies or security to which the Lender might otherwise be entitled.

(h) Anything else contained herein to the contrary notwithstanding, the Lender, from time to time, without notice to any Borrower, may take all or any of the following actions without in any manner affecting or impairing the obligations of any other Borrower under the Loan Documents: (i) obtain a lien on or a security interest in any property to secure any of the Obligations, either consensually or by operation of law; (ii) retain or obtain the primary or secondary liability of any Person(s), in addition to the Persons comprising the Borrower, with respect to any of the Obligations; (iii) renew, extend or otherwise change the time for payment or performance of any of the Obligations for any period; (iv) release or compromise any liability of the other Persons comprising the Borrower under the Loan Documents or any liability of any nature of any other person(s) with respect to the Obligations; (v) exchange, enforce, waive, release and apply any security for the performance of the Obligations and direct the order or manner of the proceeds of such security for any of the Obligations, whether or not the Lender shall proceed against any other Person primarily or secondarily liable on any of the Obligations; (vi) agree to any amendment (including, without limitation, any amendment which changes the amount of interest to be paid under the Loan Documents or extends the period of time during which the other Persons comprising the Borrower may obtain Advances or Letters of Credit) to the Loan Documents or any waiver of any provisions of the Loan Documents and/or exercise the Lender's rights to consent to any action or non-action of the Lender which may violate the covenants and agreements contained in the Loan Documents with or without consideration, on such terms and conditions as may be acceptable to the Lender in Lender's discretion; or (vii) exercise any of the Lender's rights conferred by the Loan Documents or by law.

(i) If at any time all or any part of any payment theretofore applied by the Lender to any of the Obligations is or must be rescinded or returned by the Lender for any reason whatsoever (including, without limitation the insolvency, bankruptcy or reorganization of any of the Persons comprising the Borrower), such Obligations, for purposes of this Agreement, to the extent that such payment is or must be rescinded or returned, shall be deemed to have never been performed.

(j) To the extent not prohibited by law, until the Obligations have been paid and performed in full and Lender has no further obligation to extend credit to any Borrower under the Loan Documents, each Person comprising the Borrower shall have no right of subrogation with respect to the Obligations or any rights of indemnification, reimbursement or contribution from any other Person comprising the Borrower or from any surety with respect to the Obligations regardless of any payment made by such Person with respect to the Obligations of the other Persons comprising the Borrower; and such Person hereby unconditionally waives any such right of subrogation, indemnification, reimbursement or contribution for such period.

(k) Each Borrower agrees that they shall not have or assert any such rights against one another or their respective successors and assigns or any other party (including

any surety), either directly or as an attempted set off to any action commenced against the other Persons comprising the Borrower or any other Person. Each of the Persons comprising the Borrower hereby acknowledges and agrees that this waiver is intended to benefit the other Persons comprising the Borrower and shall not limit or otherwise affect any of such Persons liabilities under any Loan Document, or the enforceability hereof or thereof.

(l) The obligations of the Persons comprising the Borrower in this Agreement are joint and several.

Section 8.15 Patriot Act; Due Diligence. Lender hereby notifies Borrower that pursuant to the requirements of the Patriot 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, Lender shall have the right to periodically conduct due diligence on Borrower, its senior management and key principals and legal and beneficial owners Borrower agrees to cooperate in respect of the conduct of such due diligence and further agrees that the reasonable costs, charges and expenses for any such due diligence by Lender shall constitute costs, charges and expenses payable hereunder by Borrower.

Section 8.16 Effect of Agreement. This Agreement shall become effective only upon the satisfaction of all of the conditions contained within Section 4.3 hereof. At such time as this Agreement becomes effective, it shall in all respects supersede the Third Amended and Restated Credit Agreement, and all Advances (past, present and future) made by the Lender to the Borrower shall in all respects be governed by this Agreement. Until such time as all of the conditions contained in Section 4.3 have been fully satisfied, this Agreement shall be of no force and effect, and all Advances (past, present and future) made by the Lender to the Borrower shall in all respects be governed by the Third Amended and Restated Credit Agreement.

Section 8.17 No Novation. This Agreement does not extinguish the obligations for the payment of money outstanding under the Third Amended and Restated Credit Agreement or discharge or release the obligations or the liens or priority of any mortgage, pledge, security agreement or any other security therefor. Nothing herein contained shall be construed as a substitution or novation of the obligations outstanding under the Third Amended and Restated Credit Agreement, the other Loan Documents or instruments securing the same, which shall remain in full force and effect, except as modified hereby or by instruments executed concurrently herewith. Nothing expressed or implied in this Agreement shall be construed as a release or other discharge of Borrower or any Guarantor from any of its obligations or liabilities under the Third Amended and Restated Credit Agreement or any of the security agreements, pledge agreements, mortgages, guaranties or other loan documents executed in connection therewith. Borrower hereby (a) confirms and agrees that each Loan Document to which it is a party that is not being amended and restated concurrently herewith is, and shall continue to be, in full force and effect and is hereby ratified and confirmed in all respects except that on and after the date hereof, all references in any such Loan Document to “the Credit Agreement,” “thereto,” “thereof,” “thereunder” or words of like import referring to the Third Amended and Restated Credit Agreement shall mean the Third Amended and Restated Credit Agreement as amended and restated by this Agreement; and (b) confirms and agrees that to the extent that any such Loan Document purports to assign or pledge to Lender or the Bank Product Providers or to grant to Lender or the Bank Product Providers a security interest in or lien on, any collateral as security for all or any portion of any of the Obligations of Borrower from time to time existing in respect of the Third Amended and Restated Credit Agreement or the Loan Document, such pledge or assignment or grant of the security interest or lien is hereby ratified and confirmed in all respects with respect to this Agreement and the Loan Documents.

Section 8.18 Release. Borrower and Guarantor hereby absolutely and unconditionally releases and forever discharges the Lender, and any and all participants, parent corporations, subsidiary corporations, affiliated corporations, insurers, indemnitors, successors and assigns thereof, together with all of the present and former directors, officers, agents and employees of any of the foregoing, from any and all claims, demands or causes of action of any kind, nature or description, whether arising in law or equity or upon contract or

tort or under any state or federal law or otherwise, which Borrower and Guarantor have had, now has or has made claim to have against any such person for or by reason of any act, omission, matter, cause or thing whatsoever arising from the beginning of time to and including the date of this Agreement, whether such claims, demands and causes of action are matured or unmatured or known or unknown.

Section 8.19 Release of Immaterial Subsidiaries. Lender hereby acknowledges and agrees for the avoidance of doubt that each Immaterial Subsidiary is hereby released from any obligations it may have had as a Borrower or Guarantor under the Third Amended and Restated Credit Agreement or any predecessor credit agreement with the Lender and any liens or security interests granted by such Immaterial Subsidiaries on their assets in connection with the Third Amended and Restated Credit Agreement or any predecessor credit agreement with the Lender are hereby terminated and discharged.

THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED ON OR PERTAINING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT.

