

Exhibit N

New Intercreditor Agreement



INTERCREDITOR AGREEMENT

This **INTERCREDITOR AGREEMENT** (“**Agreement**”) is dated as of [•], and entered into by and among

- PNC BANK, NATIONAL ASSOCIATION (“**PNC**”), as administrative and collateral agent (in such capacity, the “**ABL Agent**”) under the ABL Credit Agreement (as defined below),
- [•], as Administrative Agent (in such capacity, the “**Senior Lien Agent**”) under the First Lien Credit Agreement (as defined below),
- [•], as Administrative Agent (in such capacity, the “**First Lien Agent**”) under the First Lien Credit Agreement (as defined below), and
- [•], as Administrative Agent (in such capacity, the “**Junior Lien Agent**”) under the Junior Lien Credit Agreement (as defined below).

Capitalized terms used in this Agreement have the meanings assigned to them in Section 1 below.

RECITALS

A. On January 19, 2011, the Borrowers (as defined below) and Guarantors (as defined below) commenced Chapter 11 Case Nos. 11-10160 through 11-10187, as administratively consolidated at Chapter 11 Case No. 11-10160(KG) (each a “**Chapter 11 Case**” and collectively, the “**Chapter 11 Cases**”) by filing separate voluntary petitions for reorganization under the Bankruptcy Code with the United States Bankruptcy Court for the District of Delaware. In order to continue to operate their businesses and manage their properties, the Agents and Claimholders have agreed to provide financing pursuant to the Credit Agreements and other Loan Documents, and enter into this Agreement.

B. JOHNNY APPLESEED’S, INC., a Massachusetts corporation, for itself and as agent for the other Borrowers, the Borrowers, the Guarantors, ABL Lenders (as defined below), PNC as Swingline Lender, PNC CAPITAL MARKETS LLC, as sole lead arranger and sole book runner, and the ABL Agent have entered into a Revolving Credit Agreement dated as of the date hereof providing for a revolving credit facility (as amended, restated, supplemented, modified, replaced or refinanced from time to time, the “**ABL Credit Agreement**”).

C. The Loan Parties (as defined below), the Senior Lien Lenders and the Senior Lien Agent have entered into a Credit Agreement dated as of the date hereof providing for a credit facility (as amended, restated, supplemented, modified, replaced or refinanced from time to time, the “**Senior Lien Credit Agreement**”).

D. The Loan Parties, the First Lien Lenders and the First Lien Agent have entered into a Credit Agreement dated as of the date hereof providing for a credit facility (as

amended, restated, supplemented, modified, replaced or refinanced from time to time, the “**First Lien Credit Agreement**”).

E. The Loan Parties, the Junior Lien Lenders and the Junior Lien Agent have entered into a Credit Agreement dated as of the date hereof providing for a credit facility (as amended, restated, supplemented, modified, replaced or refinanced from time to time, the “**Junior Lien Credit Agreement**”).

F. As a condition to the closing of each of the ABL Credit Agreement, the Senior Lien Credit Agreement, the First Lien Credit Agreement and the Junior Lien Credit Agreement, each of the Agents (as defined below) and the various Claimholders (as defined below) have agreed to the relative priority of their respective Liens on the Collateral and certain other rights, priorities and interests as set forth in this Agreement.

In consideration of the foregoing, the mutual covenants and obligations herein set forth and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

SECTION 1. Definitions.

1.1 Defined Terms. As used in the Agreement, the following terms shall have the following meanings:

“**ABL Agent**” has the meaning assigned to that term in the preamble to this Agreement.

“**ABL Cap**” means, as of any date of determination, the result of (a) the sum of (i) in the case of outstanding Revolving Advances and Letters of Credit, the lesser of (A) \$[99,000,000] and (B) the sum of (1) 110% of Availability plus (2) the outstanding amount of Out-of-Formula Loans (as defined in the ABL Credit Agreement as in effect on the date hereof) permitted under the ABL Credit Agreement, which amount shall not exceed \$[4,500,000], plus (ii) the aggregate amount of Hedge Liabilities under Lender-Provided Interest Rate Hedges (each as defined in the ABL Credit Agreement) in a maximum amount not to exceed the lesser of (A) \$[•] or (B) the amount of Reserves (as defined in the ABL Credit Agreement) established by the ABL Agent against the Formula Amount (as defined in the ABL Credit Agreement) in respect of such Hedge Liabilities at the time such Lender-Provided Interest Rate Hedges are provided by the ABL Lenders, [plus (iii) the aggregate amount of any Borrower Revolver Increase provided pursuant to the provisions of Section 2.25 of the ABL Credit Agreement or any other increase to the principal amount of the ABL Obligations, which amount shall not exceed \$25,000,000,] minus (b) the sum of (i) the aggregate amount of all permanent reductions of the Maximum Revolving Advance Amount (as defined in the ABL Credit Agreement as in effect on the date hereof, but other than as a result of the termination of the Commitment Percentage (as defined in the ABL Credit Agreement) or pursuant to a Refinancing thereof); it being acknowledged and agreed that Availability fluctuates throughout the year and that the “**ABL Cap**” shall similarly be entitled to so fluctuate to reflect changes in Availability.

“**ABL Claimholders**” means, at any relevant time, the holders of ABL Obligations at that time, including the ABL Lenders, the other Secured Parties (as defined in the ABL Credit Agreement) and the ABL Agent.

“**ABL Collateral Documents**” means the “Security Documents” (as defined in the ABL Credit Agreement) and any other agreement, document, or instrument pursuant to which a Lien is granted securing any ABL Obligation or under which rights or remedies with respect to such Liens are governed.

“**ABL Credit Agreement**” has the meaning assigned to that term in the recitals to this Agreement.

“**ABL Default**” means any “Event of Default”, as such term is defined in any ABL Loan Document.

“**ABL Lenders**” means the “Lenders” as defined in the ABL Credit Agreement.

“**ABL Loan Documents**” means the ABL Credit Agreement, the ABL Collateral Documents and the other Loan Documents (as defined in the ABL Credit Agreement) and each of the other agreements, documents and instruments providing for or evidencing any other ABL Obligation, and any other document or instrument executed or delivered at any time in connection with any ABL Obligations, including any intercreditor or joinder agreement among holders of ABL Obligations, to the extent such are effective at the relevant time, as each may be amended, supplemented, refunded, deferred, restructured, replaced or refinanced from time to time in whole or in part (whether with the ABL Agent and ABL Lenders or other agents and lenders or otherwise), in each case in accordance with the provisions of this Agreement.

“**ABL Obligations**” means all Secured Obligations (as defined in the ABL Credit Agreement). “ABL Obligations” shall include all interest or fees accrued or accruing (or which would, absent commencement of an Insolvency Proceeding, accrue) after commencement of an Insolvency Proceeding in accordance with the rate specified in the relevant ABL Loan Document whether or not the claim for such interest or fees is allowed as a claim in such Insolvency Proceeding.

“**ABL Priority Obligations**” means all ABL Obligations exclusive of the Excess ABL Obligations, which Excess ABL Obligations shall be excluded from (and shall not constitute) ABL Priority Obligations.