**[See Separate Signature Page]**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the date first above written.

For Each Person Comprising the Borrower
c/o DBM Global Inc.
3020 E. Camelback Rd., Ste. 100
Phoenix, Arizona 85016
Telecopier: 602-452-4465
Attention: Michael R. Hill
e-mail: mike.hill@schuff.com

**DBM GLOBAL INC.**, a Delaware corporation, formerly known as Schuff International, Inc.
By: /s/Michael R. Hill
Name: Michael R. Hill
Its: Vice President and Chief Financial Officer

**SCHUFF STEEL COMPANY**,
a Delaware corporation

By: /s/Michael R. Hill
Name: Michael R. Hill
Its: Vice President and Chief Financial Officer

**SCHUFF STEEL – ATLANTIC, LLC**., a Florida limited liability company
By: Schuff Steel Company, a Delaware corporation Its Managing Member

By: /s/Michael R. Hill
Name: Michael R. Hill
Its: Vice President and Chief Financial Officer

[SIGNATURE PAGE TO FOURTH AMENDED AND RESTATED CREDIT

AND SECURITY AGREEMENT]

**AITKEN MANUFACTURING INC.**, a
Delaware corporation, formerly known as Schuff Steel – Gulf Coast, Inc.

By: /s/Michael R. Hill
Name: Michael R. Hill
Its: Vice President

**ON-TIME STEEL MANAGEMENT HOLDING, INC.**, a Delaware corporation

By: /s/Michael R. Hill
Name: Michael R. Hill
Its: Vice President and Chief Financial Officer

**DBM GLOBAL-NORTH AMERICA INC.**, a Delaware corporation, formerly known as Schuff Holding Co.

By: /s/Michael R. Hill
Name: Michael R. Hill
Title: President

[SIGNATURE PAGE TO FOURTH AMENDED AND RESTATED CREDIT

AND SECURITY AGREEMENT]

**SCHUFF STEEL MANAGEMENT COMPANY – SOUTHWEST, INC.**, a Delaware corporation

By: /s/Michael R. Hill
Name: Michael R. Hill
Its: Vice President and Chief Financial Officer

**SCHUFF PREMIER SERVICES LLC,** a Delaware limited liability company

By: /s/Michael R. Hill
Name: Michael R. Hill
Its: Manager

**DBM GLOBAL HOLDINGS INC.**, a Delaware corporation

By: /s/Michael R. Hill
Name: Michael R. Hill
Its: Vice President and Chief Financial Officer

**PDC SERVICES (USA) INC.**, a Delaware corporation

By: /s/Michael R. Hill
Name: Michael R. Hill
Its: Vice President and Chief Financial Officer

**CB-HORN HOLDINGS, INC.**, a Delaware corporation

By: /s/Michael R. Hill
Name: Michael R. Hill
Its: President

**GRAYWOLF INDUSTRIAL, INC.**, a Delaware corporation

By: /s/Michael R. Hill
Name: Michael R. Hill
Its: President

[SIGNATURE PAGE TO FOURTH AMENDED AND RESTATED CREDIT AND SECURITY AGREEMENT]

**TITAN CONTRACTING & LEASING COMPANY, INC.**, a Kentucky corporation

By: /s/Michael R. Hill
Name: Michael R. Hill
Its: President

**TITAN FABRICATORS, INC.**, a Kentucky corporation

By: /s/Michael R. Hill
Name: Michael R. Hill
Its: President

**MIDWEST ENVIRONMENTAL, INC.**, a Kentucky corporation

By: /s/Michael R. Hill
Name: Michael R. Hill
Its: President

**MILCO NATIONAL CONSTRUCTORS, INC.**, a Delaware corporation

By: /s/Michael R. Hill
Name: Michael R. Hill
Its: President

**M. INDUSTRIAL MECHANICAL, INC.**, a Delaware corporation

By: /s/Michael R. Hill
Name: Michael R. Hill
Its: President

**INCO SERVICES, INC.**, a Delaware corporation

By: /s/Michael R. Hill
Name: Michael R. Hill
Its: President

[SIGNATURE PAGE TO FOURTH AMENDED AND RESTATED CREDIT

AND SECURITY AGREEMENT]

Wells Fargo Bank, National Association
MAC S4101-158
100 West Washington Street, 15th Floor
Phoenix, AZ 85003
Telecopier: 602-378-6215
Attention: Amber Vestal
e-mail: amber.vestal@wellsfargo.com

WELLS FARGO BANK, NATIONAL ASSOCIATION

By: /s/Amber Vestal
Name: Amber Vestal
Its: Authorized Signatory

[SIGNATURE PAGE TO FOURTH AMENDED AND RESTATED CREDIT

AND SECURITY AGREEMENT]

**TABLE OF EXHIBITS AND SCHEDULES**

**COMPLIANCE CERTIFICATE**

To: _____
Wells Fargo Bank, National Association

Date: _____, 20__

Subject: _____
Financial Statements

In accordance with our Fourth Amended and Restated Credit and Security Agreement dated as of November 30, 2018, as amended from time to time (the "Credit Agreement"), attached are the financial statements of DBM Global Inc. and its Subsidiaries as of and for _____, 20___ (the "Reporting Date") and the year-to-date period then ended (the "Current Financials"). All terms used in this certificate have the meanings given in the Credit Agreement.

I certify that the Current Financials have been prepared in accordance with GAAP, subject to year-end audit adjustments, and fairly present the Borrower's financial condition as of the date thereof.

Events of Default. (Check one):

- ☐ The undersigned does not have knowledge of the occurrence of a Default or Event of Default under the Credit Agreement except as previously reported in writing to the Lender.
- ☐ The undersigned has knowledge of the occurrence of a Default or Event of Default under the Credit Agreement not previously reported in writing to the Lender and attached hereto is a statement of the facts with respect to thereto. The Borrower acknowledges that pursuant to Section 2.8(b) of the Credit Agreement, the Lender may impose the Default Rate at any time during the resulting Default Period to be effective as of any date permitted under the Agreement.

Financial Covenants. I further certify to the Lender as follows:(Check one):

- ☐ The Reporting Date marks the end of one of the Borrower's fiscal months, but not the end of a fiscal quarter or fiscal year; hence I am completing all items below except items __ and __.
- ☐ The Reporting Date marks the end of one of the Borrower's fiscal quarters but not the end of a fiscal year, hence I am completing all items below except items ___ and ___.
- ☐ The Reporting Date marks the end of the Borrower’s fiscal year, hence I am completing all paragraphs below all items below.

I further certify to the Lender as follows:

1. Section 6.2(a) – Fixed Charge Coverage Ratio.

| Quarter Ending | Minimum Required Fixed Charge Coverage Ratio | Actual |
|---|---|---|
| | | |
| | | |
| | | |
| | | |

2. Section 6.2(b) – Senior Leverage Ratio

| Quarter Ending | Maximum Permitted Ratio | Actual |
|---|---|---|
| | | |
| | | |
| | | |
| | | |

3. [Intentionally Deleted]

4. [Intentionally Deleted]

5. Section 6.2(e) – Minimum Monthly Stop Loss

| Month | Maximum Permitted Net Loss | Actual |
|---|---|---|
| Any single month | $600,000.00 | |
| Any two consecutive months | $1,000,000.00 | |

6. Distributions. As of the Reporting Date, the Borrower ☐ is ☐ is not in compliance with Section 6.7 of the Credit Agreement concerning dividends distributions, purchases, retirements and redemptions.

7. [Intentionally Deleted]

8. Transactions With Affiliates. As of the Reporting Date, the Borrower ☐ is ☐ is not in compliance with Section 6.27 of the Credit Agreement concerning transactions with Affiliates.

Attached hereto are all relevant facts in reasonable detail to evidence, and the computations of the financial covenants referred to above. These computations were made in accordance with GAAP.

_____

Chief Financial Officer of DBM Global Inc. and authorized agent of the other Persons comprising the Borrower

**PREMISES**

The Premises referred to in the Credit and Security Agreement are described as follows:

| Company | Location | Leasehold or Fee | Lessor | Lease Terms |
|---|---|---|---|---|
| GrayWolf Industrial, Inc. | 3029 S. Suncoast Blvd, Homosassa, FL 34448 | Owned | | |
| | 1115 Industrial Drive, Owensboro, KY 42303 | Owned | | |
| | 280 Ellis Smeathers Ferry Road, Owensboro, KY 42303 | Owned | | |
| | 2205 Ragu Drive Owensboro, KY 42303 | Owned | | |
| | 920 Wing Avenue, Owensboro, KY 42303 | Owned | | |
| Midwest Environmental, Inc. | 30 Mansell Court, Suite 215, Roswell, GA | Leased | G&C Manswell Investors, LLC | 36 months expiring 4/1/2019 |
| Titan Contracting & Leasing Company, Inc. | 11800 Fairmont Pkwy, LaPorte, TX 77571 | Leased | Vigavi Realty, LLC | 61 months expiring 12/2/2020 |
| | 1811 E Ramseyer Rd, Edinburg, TX 78542 | Leased | Javier Cantu | Month-to-Month with no expiration |
| INCO SERVICES, INC. | 3550 Francis Circle, Alpharetta, GA 30004 | Leased | Green River Investments, LLC c/o Doug Davis | Monthly payment $6,825.00, lease maturity 7/2/2021, lease term 60 months |
| | 37 Artley Road, Savannah, GA 31408 | Leased | Green River Investments, LLC c/o Doug Davis | Monthly payment $5,513.00, lease maturity 7/2/2021, lease term 60 months |
| | 30333 County Road 49, Loxley, AL 36551 | Leased | Green River Investments, LLC c/o Doug Davis | Monthly payment $4,988.00, lease maturity 7/2/2021, lease term 60 months |
| Milco National Constructors, Inc. | 3930B Cherry Avenue, Long Beach, CA 90807 | Leased | Arthur L Tighe and Edity S Tighe as Trustees of the Tighe Family Trust | Monthly payment $9,500.00, lease maturity 9/30/2021, lease term 60 months |

| Company | Location | Leasehold or Fee | Lessor | Lease Terms |
|---|---|---|---|---|
| Schuff Steel Company | 3020 E Camelback Rd Ste 100 Phoenix, AZ 85016 | Leased | Lessor- WAM 3020 Limited Partnership | 144 months (exp. 12/31/2022) |
| | 12278 S Lone Peak Pkwy Ste 105 & 106 Draper, UT 84020 | Leased | Lessor- Spectrum Solutions, LLC | 27 months (exp. 7/31/2019) |
| | 9174 Sky Park Ct. Ste 200 San Diego, CA 92123 | Leased | Lessor- Government Properties Income Trust, LLC | 87 months (exp. 7/31/2024) |
| | 6701 W 64th St Ste 200 Overland Park, KS 66202 | Leased | Lessor- Cloverleaf 5 Building, LLC | 180 months (exp. 10/30/2021) |
| | 1401 Dove St, Ste 530 Newport Beach, CA 92660 | Leased | Lessor- Palm Springs Village-309, LLC | 63 months (exp. 9/30/2021) |
| | 7901 Stoneridge Dr., Ste 211 Pleasanton, CA 94588 | Leased | Lessor- ECI Four 7901 Stoneridge, LLC | 60 months (exp. 8/31/2021) |
| | 6650 Sugarloaf Way Ste 800 Duluth, GA 30097 | Leased | Lessor- DR 6650, LLC | 66 months (exp. 2/28/2020) |
| | 4949 SW Macadam St, 2nd Floor Box 9 Portland, OR 97239 | Leased | Lessor- Urban Office Place | Month-to-month |
| | 3003 N. Central Ave, Ste 700 Phoenix, AZ 85012 | Leased | Lessor- Colfin Phx Tower, LLC | 64 months (exp. 7/31/2022) |
| | 10100 Trinity Pkwy, Ste 400 Stockton, CA 85219 | Leased | Lessor- A.G. Spanos Professional Office Center, LLC | 76 months (not yet commenced) |
| | Lindon Tech Center Lindon, UT | Leased-pending; | Lessor- WICP West Lindon 3 LLC | 72 months (not yet commenced) |
| | 1920 Ledo Rd Albany, GA 31707 | Owned | | |
| | 1705 West Battaglia Drive Eloy, AZ 85131 | Owned | | |
| | 5055 North Ken Morey Dr., Flagstaff, AZ 86015 | Owned | | |
| | 14500 Smith Rd Humble, TX 77396 | Owned | | |
| | 2001 N. Davis Rd Ottawa, KS 66067 | Owned | | |
| | 420 S. 19th Ave. Phoenix, AZ 85009 | Owned | | |
| | 2324 Navy Dr Stockton, CA 95206 | Owned | | |
| | 325 S Geneva Rd Lindon, UT 84042 | Owned | | |
| | 1345 Hall Spencer Rd Rock Hill, SC 29730 | Owned | | |
| DBM Global Inc. | 889 Carnarvon St, New Westminster British Columbia, V3M1G2 Canada | Leased | Lessor- 450617 B.C. Ltd | 120 months (exp. 7/18/2022) |

| Company | Location | Leasehold or Fee | Lessor | Lease Terms |
|---|---|---|---|---|
| DBM Global Inc. | 1841 W Buchanan Phoenix, AZ 85009 | Owned, but held for sale | | |
| Aitken Manufacturing Inc. | 4920 Airline Dr., Houston, TX 77022 | Owned | | |
| Schuff Steel Management Company – Southwest, Inc. | 4320 E Presidio St, Ste 111 Mesa, AZ 85215 | Owned | | |

**DISCLOSURE SCHEDULE OF BORROWER**

This Disclosure Schedule ("Disclosure Schedule") is being delivered by DBM Global Inc., a Delaware corporation ("DBM Global" or “DBM”), and the other persons listed in **Schedule 1.1** (collectively, together with DBM Global, collectively, jointly and severally, the "Borrower") to the Loan Agreement (as hereinafter defined), in connection with the Fourth Amended and Restated Credit and Security Agreement of even date herewith, executed by and among the Borrower and Wells Fargo Bank, National Association (the "Lender") (with all of the exhibits appended thereto, the "Loan Agreement"). Unless the context otherwise requires, all capitalized terms used in this Disclosure Schedule shall have the respective meanings assigned to them in the Loan Agreement. The representations and warranties of the Borrower set forth in the Loan Agreement are hereby excepted to the extent set forth hereafter.