“**Agents**” means each of the ABL Agent, Senior Lien Agent, First Lien Agent and Junior Lien Agent.

“**Agreement**” means this Intercreditor Agreement, as amended, restated, renewed, extended, supplemented or otherwise modified from time to time

“Availability” means, at any time, the aggregate amount of the Advances available to Borrowers from the ABL Lenders (as calculated without giving effect to any termination of the Commitment Percentage (as defined in the ABL Credit Agreement) as a result of any default by a Borrower under the ABL Credit Agreement) based on the applicable percentages (as in effect on the date hereof) of Eligible Inventory, Eligible Credit Card Receivables, Eligible Other Receivables and Eligible In-Transit Inventory (as such terms are defined in the ABL Credit Agreement as in effect on the date hereof) set forth in Section 2.1 of the ABL Credit Agreement (as in effect on the date hereof) (determined without regard to any revolving loans or letter of credit accommodations then outstanding), and, accordingly, the term “Availability” is used herein to mean the aggregate amount of Advances available without any reduction for the amount of Advances outstanding.

“Bankruptcy Code” means Title 11 of the United States Code entitled “Bankruptcy,” as now and hereafter in effect, or any successor statute.

“Bankruptcy Law” means the Bankruptcy Code and any other federal, state, or foreign law for the relief of debtors.

“Borrower” means, individually, each Person listed as a “Borrower” on the signature pages to any Credit Agreement, each other Person that becomes a party to any Credit Agreement as a Borrower pursuant to a joinder agreement, and includes all permitted successors and assigns of such Persons, and “Borrowers” means, collectively, all of such Persons.

“Business Day” means any day other than Saturday or Sunday or a legal holiday on which commercial banks are authorized or required by law to be closed for business in East Brunswick, New Jersey or New York, New York.

“Cash Collateral” has the meaning given thereto in Section 363(a) of the Bankruptcy Code.

“Chapter 11 Cases” has the meaning assigned to that term in the recitals to this Agreement.

“Claimholders” means the ABL Claimholders, the Senior Lien Claimholders, the First Lien Claimholders and the Junior Lien Claimholders.

“Collateral” means all of the assets and property of any Grantor, whether real, personal or mixed, on which a Lien has been granted to the ABL Agent as security for the ABL Obligations, the Senior Lien Agent, as security for the Senior Lien Obligations, the First Lien Agent, as security for the First Lien Obligations or the Junior Lien Agent, as security for the Junior Lien Obligations; provided that the Litigation Trust (as defined in the ABL Credit Agreement on the date hereof) and proceeds thereof in excess of the amounts advanced by the Borrowers to the Litigation Trust shall not constitute Collateral for the ABL Obligations.

“**Credit Agreements**” means each of the ABL Credit Agreement, Senior Lien Credit Agreement, First Lien Credit Agreement or Junior Lien Credit Agreement, and “Credit Agreement” means any one of them, as the context so requires.

“**Default Notice**” means a written notice to the ABL Agent pursuant to which the ABL Agent is notified of a First Lien Default, Senior Lien Default or a Junior Lien Default.

“**DIP Financing**” has the meaning set forth in Section 6.2.

“**Discharge**” means, with respect to any Obligation, payment in full in cash and termination or expiration of all commitments to extend credit, or with respect to the ABL Obligations, termination or cash collateralization of all outstanding Letters of Credit (as defined in the ABL Credit Agreement).

“**Discharge of ABL Priority Obligations**” means, except to the extent otherwise expressly provided in Section 5.5:

(a) payment in full in cash of the ABL Priority Obligations (other than unasserted contingent indemnification obligations, outstanding Letters of Credit and Hedge Liabilities under Lender-Provided Interest Rate Hedges);

(b) termination or expiration of all commitments, if any, to extend credit that would constitute ABL Priority Obligations; and

(c) termination or cash collateralization (in an amount and in the manner required by the ABL Loan Documents) of all outstanding Letters of Credit (but not in any event in an amount greater than 105% of the aggregate undrawn face amount of such Letters of Credit) and Hedge Liabilities under Lender-Provided Interest Rate Hedges (in an amount not to exceed the limitation set forth with respect thereto in clause (a)(ii) in the definition of ABL Cap, and in form and substance reasonably satisfactory to the ABL Agent);

provided that, if a Discharge of ABL Priority Obligations occurs prior to the termination of this Agreement in accordance with Section 9.2, to the extent that additional ABL Obligations are incurred or ABL Obligations are reinstated in accordance with Section 6.6, the Discharge of ABL Priority Obligations shall (effective upon the incurrence of such additional ABL Obligations or reinstatement of such ABL Obligations, as applicable) be deemed to no longer be effective.

“**Discharge of First Lien Priority Obligations**” means, except to the extent otherwise expressly provided in Section 5.5:

(a) payment in full in cash of the First Lien Priority Obligations (other than unasserted contingent indemnification obligations); and

(b) termination or expiration of all commitments, if any, to extend credit that would constitute First Lien Priority Obligations;

provided that, if a Discharge of First Lien Priority Obligations occurs prior to the termination of this Agreement in accordance with Section 9.2, to the extent that additional First Lien Obligations are incurred or First Lien Obligations are reinstated in accordance with Section 6.6, the Discharge of First Lien Priority Obligations shall (effective upon the incurrence of such additional First Lien Obligations or reinstatement of such First Lien Obligations, as applicable) be deemed to no longer be effective.

“Discharge of Junior Lien Priority Obligations” means, except to the extent otherwise expressly provided in Section 5.5:

(a) payment in full in cash of the Junior Lien Priority Obligations (other than unasserted contingent indemnification obligations); and

(b) termination or expiration of all commitments, if any, to extend credit that would constitute Junior Lien Priority Obligations;

provided that, if a Discharge of Junior Lien Priority Obligations occurs prior to the termination of this Agreement in accordance with Section 9.2, to the extent that additional Junior Lien Obligations are incurred or Junior Lien Obligations are reinstated in accordance with Section 6.6, the Discharge of Junior Lien Priority Obligations shall (effective upon the incurrence of such additional Junior Lien Obligations or reinstatement of such Junior Lien Obligations, as applicable) be deemed to no longer be effective.

“Discharge of Senior Lien Priority Obligations” means, except to the extent otherwise expressly provided in Section 5.5:

(a) payment in full in cash of the Senior Lien Priority Obligations (other than unasserted contingent indemnification obligations); and

(b) termination or expiration of all commitments, if any, to extend credit that would constitute Senior Lien Priority Obligations;

provided that, if a Discharge of Senior Lien Priority Obligations occurs prior to the termination of this Agreement in accordance with Section 9.2, to the extent that additional Senior Lien Obligations are incurred or Senior Lien Obligations are reinstated in accordance with Section 6.6, the Discharge of Senior Lien Priority Obligations shall (effective upon the incurrence of such additional Senior Lien Obligations or reinstatement of such Senior Lien Obligations, as applicable) be deemed to no longer be effective.

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

["**Excess ABL Obligations**" means the sum of (a) the portion of the principal amount of the Advances outstanding under the ABL Loan Documents, the undrawn amount of all outstanding Letters of Credit, and the outstanding amount of Hedge Liabilities under Lender-Provided Interest Rate Hedges that is in excess of the ABL Cap, plus (b) the portion of interest and fees on account of such portion of the loans, Letters of Credit and Hedge Liabilities under Lender-Provided Interest Rate Hedges described in clause (a) of this definition plus (c) any default interest (but not any other interest) or loan fees, each arising from or related to a default and accruing or becoming due under the terms of the ABL Loan Documents on or after the commencement of any Insolvency Proceeding relating to any Grantor or any other Person to the extent that a claim for such default interest or loan fees is not allowable or allowed in such Insolvency Proceeding.]

"**Excess First Lien Obligations**" means the sum of (a) the portion of the principal amount of the loans outstanding under the First Lien Loan Documents in excess of the First Lien Cap, plus (b) the portion of interest and fees on account of such portion of the loans described in clause (a) of this definition, plus (c) any default interest (but not any other interest) or loan fees, each arising from or related to a default and accruing or becoming due under the terms of the First Lien Loan Documents on or after the commencement of any Insolvency Proceeding relating to any Grantor or any other Person to the extent that a claim for such default interest or loan fees is not allowable or allowed in such Insolvency Proceeding.

"**Excess Junior Lien Obligations**" means the sum of (a) the portion of the principal amount of the loans outstanding under the Junior Lien Loan Documents in excess of the Junior Lien Cap, plus (b) the portion of interest and fees on account of such portion of the loans described in clause (a) of this definition, plus (c) any default interest (but not any other interest) or loan fees, each arising from or related to a default and accruing or becoming due under the terms of the Junior Lien Loan Documents on or after the commencement of any Insolvency Proceeding relating to any Grantor or any other Person to the extent that a claim for such default interest or loan fees is not allowable or allowed in such Insolvency Proceeding.

"**Excess Senior Lien Obligations**" means the sum of (a) the portion of the principal amount of the loans outstanding under the Senior Lien Loan Documents in excess of the Senior Lien Cap, plus (b) the portion of interest and fees on account of such portion of the loans described in clause (a) of this definition, plus (c) any default interest (but not any other interest) or loan fees, each arising from or related to a default and accruing or becoming due under the terms of the Senior Lien Loan Documents on or after the commencement of any Insolvency Proceeding relating to any Grantor or any other Person to the extent that a claim for such default interest or loan fees is not allowable or allowed in such Insolvency Proceeding.

"**Exercise any Secured Creditor Remedies**" or "**Exercise of Secured Creditor Remedies**" means collectively or individually by any one of the ABL Agent, the Senior Lien Agent, the First Lien Agent or the Junior Lien Agent when an ABL Default, a Senior Lien Default, a First Lien Default or a Junior Lien Default, as the case may be, has occurred and is continuing, (a) the taking of any action to enforce any Lien in respect of the Collateral, including

the institution of any foreclosure proceedings, the noticing of any public or private sale or other disposition pursuant to Article 9 of the UCC or any diligently pursued in good faith attempt to vacate or obtain relief from a stay or other injunction restricting any other action described in this definition, (b) the exercise of any right or remedy provided to a secured creditor under the ABL Loan Documents, Senior Lien Loan Documents, First Lien Loan Documents or the Junior Lien Loan Documents (including, in either case, any delivery of any notice to otherwise seek to obtain payment directly from any account debtor of any Grantor or the taking of any action or the exercise of any right or remedy in respect of the setoff or recoupment against the Collateral or proceeds of Collateral, other than the collection, in the ordinary course, of amounts due with respect to Credit Card Receivables and Other Receivables (each as defined in the ABL Credit Agreement) as provided for under the Loan Documents), under applicable law, at equity, in an Insolvency Proceeding or otherwise, including the acceptance of Collateral in full or partial satisfaction of a Lien, (c) the sale, assignment, transfer, lease, license, or other Disposition of all or any portion of the Collateral, by private or public sale or any other means, (d) the solicitation of bids from third parties to conduct the liquidation of all or a material portion of Collateral to the extent undertaken and being diligently pursued in good faith to consummate the Disposition of such Collateral within a commercially reasonable time, (e) the engagement or retention of sales brokers, marketing agents, investment bankers, accountants, appraisers, auctioneers, or other third parties for the purposes of valuing, marketing, or Disposing of, all or a material portion of the Collateral to the extent undertaken and being diligently pursued in good faith to consummate the Disposition of such Collateral within a commercially reasonable time, (f) the exercise of any other enforcement right relating to the Collateral (including the exercise of any voting rights relating to any capital stock composing a portion of the Collateral) under any Loan Document, under applicable law of any jurisdiction, in equity, in an Insolvency Proceeding, or otherwise, (h) the pursuit of Dispositions relative to all or a material portion of the Collateral to the extent undertaken and being diligently pursued in good faith to consummate the Disposition of such Collateral within a commercially reasonable time, or (i) the commencement of, or the joinder with any creditor in commencing, any Insolvency Proceeding against any Grantor or any assets of any Grantor.

“Exigent Circumstances” means an event or circumstance that materially and imminently threatens the ability of the ABL Agent to realize upon all or a material part of the Collateral, such as, without limitation, fraudulent removal, concealment, or abscondment thereof, destruction (other than to the extent covered by insurance) or material waste thereof, as determined by the ABL Agent in good faith.

“First Lien Agent” has the meaning assigned to that term in the preamble to this Agreement.

“First Lien Cap” means, as of any date of determination, the result of 110% of (i) the principal amount of the First Lien Obligations on the Closing Date, which amount is \$200,000,000 plus (ii) all accretions thereto due to the capitalization of accrued interest thereon, minus (iii) any and all repayments (whether amortization, voluntary, mandatory or otherwise) of principal of the First Lien Obligations made on and after the Closing Date; it being

acknowledged and agreed that the amount of the First Lien Cap will fluctuate throughout the year as a result of repayments.

“**First Lien Claimholders**” means, at any relevant time, the holders of First Lien Obligations at that time, including the First Lien Lenders, the other Secured Parties (as defined in the First Lien Credit Agreement) and the First Lien Agent.

“**First Lien Collateral Documents**” means the “Security Documents” (as defined in the First Lien Credit Agreement) and any other agreement, document, or instrument pursuant to which a Lien is granted securing any First Lien Obligation or under which rights or remedies with respect to such Liens are governed.

“**First Lien Credit Agreement**” has the meaning assigned to that term in the recitals to this Agreement.

“**First Lien Default**” means any “Event of Default”, as such term is defined in any First Lien Loan Document.

“**First Lien Lenders**” means the “Lenders” as defined in the First Lien Credit Agreement.

“**First Lien Loan Documents**” means the First Lien Credit Agreement, the First Lien Collateral Documents and the other Loan Documents (as defined in the First Lien Credit Agreement) and each of the other agreements, documents and instruments providing for or evidencing any other First Lien Obligation, and any other document or instrument executed or delivered at any time in connection with any First Lien Obligations, including any intercreditor or joinder agreement among holders of First Lien Obligations, to the extent such are effective at the relevant time, as each may be amended, supplemented, refunded, deferred, restructured, replaced or refinanced from time to time in whole or in part (whether with the First Lien Agent and First Lien Lenders or other agents and lenders or otherwise), in each case in accordance with the provisions of this Agreement.