Headings have been inserted for convenience of reference only and shall in no way have the effect of amending or changing the express description of the corresponding paragraphs as set forth in the Loan Agreement. The Schedule numbers in this Disclosure Schedule correspond to the section numbers in the Loan Agreement which are modified by the disclosures; however, any information disclosed herein under any section number shall be deemed to be disclosed and incorporated into any other section number under the Loan Agreement where such disclosure would be readily apparent. Furthermore, this Disclosure Schedule does not purport to disclose any agreements, contracts or instruments that may be entered into pursuant to the terms of the Loan Agreement.

Schedule 1.1

1. DBM Global Inc., a Delaware corporation
2. Schuff Steel Company, a Delaware corporation
3. Schuff Steel-Atlantic, LLC, a Florida limited liability company
4. Aitken Manufacturing Inc., a Delaware corporation
5. On-Time Steel Management Holding, Inc., a Delaware corporation
6. DBM Global-North America Inc., a Delaware corporation
7. Schuff Steel Management Company-Southwest, Inc., a Delaware corporation
8. Schuff Premier Services LLC, a Delaware limited liability company
9. DBM Global Holdings Inc., a Delaware corporation
10. PDC Services (USA) Inc., a Delaware corporation
11. CB-HORN HOLDINGS, INC., a Delaware corporation
12. GrayWolf Industrial, Inc., a Delaware corporation
13. Titan Contracting & Leasing Company, Inc., a Kentucky corporation
14. Titan Fabricators, Inc., a Kentucky corporation
15. MIDWEST ENVIRONMENTAL, INC., a Kentucky corporation
16. Milco National Constructors, Inc., a Delaware corporation
17. M. Industrial Mechanical, Inc., a Delaware corporation
18. INCO SERVICES, INC., a Georgia corporation

Schedule 1.2(a) – DBM Entities

1. DBM Global Inc., a Delaware corporation
2. Schuff Steel Company, a Delaware corporation
3. Schuff Steel-Atlantic, LLC, a Florida limited liability company
4. Aitken Manufacturing Inc., a Delaware corporation
5. On-Time Steel Management Holding, Inc., a Delaware corporation
6. DBM Global-North America Inc., a Delaware corporation
7. Schuff Steel Management Company-Southwest, Inc., a Delaware corporation
8. Schuff Premier Services LLC, a Delaware limited liability company
9. DBM Global Holdings Inc., a Delaware corporation
10. PDC Services (USA) Inc., a Delaware corporation

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Schedule 1.2(b) – Graywolf Entities

1. CB-HORN HOLDINGS, INC., a Delaware corporation
2. GrayWolf Industrial, Inc., a Delaware corporation
3. Titan Contracting & Leasing Company, Inc., a Kentucky corporation
4. Titan Fabricators, Inc., a Kentucky corporation
5. MIDWEST ENVIRONMENTAL, INC., a Kentucky corporation
6. Milco National Constructors, Inc., a Delaware corporation
7. M. Industrial Mechanical, Inc., a Delaware corporation
8. INCO SERVICES, INC., a Georgia corporation

Schedule 1.3 –Consolidated EBITDA

(a)

**Historical Consolidated EBITDA**

| Fiscal Period | Consolidated EBITDA |
|---|---|
| October 2017 | $4,935,307 |
| November 2017 | $3,944,097 |
| December 2017 | $6,230,682 |
| January 2018 | $3,115,894 |
| February 2018 | $3,988,289 |
| March 2018 | $2,882,836 |
| April 2018 | $2,988,303 |
| May 2018 | $4,706,863 |
| June 2018 | $7,904,222 |
| July 2018 | $2,359,922 |
| August 2018 | $4,515,877 |
| September 2018 | $9,096,614 |

(b)

**Graywolf Acquisition Pro Forma EBITDA**

| Fiscal Period | Graywolf Acquisition Pro Forma EBITDA |
|---|---|
| October 2017 | $ 2,438,438 |
| November 2017 | $ 2,576,503 |
| December 2017 | $ 832,354 |
| January 2018 | $ 602,377 |
| February 2018 | $ 1,819,034 |
| March 2018 | $ 1,036,440 |
| April 2018 | $ 2,355,934 |
| May 2018 | $ 2,421,886 |
| June 2018 | $ 1,914,803 |
| July 2018 | $ 1,641,822 |
| August 2018 | $ 1,669,044 |
| September 2018 | $ 2,302,612 |

Schedule 3.6

1. DBM Global, Inc., a Delaware corporation
   3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Federal Employer Identification Number: 86-1033353
   Organizational Identification Number: 3399749

2. Schuff Steel Company, a Delaware corporation
   3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Federal Employer Identification Number: 86-0318760
   Organizational Identification Number: 2748115

3. Schuff Steel - Atlantic, LLC, a Florida limited liability company
   3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Federal Employer Identification Number: 59-0900504
   Organizational Identification Number: 235785

4. Aitken Manufacturing, Inc., a Delaware corporation
   3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Federal Employer Identification Number: 76-0114030
   Organizational Identification Number: 3612848

5. On-Time Steel Management Holding, Inc., a Delaware corporation
   3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Federal Employer Identification Number: 71-0907546
   Organizational Identification Number: 3545161

6. DBM Global North America Inc., a Delaware corporation
   3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Federal Employer Identification Number: 45-4483357
   Organizational identification Number. 5086475

7. Schuff Steel Management Company - Southwest, Inc. a Delaware corporation
   3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Federal Employer Identification Number: 86-1034262
   Organizational Identification Number: 3409718

8. Schuff Premier Services LLC, a Delaware limited liability company
   3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Federal Employer Identification Number: 36-4752531
   Organizational Identification Number 5281681

9. DBM Global Holdings Inc., a Delaware corporation
   3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Federal Employer Identification Number: 38-4012835
   Organizational Identification Number: 6132837

10. PDC Services (USA) Inc., a Delaware corporation

3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
Federal Employer Identification Number: 38-4012835
Organizational Identification Number: 6132837

11. CB-Horn Holdings, Inc., a Delaware corporation
920 Wing Avenue, Owensboro, KY 42303
Federal Employer Identification Number: 61-1528270
Organizational Identification Number: 4339737

12. GrayWolf Industrial, Inc., a Delaware corporation
920 Wing Avenue, Owensboro, KY 42303
Federal Employer Identification Number: 26-0446965
Organizational Identification Number: 4380303

13. Titan Contracting & Leasing Company, Inc., a Kentucky corporation
920 Wing Avenue, Owensboro, KY 42303
Federal Employer Identification Number: 61-0939932
Organizational Identification Number: 208444/0150264

14. Titan Fabricators, Inc., a Kentucky corporation
920 Wing Avenue, Owensboro, KY 42303
Federal Employer Identification Number: 61-1078649
Organizational Identification Number: 208442/02023566