“**First Lien Obligations**” means all Secured Obligations (as defined in the First Lien Credit Agreement). “First Lien Obligations” shall include all interest or fees accrued or accruing (or which would, absent commencement of an Insolvency Proceeding, accrue) after commencement of an Insolvency Proceeding in accordance with the rate specified in the relevant First Lien Loan Document whether or not the claim for such interest or fees is allowed as a claim in such Insolvency Proceeding.

“**First Lien Priority Obligations**” means all First Lien Obligations exclusive of the Excess First Lien Obligations, which Excess First Lien Obligations shall be excluded from (and shall not constitute) First Lien Priority Obligations.

“**Governmental Authority**” means the government of the United States of America or any other nation, any political subdivision thereof, whether state or local, and any

agency, authority, instrumentality, regulatory body, court, central bank, or other entity exercising executive, legislative, judicial, taxing, regulatory, or administrative powers or functions of or pertaining to government.

“Grantors” means the Borrowers and the Guarantors, and each other Person that may from time to time become a “debtor,” “grantor,” or “pledgor” (or the equivalent thereof) under a Loan Document, or whose assets otherwise serve as collateral securing any portion of the Obligations.

“Guarantor” means each of Orchard Brands Corporation, a Delaware corporation, and the Subsidiary Guarantors and any other company that has agreed to guarantee any of the ABL Obligations, the Senior Lien Obligations, the First Lien Obligations or the Junior Lien Obligations in accordance with the relevant Credit Agreement.

“Insolvency Proceeding” means:

(a) any voluntary or involuntary case or proceeding under any Bankruptcy Law with respect to any Grantor;

(b) any other voluntary or involuntary insolvency or bankruptcy case or proceeding, or any receivership, liquidation or other similar case or proceeding with respect to any Grantor or with respect to a material portion of its assets;

(c) any liquidation, dissolution, or winding up of any Grantor (except to the extent expressly permitted by the Loan Documents) whether voluntary or involuntary and whether or not involving insolvency or bankruptcy; or

(d) any assignment for the benefit of creditors or any other marshaling of assets and liabilities of any Grantor;

provided that, for the avoidance of doubt, “Insolvency Proceeding” shall not include the Chapter 11 Cases.

“Junior Lien Agent” has the meaning assigned to that term in the preamble to this Agreement.

“Junior Lien Cap” means, as of any date of determination, the result of 110% of (i) the principal amount of the Junior Lien Obligations on the Closing Date, which amount is \$43,000,000 plus all accretions thereto due to the capitalization of accrued interest thereon, minus (ii) any and all repayments (whether amortization, voluntary, mandatory or otherwise) of principal of the Junior Lien Obligations made on and after the Closing Date; it being acknowledged and agreed that the amount of the Junior Lien Cap will fluctuate throughout the year as a result of repayments.

“Junior Lien Claimholders” means, at any relevant time, the holders of Junior Lien Obligations at that time, including the Junior Lien Lenders, the other Secured Parties (as defined in the Junior Lien Credit Agreement) and the Junior Lien Agent.

“Junior Lien Collateral Documents” means the “Security Documents” (as defined in the Junior Lien Credit Agreement) and any other agreement, document, or instrument pursuant to which a Lien is granted securing any Junior Lien Obligation or under which rights or remedies with respect to such Liens are governed.

“Junior Lien Credit Agreement” has the meaning assigned to that term in the recitals to this Agreement.

“Junior Lien Default” means any “Event of Default”, as such term is defined in any Junior Lien Loan Document.

“Junior Lien Lenders” means the “Lenders” as defined in the Junior Lien Credit Agreement.

“Junior Lien Loan Documents” means the Junior Lien Credit Agreement, the Junior Lien Collateral Documents and the other Loan Documents (as defined in the Junior Lien Credit Agreement) and each of the other agreements, documents and instruments providing for or evidencing any other Junior Lien Obligation, and any other document or instrument executed or delivered at any time in connection with any Junior Lien Obligations, including any intercreditor or joinder agreement among holders of Junior Lien Obligations, to the extent such are effective at the relevant time, as each may be amended, supplemented, refunded, deferred, restructured, replaced or refinanced from time to time in whole or in part (whether with the Junior Lien Agent and Junior Lien Lenders or other agents and lenders or otherwise), in each case in accordance with the provisions of this Agreement.

“Junior Lien Obligations” means all Secured Obligations (as defined in the Junior Lien Credit Agreement). “Junior Lien Obligations” shall include all interest or fees accrued or accruing (or which would, absent commencement of an Insolvency Proceeding, accrue) after commencement of an Insolvency Proceeding in accordance with the rate specified in the relevant Junior Lien Loan Document whether or not the claim for such interest or fees is allowed as a claim in such Insolvency Proceeding.

“Junior Lien Priority Obligations” means all Junior Lien Obligations exclusive of the Excess Junior Lien Obligations, which Excess Junior Lien Obligations shall be excluded from (and shall not constitute) Junior Lien Priority Obligations

“Lien” means, with respect to any property, (a) any mortgage, deed of trust, lien, pledge, encumbrance, claim, charge, assignment for security, hypothecation, security interest, deemed trust or encumbrance of any kind or filing of any financing statement under the UCC or any other similar notice of lien under any similar notice or recording statute of any Governmental Authority (other than UCC financing statements which were not authorized by a

Loan Party or are in connection with a refinancing of the loans under any of the Loan Documents in accordance with the terms hereof, to the extent that no security interest has attached with respect thereto), including any easement, right-of-way or other encumbrance on title to real property, in each of the foregoing cases whether voluntary or imposed by law, and any agreement to give any of the foregoing (other than in connection with a refinancing of the loans under any of the Loan Documents in accordance with the terms hereof, to the extent that no security interest has attached with respect thereto); (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such property; and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

“Loan Documents” means any of the ABL Loan Documents, Senior Lien Documents, First Lien Documents and Junior Lien Documents.

“Loan Party” means, individually, each Borrower and each Guarantor, and **“Loan Parties”** means, collectively, the Borrowers and the Guarantors.

“Obligations” means any of the ABL Obligations, the Senior Lien Obligations, the First Lien Obligations and the Junior Lien Obligations.

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

“Pledged Collateral” has the meaning set forth in Section 5.4(a).

“Prior Lien” means, at any time with respect to any Lien on the Collateral, any other Lien securing any of the other Obligations that has priority at such time over such Lien on the Collateral in accordance with Section 2.1.

“Purchase Notice” has the meaning set forth in Section 5.6(a).

“Purchasing Claimholders” means any Claimholders exercising the purchase option in accordance with Section 5.6(a).

“Recovery” has the meaning set forth in Section 6.6.

“Refinance” or **“refinance”** means, in respect of any indebtedness, to refinance, extend, renew, defease, supplement, restructure, replace, refund or repay, or to issue other indebtedness in exchange or replacement for such indebtedness, in whole or in part, whether with the same or different lenders, arrangers and/or agents. **“Refinanced”** and **“Refinancing”** shall have correlative meanings.

“**Secondary Lien**” means, at any time with respect to any Lien on the Collateral, any other Lien securing any of the other Obligations that is junior to such Lien on the Collateral in accordance with Section 2.1.

“**Senior Lien Agent**” has the meaning assigned to that term in the preamble to this Agreement.

“**Senior Lien Cap**” means, as of any date of determination, the result of 110% of (i) the principal amount of the Senior Lien Obligations on the Closing Date, which amount is \$[40,000,000], minus (ii) any and all repayments (whether amortization, voluntary, mandatory or otherwise) of principal of the Senior Lien Obligations made on and after the Closing Date; it being acknowledged and agreed that the amount of the Senior Lien Cap will fluctuate throughout the year as a result of repayments.

“**Senior Lien Claimholders**” means, at any relevant time, the holders of Senior Lien Obligations at that time, including Senior Lien Lenders, the other Secured Parties (as defined in the Senior Lien Credit Agreement) and the Senior Lien Agent.

“**Senior Lien Collateral Documents**” means the “Security Documents” (as defined in the Senior Lien Credit Agreement) and any other agreement, document, or instrument pursuant to which a Lien is granted securing any Senior Lien Obligations or under which rights or remedies with respect to such Liens are governed.

“**Senior Lien Credit Agreement**” has the meaning assigned to that term in the recitals to this Agreement.

“**Senior Lien Default**” means any “Event of Default”, as such term is defined in any Senior Lien Loan Document.

“**Senior Lien Lenders**” means the “Lenders” as defined in the Senior Lien Credit Agreement.

“**Senior Lien Loan Documents**” means the Senior Lien Credit Agreement, the Senior Lien Collateral Documents and the other Loan Documents (as defined in the Senior Lien Credit Agreement) and each of the other agreements, documents and instruments providing for or evidencing any other Senior Lien Obligation, and any other document or instrument executed or delivered at any time in connection with any Senior Lien Obligations, including any intercreditor or joinder agreement among holders of Senior Lien Obligations, to the extent such are effective at the relevant time, as each may be amended, supplemented, refunded, deferred, restructured, replaced or refinanced from time to time in whole or in part (whether with the Senior Lien Agent and Senior Lien Lenders or other agents and lenders or otherwise), in each case in accordance with the provisions of this Agreement.

“**Senior Lien Obligations**” means all Secured Obligations (as defined in the Senior Lien Credit Agreement). “Senior Lien Obligations” shall include all interest or fees

accrued or accruing (or which would, absent commencement of an Insolvency Proceeding, accrue) after commencement of an Insolvency Proceeding in accordance with the rate specified in the relevant Senior Lien Loan Document whether or not the claim for such interest or fees is allowed as a claim in such Insolvency Proceeding.

“**Senior Lien Priority Obligations**” means all Senior Lien Obligations exclusive of the Excess Senior Lien Obligations, which Excess Senior Lien Obligations shall be excluded from (and shall not constitute) Senior Lien Priority Obligations.

“**Standstill Period**” has the meaning assigned to that term in Section 3.1(a) of this Agreement.

“**Subsidiary Guarantors**” means collectively (but without duplication), each Subsidiary Guarantor identified as such in accordance with each Credit Agreement.

“**Triggering Event**” means (i) the acceleration of any ABL Priority Obligations, (ii) ABL Agent’s (or, following expiration of the Standstill Period, any other Agent’s) Exercise of Secured Creditor Remedies with respect to all or a material portion of the Collateral, (iii) the occurrence of an ABL Default, Senior Lien Default, First Lien Default or Junior Lien Default as a result of a failure to make payment of any Obligation secured by a Lien when due under the terms of the applicable Loan Documents, or (iv) the commencement of an Insolvency Proceeding with respect to any Grantor; provided in each case that notice thereof has been provided to each of the Agents.

“**UCC**” means the Uniform Commercial Code (or any similar or equivalent legislation) as in effect in any applicable jurisdiction.

1.2 Construction. The definitions of terms in this Agreement 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.” The term “or” shall be construed to have, except where otherwise indicated, the inclusive meaning represented by the phrase “and/or.” Any term used in this Agreement and not defined in this Agreement shall have the meaning set forth in the ABL Credit Agreement (as in effect on the date hereof and as amended to the extent permitted under the terms of this Agreement). Unless the context requires otherwise:

(a) to the extent such amendment, restatement, supplement, modification, renewal, extension, Refinancing, refund, or replacement is not prohibited under this Agreement, 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, restated, supplemented, modified, renewed, extended, Refinanced, refunded, or replaced;

(b) any reference to any agreement, instrument, or other document herein “as in effect on the date hereof” shall be construed as referring to such agreement, instrument, or other document without giving effect to any amendment, restatement, supplement, modification, or Refinance after the date hereof;

(c) to the extent such amendment, restatement, supplement, modification, renewal, extension, Refinancing, refund, or replacement is not prohibited under this Agreement, any definition of or reference to the ABL Obligations, Senior Lien Obligations, First Lien Obligations or Junior Lien Obligations herein shall be construed as referring to the ABL Obligations, Senior Lien Obligations, First Lien Obligations or Junior Lien Obligations, respectively, as from time to time amended, restated, supplemented, modified, renewed, extended, Refinanced, refunded, or replaced;

(d) any reference herein to any Person shall be construed to include such Person’s successors and assigns;

(e) 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;

(f) all references herein to Sections shall be construed to refer to Sections of this Agreement; and

(g) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts, and contract rights.

SECTION 2. Lien Priorities.

2.1 Relative Priorities. Notwithstanding the date, time, method, manner or order of grant, attachment or perfection of any Liens securing any of the Obligations granted with respect to the Collateral and notwithstanding any contrary provision of the UCC or any other applicable law or any provision of the ABL Loan Documents, the Senior Lien Loan Documents, the First Lien Loan Documents or the Junior Lien Loan Documents or any defect or deficiencies in the Liens securing any of the Obligations or any other circumstance whatsoever, each of the ABL Agent, on behalf of itself and the ABL Claimholders, the Senior Lien Agent, on behalf of itself and the Senior Lien Claimholders, the First Lien Agent, on behalf of itself and the First Lien Claimholders, and the Junior Lien Agent, on behalf of itself and the Junior Lien Claimholders, hereby agrees that:

(a) subject to the last sentence of this Section 2.1 and subject to Section 4.4, any Lien of the ABL Agent with respect to the Collateral, whether now or hereafter held by or on behalf of the ABL Agent or any ABL Claimholder or any agent or trustee therefor, regardless of how acquired, whether by grant, possession, statute, operation of law, subrogation or otherwise, shall be senior in all respects and prior to any Lien with respect to the Collateral securing any

Senior Lien Obligations, First Lien Obligations and any Junior Lien Obligations, and until the Discharge of ABL Priority Obligations, such Liens with respect to the Collateral securing the Senior Lien Obligations, First Lien Obligations and Junior Lien Obligations shall be Secondary Liens hereunder;