15. Midwest Environmental, Inc., a Kentucky corporation
920 Wing Avenue, Owensboro, KY 42303
Federal Employer Identification Number: 61-0998650
Organizational Identification Number: 208443/0162948

16. Milco National Constructors, Inc., a Delaware corporation
920 Wing Avenue, Owensboro, KY 42303
Federal Employer Identification Number: 35-2361907
Organizational Identification Number: 4635284

17. M. Industrial Mechanical, Inc., a Delaware corporation
920 Wing Avenue, Owensboro, KY 42303
Federal Employer Identification Number: 90-0454695
Organizational Identification Number: 4635282

18. Inco Services, Inc., a Georgia corporation
920 Wing Avenue, Owensboro, KY 42303
Federal Employer Identification Number: 58-1630221
Organizational Identification Number: 16267350

Schedule 5.1

1. DBM Global, Inc., a Delaware corporation

   Prior names: Schuff International, Inc.
   Chief Executive Office: 3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Principal Place of Business: 3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Other Locations: None

2. Schuff Steel Company, a Delaware corporation

   Prior names: None
   Chief Executive Office: 3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Principal Place of Business: 3003 N, Central Ave, Suite 700, Phoenix, AZ 85012
   Other Locations:
   420 S. 19th Ave, Phoenix, AZ 85009
   5055 Ken Morey Drive, Bellemont, AZ 86015;
   2001 N. Davis Road, Ottawa, KS 66067;
   1705 W Battaglia Road, Eloy, AZ 85231;
   2324 Navy Drive, Stockton, CA 95206;
   14500 Smith Road, Humble, TX 77396;
   1345 Hall Spencer Rd, Rock Hill, SC 29730
   1920 Ledo Road, Albany, GA 31707
   325 S Geneva Rd, Lindon, UT 84042
   6650 Sugarloaf Way Ste 800, Duluth, GA 30097
   1401 Dove St Ste 530, Newport Beach, CA 92660
   6701 W 64th St Ste 200, Overland Park, KS 66202
   7901 Stoneridge Dr Ste 211, Pleasanton, CA 94588
   4949 SW Macadam St 2nd FL Box 9, Portland, OR 97239
   12278 S Lone Peak Pkwy Ste 105/6, Draper, UT 84020
   9174 Sky Park Crt Ste 200, San Diego, CA 92123
   714 W Olympic Blvd Ste 720-22, Los Angeles, CA 90015
   10100 Trinity Pkwy #400, Stockton, CA 95219

3. Schuff Steel - Atlantic, LLC, a Florida limited liability company

   Prior names: Schuff Steel – Atlantic, Inc.; Addison Steel, Inc.; Mid-Florida Steel Corp.
   Chief Executive Office: 3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Principal Place of Business: 3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Other Locations: None

4. Aitken Manufacturing, Inc., a Delaware corporation

   Prior names: Schuff Steel - Gulf Coast, Inc.; Six Industries, Inc.
   Chief Executive Office: 3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Principal Place of Business: 4920 Airline Drive, Houston, TX 77022
   Other Locations: None

5. On-Time Steel Management Holding, Inc., a Delaware corporation

   Prior names: None
   Chief Executive Office: 3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Principal Place of Business: 3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Other Locations: None

6. DBM Global North America Inc., a Delaware corporation

   Prior names: Schuff Holding Co.
   Chief Executive Office: 3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Principal Place of Business: 3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Other Locations: None

7. Schuff Steel Management Company - Southwest, Inc. a Delaware corporation

   Prior names: On-Time Steel Management Company - Southwest, Inc.
   Chief Executive Office: 3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Principal Place of Business: 4320 E. Presidio Street, Suite 111, Mesa, AZ 85215
   Other Locations: None

8. Schuff Premier Services LLC, a Delaware limited liability company

   Prior names: None
   Chief Executive Office: 3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Principal Place of Business: 3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Other Locations: None

9. DBM Global Holdings Inc., a Delaware corporation

   Prior names: Schuff Foreign-1 Co.
   Chief Executive Office: 3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Principal Place of Business: 3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
   Other Locations: None

10. PDC Services (USA) Inc., a Delaware corporation

    Prior names: Schuff USA-1 Co
    Chief Executive Office: 3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
    Principal Place of Business: 3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
    Other Locations: None

11. CB-Horn Holdings, Inc., a Delaware corporation

    Prior names: DBM Merger Sub, Inc.
    Chief Executive Office: 920 Wing Avenue, Owensboro, KY 42303
    Principal Place of Business: 920 Wing Avenue, Owensboro, KY 42303
    Other Locations: None

12. GrayWolf Industrial, Inc., a Delaware corporation

    Prior names: Horn Intermediate Holdings, Inc.; Horn Industrial Services
    Chief Executive Office: 920 Wing Avenue, Owensboro, KY 42303
    Principal Place of Business: 920 Wing Avenue, Owensboro, KY 42303
    Other Locations: None

13. Titan Contracting & Leasing Company, Inc., a Kentucky corporation

    Prior names: National Steel Erection, Inc.
    Chief Executive Office: 920 Wing Avenue, Owensboro, KY 42303
    Principal Place of Business: 2205 Ragu Drive, Owensboro, KY 42303
    Other Locations: 11800 W Fairmont Pkwy, LaPorte, TX 77571
    3029 S Suncoast Blvd, Homosassa, FL 34448

14. Titan Fabricators, Inc. a Kentucky corporation

    Prior names: Vilcan Constructors, Inc.
    Chief Executive Office: 920 Wing Avenue, Owensboro, KY 42303
    Principal Place of Business: 3020 E. Camelback Rd, Ste 100, Phoenix, AZ 85016
    Other Locations: None

15. Midwest Environmental, Inc., a Kentucky corporation

    Prior names: Midwest Consulting
    Chief Executive Office: 920 Wing Avenue, Owensboro, KY 42303
    Principal Place of Business: 280 Ellis Smeathers Ferry Road, Owensboro, KY 42303
    Other Locations: None

16. Milco National Constructors, Inc., a Delaware corporation

    Prior names: National Steel Erection, Inc.; Milco Constructors, Inc.; Milco National, Inc.; Miller, Griffin & Miller, Inc.
    Chief Executive Office: 920 Wing Avenue, Owensboro, KY 42303
    Principal Place of Business: 3930B Cherry Avenue, Long Beach, CA 90807
    Other Locations: 1115 Industrial Drive, Owensboro, KY 42301

17. M. Industrial Mechanical, Inc., a Delaware corporation

    Prior names: None
    Chief Executive Office: 920 Wing Avenue, Owensboro, KY 42303
    Principal Place of Business: 3930B Cherry Avenue, Long Beach, CA 90807
    Other Locations: None

18. Inco Services, Inc., a Georgia corporation

    Prior names: None

Chief Executive Office: 920 Wing Avenue, Owensboro, KY 42303
Principal Place of Business: 3550 Francis Circle, Alpharetta, GA 30004
Other Locations: 37 Artley Road, Savannah, GA 31408
30333 County Road 49, Loxley, AL 36551

Schedule 5.4

Subsidiaries of DBM Global Inc. are:

- DBM Global-North America, Inc.
- DBM Global Holdings Inc.
- Schuff Premier Services LLC
- CB-Horn Holdings, Inc.