(b) subject to the foregoing clause (a) and further subject to the last sentence of this Section 2.1, any Lien of the Senior Lien Agent with respect to the Collateral, whether now or hereafter held by or on behalf of the Senior Lien Agent or any Senior Lien Claimholder or any agent or trustee therefor, regardless of how acquired, whether by grant, possession, statute, operation of law, subrogation or otherwise, shall be senior in all respects and prior to any Lien with respect to the Collateral securing any First Lien Obligations and Junior Lien Obligations, and until the Discharge of Senior Lien Priority Obligations, such Liens with respect to the Collateral securing the First Lien Obligations and Junior Lien Obligations shall be Secondary Liens hereunder;

(c) subject to the foregoing clauses (a)-(b) and further subject to the last sentence of this Section 2.1, any Lien of the First Lien Agent with respect to the Collateral, whether now or hereafter held by or on behalf of the First Lien Agent or any First Lien Claimholder or any agent or trustee therefor, regardless of how acquired, whether by grant, possession, statute, operation of law, subrogation or otherwise, shall be senior in all respects and prior to any Lien with respect to the Collateral securing any Junior Lien Obligations, and until the Discharge of First Lien Priority Obligations, such Liens with respect to the Collateral securing the Junior Lien Obligations shall be Secondary Liens hereunder.

(d) The foregoing and any other provision to the contrary contained in this Agreement notwithstanding, (i) the subordination of Liens provided for in this Agreement shall cease to be effective with respect to any part of the Collateral from and after the date on which the Liens of ABL Agent and ABL Claimholders are declared, or ruled to be, invalid, unenforceable, void or not allowed by a court of competent jurisdiction in a final, non-appealable order as a result of any action taken by ABL Agent, or any failure by ABL Agent to take any action, with respect to any financing statement (including any amendment to or continuation thereof), mortgage or other perfection document, in which event Senior Lien Agent and Senior Lien Claimholders shall be entitled to receive and retain, from and after such date, all proceeds with respect to such Collateral to the extent the Liens of Senior Lien Agent and Senior Lien Claimholders are valid, enforceable, not void and allowed with respect to such Collateral; provided, however, that if such action taken by the ABL Agent or such failure to take any action by the ABL Agent (a) was as a direct result of a failure of a Grantor to provide the ABL Agent with information necessary to maintain the perfection of such Collateral, and (b) was not caused by the negligence or willful misconduct of the ABL Agent, then the subordination of Liens provided for in this Agreement shall continue; and (ii) except as expressly provided in this Agreement (including with respect to any DIP Financing permitted by Section 6.2) and except for Liens permitted by Section 7.2 of the ABL Credit Agreement to be senior to the ABL Liens of the ABL Agent, ABL Agent agrees not to contractually subordinate its Lien in any Collateral

to the Lien of any other creditor of Grantors without the prior written consent of Senior Lien Agent; the same provisions shall apply with respect to any Agent holding a Secondary Lien.

2.2 Prohibition on Contesting Liens. Each Agent, on behalf of itself and each of its respective Claimholders, and each Loan Party agrees that it will not (and hereby waives any right to) contest or support any other Person in contesting, in any proceeding (including any Insolvency Proceeding), the priority, validity or enforceability of a Lien held by or on behalf of any of the other Agents or Claimholders in all or any part of the Collateral, or the provisions of this Agreement; provided, that nothing in this Agreement shall be construed to prevent or impair the rights of any Agent to enforce this Agreement, including the provisions of this Agreement relating to the priority of the Liens securing the Obligations.

2.3 New Liens.

(a) So long as the Discharge of ABL Lien Priority Obligations has not occurred, and so long as no Insolvency Proceeding has been commenced by or against any Grantor, the parties hereto agree that no Grantor shall:

(i) grant any additional Liens on any asset to secure any Senior Lien Obligation, First Lien Obligation or Junior Lien Obligation unless such Grantor gives ABL Agent at least five (5) Business Days prior written notice thereof (or, if such Lien is granted upon the written request of any Senior Lien Claimholder, First Lien Claimholder or Junior Lien Claimholder such notice is provided to ABL Agent promptly after receiving such request and in any event prior to such Lien in fact being granted) and unless such notice also offers to grant a Lien on such asset to secure the ABL Obligations concurrently with the grant of a Lien thereon in favor of Senior Lien Agent, First Lien Agent or Junior Lien Agent; or

(ii) grant any additional Liens on any asset to secure any ABL Obligations unless such Grantor gives Senior Lien Agent, First Lien Agent and Junior Lien Agent at least five (5) Business Days prior written notice thereof (or, if such Lien is granted upon the written request of any ABL Claimholder, such notice is provided to Senior Lien Agent, First Lien Agent and Junior Lien Agent promptly after receiving such request and in any event prior to such Lien in fact being granted) and unless such notice also offers to grant a Lien on such asset to secure the Senior Lien Obligations, First Lien Obligations and Junior Lien Obligations concurrently with the grant of a Lien thereon in favor of ABL Agent.

(b) So long as the Discharge of Senior Lien Priority Obligations has not occurred, and so long as no Insolvency Proceeding has been commenced by or against any Grantor, the parties hereto agree that no Grantor shall:

(i) grant any additional Liens on any asset to secure any First Lien Obligation or Junior Lien Obligation unless such Grantor gives Senior Lien Agent at least five (5) Business Days prior written notice thereof (or, if such Lien is granted upon the

written request of any First Lien Claimholder or Junior Lien Claimholder such notice is provided to Senior Lien Agent promptly after receiving such request and in any event prior to such Lien in fact being granted) and unless such notice also offers to grant a Lien on such asset to secure the First Lien Obligations concurrently with the grant of a Lien thereon in favor of the First Lien Agent or Junior Lien Agent; or

(ii) grant any additional Liens on any asset to secure any Senior Lien Obligations unless such Grantor gives the First Lien Agent and Junior Lien Agent at least five (5) Business Days prior written notice thereof (or, if such Lien is granted upon the written request of any Senior Lien Claimholder, such notice is provided to the First Lien Agent and Junior Lien Agent promptly after receiving such request and in any event prior to such Lien in fact being granted) and unless such notice also offers to grant a Lien on such asset to secure the First Lien Obligations and Junior Lien Obligations concurrently with the grant of a Lien thereon in favor of Senior Lien Agent.

(c) So long as the Discharge of First Lien Priority Obligations has not occurred, and so long as no Insolvency Proceeding has been commenced by or against any Grantor, the parties hereto agree that no Grantor shall:

(i) grant any additional Liens on any asset to secure any Junior Lien Obligation unless such Grantor gives First Lien Agent at least five (5) Business Days prior written notice thereof (or, if such Lien is granted upon the written request of any Junior Lien Claimholder such notice is provided to First Lien Agent promptly after receiving such request and in any event prior to such Lien in fact being granted) and unless such notice also offers to grant a Lien on such asset to secure the Junior Lien Obligations concurrently with the grant of a Lien thereon in favor of the Junior Lien Agent; or

(ii) grant any additional Liens on any asset to secure any First Lien Obligations unless such Grantor gives the Junior Lien Agent at least five (5) Business Days prior written notice thereof (or, if such Lien is granted upon the written request of any First Lien Claimholder, such notice is provided to the Junior Lien Agent promptly after receiving such request and in any event prior to such Lien in fact being granted) and unless such notice also offers to grant a Lien on such asset to secure the Junior Lien Obligations concurrently with the grant of a Lien thereon in favor of First Lien Agent.

To the extent that the foregoing provisions are not complied with for any reason, without limiting any other rights and remedies available to ABL Agent or ABL Claimholders, each of the Senior Lien Agent, on behalf of Senior Lien Claimholders, the First Lien Agent, on behalf of First Lien Claimholders, and the Junior Lien Agent, on behalf of Junior Lien Claimholders, agrees that any amounts received by or distributed to any of them pursuant to or as a result of Liens granted in contravention of this Section 2.3 shall be subject to Section 4.2. If ABL Agent or any ABL Claimholder shall (nonetheless and in breach of this Section 2.3) acquire any Lien on any assets of any Grantor securing any ABL Obligations which assets are not also subject to the Lien of an

other Agent under the Senior Lien Collateral Documents, the First Lien Collateral Documents or the Junior Lien Collateral Documents, as applicable, then ABL Agent (or the relevant ABL Claimholder), shall, without the need for any further consent of any other Person and notwithstanding anything to the contrary in any other ABL Loan Document hold and be deemed to have held such Lien and security interest for the benefit of the ABL Claimholders as security for the ABL Obligations and, subject to the terms of this Agreement, for the benefit of the other Agents as security for the Obligations of such other Agents on behalf of their respective Claimholders. If Senior Lien Agent, First Lien Agent or Junior Lien Agent, or any of their respective Claimholders shall (nonetheless and in breach of this Section 2.3) acquire any Lien on any assets of any Grantor securing any Senior Lien Obligations which assets are not also subject to the Lien of ABL Agent under the ABL Collateral Documents, then such Senior Lien Agent, First Lien Agent or Junior Lien Agent (or the relevant Claimholder), shall, without the need for any further consent of any other Person and notwithstanding anything to the contrary in any other Loan Document hold and be deemed to have held such Lien and security interest for the benefit of the Claimholders as security for the Obligations subject to the terms of this Agreement. All such Liens and security interests deemed held for the benefit of any Person pursuant to this paragraph shall be subject to the provisions of Section 5.4

2.4 Similar Liens. The parties hereto agree that it is their intention that the Collateral securing the Obligations be identical, provided that the Litigation Trust (as defined in the ABL Credit Agreement on the date hereof) and proceeds thereof in excess of the amounts advanced by the Borrowers to the Litigation Trust pursuant to any Credit Agreement shall not constitute Collateral for the ABL Obligations. In furtherance of the foregoing and of Section 9.8, the parties hereto agree, subject to the other provisions of this Agreement:

(a) upon request by any Agent, to cooperate in good faith (and to direct their counsel to cooperate in good faith) from time to time in order to determine the specific items included in the Collateral and the steps taken or to be taken to perfect the respective Liens thereon and the identity of the respective parties obligated under the Loan Documents;

(b) upon request by any Agent after the Discharge of ABL Priority Obligations, Discharge of Senior Lien Priority Obligations or Discharge of First Lien Priority Obligations, the ABL Agent, in the case of Discharge of ABL Priority Obligations, the Senior Lien Agent, in the case of Discharge of Senior Lien Priority Obligations, or the First Lien Agent, in the case of Discharge of First Lien Priority Obligations, will provide written notice thereof to each bank at which any Account (as such term is defined in the relevant Credit Agreement) is maintained.

The foregoing to the contrary notwithstanding, it is understood by each of the parties that to the extent that any Agent obtains a Lien in an asset (of a type that is not included in the types of assets included in the Collateral as of the date hereof or which would not constitute Collateral without a grant of a security interest or lien separate from the Loan Documents, as in effect immediately prior to obtaining such Lien on such asset) which the other parties to this Agreement elects not to obtain after receiving prior written notice thereof in accordance with the

provisions of Section 2.3, the Collateral will not be identical, and the provisions of the documents, agreements and instruments evidencing such Liens also will not be substantively similar, and any such difference in the scope or extent of perfection with respect to the Collateral resulting therefrom are hereby expressly permitted by this Agreement.

SECTION 3. Exercise of Remedies.

3.1 Standstill. Until the Discharge of ABL Priority Obligations has occurred, whether or not any Insolvency Proceeding has been commenced by or against any Grantor, each Agent and Claimholder holding a Secondary Lien on the Collateral agrees that it:

(a) will not exercise or seek to exercise any rights or remedies with respect to any Collateral (including any Exercise of Secured Creditor Remedies), unless in the case of the Senior Lien Agent, [ninety (90)] days shall have elapsed since ABL Agent shall have received a Default Notice from the Senior Lien Agent, the Senior Default described in such Default Notice shall be continuing and the ABL Agent shall not have commenced and be diligently pursuing in good faith Exercise of Secured Creditor Remedies with respect to all or a material portion of the Collateral or, unless in the case of the First Lien Agent, [one hundred and twenty (120)] days shall have elapsed since the ABL Agent and the Senior Lien Agent shall have received a Default Notice from the First Lien Agent, the First Lien Default described in such Default Notice shall be continuing and neither the ABL Agent nor the Senior Lien Agent shall have commenced and be diligently pursuing in good faith the Exercise of Secured Creditor Remedies with respect to all or a material portion of the Collateral or, unless in the case of the Junior Lien Agent, [one hundred and fifty (150)] days shall have elapsed since the ABL Agent, the Senior Lien Agent and the First Lien Agent shall have received a Default Notice from the Junior Lien Agent, the Junior Lien Default set forth in such Default Notice shall be continuing and none of the ABL Agent, the Senior Lien Agent and the First Lien Agent shall have commenced and be diligently pursuing in good faith Exercise of Secured Creditor Remedies with respect to all or a material portion of the Collateral (such [90 day, 120 day or 150] day period, as applicable, the “**Standstill Period**”);

(b) will not contest, protest or object to any Exercise of Secured Creditor Remedies by the ABL Agent or any ABL Claimholder or any other exercise by the ABL Agent or any ABL Claimholder of any rights and remedies relating to the Collateral, whether under the ABL Loan Documents or otherwise, in any such case, so long as the ABL Agent or such ABL Claimholder acts in a manner not inconsistent with the terms of this Agreement; and

(c) will not object to the forbearance by the ABL Agent or the ABL Claimholders from any Exercise of Secured Creditor Remedies.

(d) Notwithstanding any other provision hereof, if any Agent with a Secondary Lien commences the Exercise of Secured Creditor Remedies in accordance with clause (a) above after the expiration of the Standstill Period, no Agent holding a Prior Lien may exercise any of the remedies of the type described in clauses (a) through (c) above so long as such Agent at such time has commenced and diligently is pursuing in good faith any Exercise of

Secured Creditor Remedies with respect to all or a material portion of the Collateral, unless and until the Obligations (other than Excess ABL Obligations, Excess Senior Lien Obligations, Excess First Lien Obligations and Excess Junior Lien Obligations and the Obligations of any Agent or Claimholder secured by a Prior Lien) shall have been paid in full.