Subsidiaries of DBM Global-North America, Inc. are:

- On-Time Steel Management Holding, Inc.
- Schuff Steel Company
- Aitken Manufacturing Inc.
- Addison Structural Services, Inc.
- PDC Services (USA) Inc.
- BDS Steel Detailers (USA) Inc.
- Schuff Steel Company - Panama, S de RL

Subsidiaries of DBM Global Holdings Inc. are:

- DBM Vircon Services LTD
- DBMG International PTE LTD
- BDS Steel Detailers (UK) LTD

Subsidiaries of Schuff Steel Company are:

- Schuff Steel - Atlantic, LLC

Subsidiaries of On-Time Steel Management Holding, Inc. are:

- Schuff Steel Management Company - Southwest, Inc.
- Schuff Steel Management Company - Colorado, LLC
- Schuff Steel Management Company - Southeast, LLC

Subsidiaries of CB-Horn Holdings, Inc. are:

- GrayWolf Industrial, Inc.

Subsidiaries of GrayWolf Industrial, Inc. are:

- Titan Contracting & Leasing Company, Inc.
- Titan Fabricators, Inc.
- Midwest Environmental, Inc.
- Milco National Constructors, Inc
- M. Industrial, Inc.
- Inco Services, Inc.

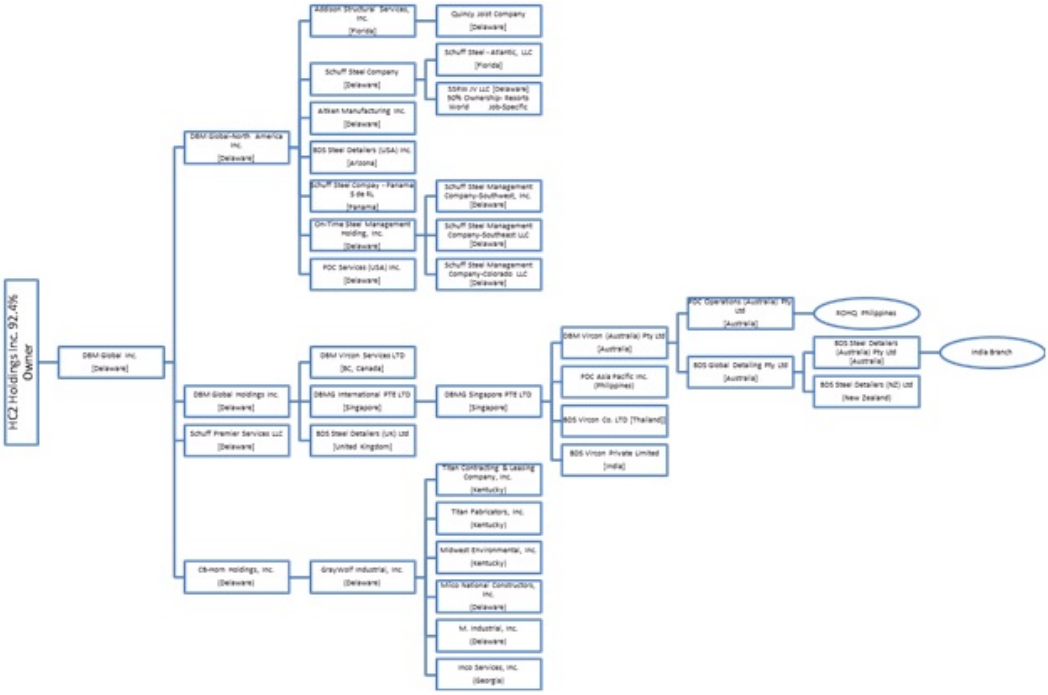
Schedule 5.8

(a)

| Record Owner | Subsidiary | Jurisdiction of Issuer | Certificate No. | No. and Class Shares/Interest |
|---|---|---|---|---|
| DBM Global Inc. (f/k/a Schuff International, Inc.) | DBM Global – North America Inc. (f/k/a Schuff Holding Co.) | Delaware | 2 | 100 Common |
| | Schuff Premier Services LLC | Delaware | Not Certificated | 100% of membership interests |
| | DBM Global Holdings Inc. | Delaware | C-01, C-02, C-03 | 300 Common |
| | CB-HORN HOLDINGS, INC. | Delaware | 1 | 1,000 Common |
| DBM Global – North America Inc. (f/k/a Schuff Holding Co.) | On-Time Steel Management Holding, Inc. | Delaware | 3 | 100 Common |
| | Schuff Steel Company | Delaware | 3 | 100 Common |
| | Aitken Manufacturing Inc. (f/k/a Schuff Steel – Gulf Coast, Inc.) | Delaware | 6 | 8,000 Common |
| | Addison Structural Services, Inc. | Florida | 3 | 1 Common |
| | Schuff Steel Company Panama, S. de R.L. | Panama | 3, 4 | 99% of quotas |
| | BDS Steel Detailers (USA) Inc. | Arizona | C-1 | 100 Common |
| | PDC Services (USA) Inc. | Delaware | 1 | 100 Common |
| DBM Global Holdings Inc. | DBM Vircon Services LTD | British Columbia, Canada | C1 | 101 Common |
| | DBMG International PTE. LTD. | Singapore | 5 | 29,270,185 |
| | BDS Steel Detailers (UK) Ltd | United Kingdom | 4 | 1 Ordinary |
| DBMG International PTE LTD | DBMG Singapore PTE LTD | Singapore | 5 | 29,270,185 |
| DBMG Singapore PTE LTD | DBM Vircon (Australia) Pty Ltd | Australia | 1,2,3,4,5,6 | 64,991,049 |
| | PDC Asia Pacific Inc. | Philippines | Book Entry | 30,000 |
| | BDS Vircon Co. LTD | Thailand | 1 | 39,994 |
| | BDS Vircon Private Limited | India | 1 | 9,999 |
| DBM Vircon (Australia) Pty Ltd | PDC Operations (Australia) Pty Ltd | Australia | 1, 2, 3 | 42,597,745 |
| | BDS Global Detailing Pty Ltd | Australia | 74 | 62,536,330 |
| BDS Global Detailing Pty Ltd | BDS Steel Detailers (Australia) Pty Ltd | Australia | x | 12,200,001 |
| | BDS Steel Detailers (NZ) Ltd | New Zealand | Book Entry | 100 |
| On-Time Steel Management Holding, Inc. | Schuff Steel Management Company - Southwest, Inc. | Delaware | 3 | 100 Common |
| | Schuff Steel Management Company - Colorado LLC (no active operations) | Delaware | Not Certificated | 100% of membership interests |
| | Schuff Steel Management Company - Southeast LLC (no active operations) | Delaware | Not Certificated | 95% of membership interests |

| Record Owner | Subsidiary | Jurisdiction of Issuer | Certificate No. | No. and Class Shares/Interest |
|---|---|---|---|---|
| Schuff Steel Company | Schuff Steel - Atlantic, LLC | Florida | Not Certificated | 100% of membership interests |
| | SSRW JV LLC (Job-specific entity) | Delaware | Not Certificated | 50% of membership interests |
| | Schuff Steel Company - Panama, S. de R.L. | Panama | 2 | 1% of quotas |
| Addison Structural Services, Inc. | Quincy Joist Company (no active operations) | Delaware | 2 | 1,000 Common |
| CB-HORN ACQUISITION CORP. (n/k/a/ CB-HORN HOLDINGS, INC.) | Horn Intermediate Holdings, Inc. (n/k/a Graywolf Industrial, Inc.) | Delaware | 1 | 100 Common |
| Graywolf Industrial, Inc. (f/k/a Horn Intermediate Holdings, Inc.) | Titan Contracting & Leasing Company, Inc. | Kentucky | 4 | 600 Common |
| | Titan Fabricators, Inc. | Kentucky | 6 | 1,000 Common |
| | MIDWEST ENVIRONMENTAL, INC. | Kentucky | 3 | 1,000 Common |
| | INCO SERVICES, INC. | Georgia | 19 | 2,300 Common |
| | Milco National Constructors, Inc. (f/k/a/ Milco Constructors, Inc.) | Delaware | 1 | 100 Common |
| | M. Industrial Mechanical, Inc. | Delaware | 1 | 100 Common |

(b)




2001622.5 08/12/2013

Schedule 5.11

**Patents**

| OWNER NAME | NAME/TITLE | SERIAL/REGISTRATION | FILING DATE |
|---|---|---|---|
| DBM Global Inc. | **Systems and Methods for Fabrication and Use of Brace Designs for Braced Frames** | 9,631,357 | Apr 25, 2017 |

In February 2017 the Board of Directors of DBM Global Inc. authorized the purchase of intellectual property assets relating to the Allen Buckling Retrained Brace used within the structure of a building to provide stability against cyclical lateral loading. The U.S. Patent No. 9,631,357 issued April 25, 2017 to Allen BRB, LLC entitled Systems and Methods for Fabrication and Use of Brace Designs for Braced Frames was transferred to DBM Global Inc. DBM Global Inc. filed related patent application 16/145,719 was filed on 09/28/2018 and is not yet published.

**Trademarks/Tradenames**

2001622.5 08/12/2013

| OWNER NAME | NAME/TITLE | DESCRIPTION OF IP | SERIAL/REGISTRATION | FILING DATE |
|---|---|---|---|---|
| DBM Global Inc. | **SCHUFF INTERNATIONAL**® | U.S. Service Mark | Reg. No: 5,090,141<br>Intl Classes: 37, 40, 42 | Nov 29, 2016 |
| DBM Global Inc. |  | U.S. Service Mark | Reg. No: 5,090,143<br>Intl Classes: 37, 40, 42 | Nov 29, 2016 |
| DBM Global Inc. | **SCHUFF UNIVERSITY®** | U.S. Service Mark | Reg. No: 5,043,168<br>Intl Classes: 41 | Sept 13, 2016 |
| DBM Global Inc. |  | U.S. Service Mark | Reg. No: 5,090,144<br>Intl Classes: 41 | Nov 29, 2016 |
| DBM Global Inc. | **SCHUFF STEEL®** | U.S. Service Mark | Reg. No: 5,094,572<br>Intl Classes: 37, 40, 42 | Dec 6, 2016 |
| DBM Global Inc. |  | U.S. Service Mark | Reg. No: 5,090,140<br>Intl Classes: 37, 40, 42 | Nov 29, 2016 |
| Schuff Steel Management Company-Southwest, Inc. | **ON-TIME STEEL MANAGEMENT - SOUTHWEST** | AZ Trade Name | Filing No: 555827 | Jul 17, 2002 |

Schedule 6.3

| Debtor | Secured Party | Collateral | Scan Date | State | Jurisdiction | Original File Date & # | Related Filings |
|---|---|---|---|---|---|---|---|
| Schuff Steel Company | General Electric Credit Corporation of Tennessee | Leased equipment | 9/28/2018 | DE | Department of State: Division Of Corporations | 1/14/2014<br>#2014 0164269 | |
| Schuff Steel Company | Canon Financial Services, Inc. | Specific equipment | 9/28/2018 | DE | Department of State: Division Of Corporations | 5/16/2014<br>#2014 1940527 | |
| Schuff Steel Company | HYG Financial Services, Inc. | Leased equipment | 9/28/2018 | DE | Department of State: Division Of Corporations | 5/6/2016<br>#2016 2717625 | |
| Schuff Steel Company | HYG Financial Services, Inc. | Leased equipment | 9/28/2018 | DE | Department of State: Division Of Corporations | 5/18/2016<br>#2016 2967048 | |

2001622.5 08/12/2013

Schedule 6.4

NONE

Schedule 6.5

NONE

Schedule 6.27

DBM Global has a tax-sharing agreement with its parent company, HC2 Holdings, Inc. (“HC2”) in which DBM Global has agreed to pay HC2 for its separate tax liability (as defined in the agreement) when requested by HC2 or no later than the due date of any estimated tax payment. At December 31, 2017, DBM Global had funded its estimated separate tax liability through the third quarter of 2018 upon the request of HC2.

DBM Global will enter into a Series A Securities Purchase Agreement by and among DBM Global Intermediate Holdco Inc. and DBM Global Inc. dated November 30, 2018 for $40,000,000.

Schedule 7

NONE

Schedule 8

| | |
|---|---|
| 1. | 3029 S. Suncoast Blvd, Homosassa, FL 34448 |
| 2. | 1115 Industrial Drive, Owensboro, KY 42303 |
| 3. | 280 Ellis Smeathers Ferry Road, Owensboro, KY 42303 |
| 4. | 2205 Ragu Drive Owensboro, KY 42303 |
| 5. | 920 Wing Avenue, Owensboro, KY 42303 |
| 6. | 1920 Ledo Rd Albany, GA 31707 |
| 7. | 1705 West Battaglia Drive Eloy, AZ 85131 |
| 8. | 5055 North Ken Morey Dr., Flagstaff, AZ 86015 |
| 9. | 14500 Smith Rd Humble, TX 77396 |
| 10. | 2001 N. Davis Rd Ottawa, KS 66067 |
| 11. | 420 S. 19th Ave. Phoenix, AZ 85009 |
| 12. | 2324 Navy Dr Stockton, CA 95206 |
| 13. | 325 S Geneva Rd Lindon, UT 84042 |
| 14. | 1345 Hall Spencer Rd Rock Hill, SC 29730 |
| 15. | 1841 W Buchanan Phoenix, AZ 85009 |
| 16. | 4920 Airline Dr., Houston, TX 77022 |
| 17. | 4320 E Presidio St, Ste 111 Mesa, AZ 85215 |

Exhibit 99.1

**FOR IMMEDIATE RELEASE**

**HC2 Portfolio Company DBM Global Inc. Completes Acquisition of GrayWolf Industrial**

**NEW YORK, November 30, 2018 --** HC2 Holdings, Inc. (“HC2”) (NYSE: HCHC), a diversified holding company, announced today that its operating subsidiary DBM Global Inc. (“DBM Global”) (OTC: DBMG), a family of companies providing fully integrated structural and steel construction services, has completed its previously announced acquisition of GrayWolf Industrial, a premier specialty maintenance, repair and installation services provider.

“Through this acquisition, which is expected to be accretive to DBM Global’s annual Adjusted EBITDA by just over $20 million and to provide what we believe will be stable free cash flow, we will diversify our revenue and service offering beyond fabrication and erecting into heavy maintenance and repair in the petrochemical, pulp & paper, oil refinery and power markets,” said Rustin Roach, President and Chief Executive Officer of DBM Global. “We look forward to welcoming the GrayWolf team to the DBM Global family and to offering a more extensive value proposition to our existing customers, while also cross-selling to GrayWolf's impressive list of blue-chip customers.”

“We believe GrayWolf’s strong culture, outstanding reputation in the industry and complementary services will allow DBM to reach more end-markets, while at the same time helping to counter the cyclicality of the commercial construction market given the long-term and recurring nature of GrayWolf’s maintenance and service contracts,” said Philip Falcone, HC2’s Chairman, Chief Executive Officer and President. “Through this transaction, we are closer to our goal of making DBM a $1 billion revenue and $100 million Adjusted EBITDA industrial services company.”

For nearly 40 years, GrayWolf has developed an outstanding reputation for on-time deliveries, commitment to safety and furnishing quality services and products. GrayWolf provides services including specialty welding, maintenance and rigging, among others, to clients across the United States and select international locations in a variety of heavy industrial and mechanical industries, ranging from power to petrochemical to pulp & paper to mining. The focus on maintenance and service is complementary to the existing DBM Global fabrication and erection capabilities.

The purchase price for the acquisition, inclusive of $80 million of assumed debt of GrayWolf was $135 million (subject to working capital adjustments), which was financed with $15 million of cash from DBM Global’s balance sheet and $40 million of cash from HC2’s insurance subsidiary via an investment in DBM Global's direct parent, DBM Global Intermediate Holdco, and an $80 million term loan incurred by DBM Global used to refinance the assumed debt of GrayWolf.

The Company also announced that Michael Lampert, GrayWolf’s Chief Operating Officer, has been appointed Chief Executive Officer ("COO") of the new GrayWolf subsidiary of DBM Global, reporting to Rustin Roach.

Mr. Lampert is a 30+ year integrated sales, engineering, manufacturing and finance veteran and has been with GrayWolf for the last decade. In his most recent role as COO, he was responsible for all operations across GrayWolf's four business segments including sales and estimating, project execution, safety, quality and human resources. Previously, Mr. Lampert served as GrayWolf's Chief Financial Officer where he was responsible for all financial operations across the business. Prior to joining GrayWolf in 2008, Mr. Lampert spent nearly 20 years with Integrated Energy Technologies where he served most recently as President based in Evansville, Indiana. Mr. Lampert also served as a United States Air Force officer and obtained a Master of Science and Bachelor of Arts degree from Southern Illinois University.

Mr. Lampert commented, "On behalf of all the GrayWolf team members, we look forward to being part of the DBM Global and HC2 family and leveraging each other's complementary services, customer bases and culture to drive synergies across the business."

**About HC2**

HC2 Holdings, Inc. is a publicly traded (NYSE: HCHC) diversified holding company which seeks opportunities to acquire and grow businesses that can generate long-term sustainable free cash flow and attractive returns in order to maximize value for all stakeholders. HC2 has a diverse array of operating subsidiaries across eight reportable segments, including Construction, Marine Services, Energy, Telecommunications, Life Sciences, Broadcasting, Insurance and Other. HC2's largest operating subsidiaries include DBM Global Inc., a family of companies providing fully integrated structural and steel construction services, and Global Marine Systems Limited, a leading provider of engineering and underwater services on submarine cables. Founded in 1994, HC2 is headquartered in New York, New York. Learn more about HC2 and its portfolio companies at www.hc2.com.

**About DBM Global Inc.**

DBM Global Inc. is focused on delivering world class, sustainable value to its clients through a highly collaborative portfolio of companies which provide better designs, more efficient construction and superior asset management solutions. The Company offers integrated steel construction services from a single source and professional services which include design-assist, design-build, engineering, BIM participation, 3D steel modeling/detailing, fabrication, advanced field erection, project management, and state-of-the-art steel management systems. Major market segments include commercial, healthcare, convention centers, stadiums, gaming and hospitality, mixed use and retail, industrial, public works, bridges, transportation, and international projects. The Company, which is headquartered in Phoenix, Arizona, has operations in United States, Australia, Canada, India, New Zealand, Philippines, Thailand and the United Kingdom.

**Cautionary Statement Regarding Forward-Looking Statements**

Safe Harbor Statement Under the Private Securities Litigation Reform Act of 1995: This release contains, and certain oral statements made by our representatives from time to time may contain, forward-looking statements. Generally, forward-looking statements include events, results, strategies and expectations and are generally identifiable by use of the words "believes," "expects," "intends," "anticipates," "plans," "seeks," "estimates," "projects," "may," "will," "could," "might," or "continues" or similar expressions. The forward-looking statements in this press release include, without limitation, statements regarding our expectation regarding building shareholder value. Such statements are based on the beliefs and assumptions of HC2's management and the management of HC2's subsidiaries and portfolio companies. HC2 believes these judgments are reasonable, but you should understand that these statements are not guarantees of performance or results, and HC2's actual results could differ materially from those expressed or implied in the forward-looking statements due to a variety of important factors, both positive and negative, that may be revised or

supplemented in subsequent reports on Forms 10-K, 10-Q and 8-K. Such important factors include, without limitation, the ability of our subsidiaries (including, target businesses following their acquisition) to generate sufficient net income and cash flows to make upstream cash distributions, capital market conditions, our and our subsidiaries' ability to refinance existing debt, identify any suitable future acquisition opportunities, efficiencies/cost avoidance, cost savings, income and margins, growth, economies of scale, combined operations, future economic performance, conditions to, and the timetable for, completing the integration of financial reporting of acquired or target businesses with HC2 or the applicable subsidiary of HC2, completing future acquisitions and dispositions, litigation, potential and contingent liabilities, management's plans, changes in regulations and taxes.

These risks and other important factors discussed under the caption "Risk Factors" in our most recent Annual Report on Form 10-K filed with the Securities and Exchange Commission ("SEC"), and our other reports filed with the SEC could cause actual results to differ materially from those indicated by the forward-looking statements made in this press release.

You should not place undue reliance on forward-looking statements. All forward-looking statements attributable to HC2 or persons acting on its behalf are expressly qualified in their entirety by the foregoing cautionary statements. All such statements speak only as of the date made, and HC2 undertakes no obligation to update or revise publicly any forward-looking statements, whether as a result of new information, future events or otherwise.

For information on HC2 Holdings, Inc., please contact:
Andrew G. Backman
Managing Director
Investor Relations & Public Relations
abackman@hc2.com
212-339-5836