3.2 Exclusive Enforcement Rights. Until the Discharge of ABL Priority Obligations has occurred, whether or not any Insolvency Proceeding has been commenced by or against any Grantor, but subject to Section 3.1(a) and subject to the ABL Loan Documents, the ABL Agent and the ABL Claimholders shall have the exclusive right to Exercise any Secured Creditor Remedies without any consultation with or the consent of any other Agent or Claimholder; provided, however, that the Secondary Liens on the Collateral shall remain on the proceeds (other than those properly applied to the ABL Obligations) of such Collateral released or disposed of subject to the relative priorities described in Section 2.1. In exercising rights and remedies with respect to the Collateral, the ABL Agent and the ABL Claimholders may enforce the provisions of the ABL Loan Documents and exercise remedies thereunder, all in such order and in such manner in accordance with the ABL Loan Documents as they may determine in the exercise of their reasonable discretion. Such exercise and enforcement shall include in accordance with the ABL Loan Documents the rights of an agent appointed by them to Dispose of the Collateral upon foreclosure, to incur expenses in connection with such Disposition, and to exercise all the rights and remedies of a secured creditor under applicable law.

3.3 Secondary Lien Permitted Actions. Anything to the contrary in this Section 3 notwithstanding, each Agent and Claimholder holding a Secondary Lien on the Collateral may:

(a) if an Insolvency Proceeding has been commenced by or against any Grantor, file a claim or statement of interest with respect to the respective Obligations of any Grantor;

(b) take any action (not adverse to the priority status of the Liens on the Collateral securing the ABL Obligations, or the rights of the ABL Agent or any ABL Claimholders to Exercise any Secured Creditor Remedies) in order to create or perfect its Lien in and to the Collateral;

(c) file any necessary responsive or defensive pleadings in opposition to any motion, claim, adversary proceeding, or other pleading made by any Person objecting to or otherwise seeking the disallowance of the claims of such Claimholders, including any claims secured by the Collateral, if any;

(d) file any pleadings, objections, motions or agreements which assert rights or interests available to unsecured creditors of the Grantors arising under the Bankruptcy Code, any Insolvency Proceeding, or applicable non-bankruptcy law, in each case not prohibited by the terms of this Agreement;

(e) vote on any plan of reorganization and make any filings and motions that are, in each case, in accordance with, the terms of this Agreement, with respect to the Obligations secured by Secondary Liens on the Collateral;

(f) make a cash bid on all or any portion of the Collateral in any private or judicial foreclosure proceeding or action or sale;

(g) join (but not exercise any control with respect to) any judicial foreclosure proceeding or other judicial lien enforcement proceeding with respect to the Collateral initiated by the ABL Agent to the extent that any such action could not reasonably be expected, in any material respect, to restrain, hinder, limit, delay for any material period or otherwise interfere with the Exercise of Secured Creditor Remedies by the ABL Agent; and

(h) Exercise any Secured Creditor Remedies after the termination of the applicable Standstill Period if and to the extent specifically permitted by Section 3.1.

3.4 [RESERVED]

3.5 Non-Interference. Subject to Sections 3.1, 3.3, and 6.5(b):

(i) each of the Senior Lien Agent, on behalf of itself and/or its Senior Lien Claimholders, the First Lien Agent, on behalf of itself and/or its First Lien Claimholders, and the Junior Lien Agent, on behalf of itself and/or its Junior Lien Claimholders, hereby agrees that it will not take any action that would materially restrain, hinder, limit, delay, or otherwise interfere with any Exercise of Secured Creditor Remedies by the ABL Agent or any ABL Claimholder, or that is otherwise prohibited hereunder, including any Disposition of the Collateral, whether by foreclosure or otherwise;

(ii) subject to Section 3.7, each of the Senior Lien Agent, on behalf of itself and/or its Senior Lien Claimholders, the First Lien Agent, on behalf of itself and/or its First Lien Claimholders, and the Junior Lien Agent, on behalf of itself and/or its Junior Lien Claimholders, hereby waives any and all rights they may have as a junior lien creditor or otherwise to object to the manner in which the ABL Agent or ABL Claimholders seek to enforce or collect the ABL Obligations or the Liens securing the ABL Obligations granted in any of the ABL Loan Documents, regardless of whether any action or failure to act by or on behalf of the ABL Agent or ABL Claimholders is adverse to the interest of the Senior Lien Claimholders, First Lien Claimholders or the Junior Lien Claimholders; and

(iii) each of the Senior Lien Agent, the First Lien Agent and the Junior Lien Agent hereby acknowledges and agrees that no covenant, agreement or restriction contained in any Senior Lien Loan Document, First Lien Loan Document or Junior Lien Loan Document (other than this Agreement) shall be deemed to restrict in any way the

rights and remedies of the ABL Agent or ABL Claimholders with respect to the Collateral as set forth in this Agreement and the ABL Loan Documents.

3.6 Unsecured Creditor Remedies. Except as set forth in Section 3.1 and 3.5, each of the Senior Lien Agent, the Senior Lien Claimholders, the First Lien Agent, the First Lien Claimholders, the Junior Lien Agent and Junior Lien Claimholders may exercise rights and remedies as unsecured creditors against any Grantor in accordance with the terms of the applicable Loan Documents and applicable law; provided, however, that in the event that the Senior Lien Agent, any Senior Lien Claimholders, the First Lien Agent, any First Lien Claimholders, the Junior Lien Agent or any Junior Lien Claimholders becomes a judgment Lien creditor in respect of the Collateral as a result of its enforcement of its rights as an unsecured creditor, such judgment Lien shall be subject to the terms of this Agreement for all purposes as the other Liens securing the Senior Lien Obligations, the First Lien Obligations and Junior Lien Obligations are subject to this Agreement.

3.7 Commercially Reasonable Dispositions; Notice of Exercise. Each Agent shall provide at least three (3) days prior notice to each other Agent of its initial material Exercise of Secured Creditor Remedies; provided that if Exigent Circumstances exist, the ABL Agent shall provide notice as soon as practicable. Except as set forth in the first sentence of this Section 3.7, each Agent agrees that any Exercise of Secured Creditor Remedies by such Agent with respect to Collateral subject to Article 9 of the UCC shall be conducted by such Agent in a commercially reasonable manner. Each Agent, to the extent it is permitted to Exercise any Secured Creditor Remedies hereunder, agrees not to commence Exercise of Secured Creditor Remedies until reasonable prior notice has been given to the other Agents. Subject to the provisions of Section 3.1 above, the other Agents may, to the extent permitted by applicable law, join in any judicial proceedings commenced by the Agent initiating the judicial proceeding to enforce Liens on the Collateral, provided that neither such other Agent nor its respective Claimholders shall interfere with any Exercise of Secured Creditor Remedies of the Agent with respect to Collateral in which it has a Prior Lien in accordance herewith.

SECTION 4. Proceeds.

4.1 Application of Proceeds.

(a) Whether or not any Insolvency Proceeding has been commenced by or against any Grantor, except as otherwise provided in Section 2.1 or Section 4.4, any Collateral or proceeds thereof received in connection with any Exercise of Secured Creditor Remedies shall (at such time as such Collateral or proceeds has been monetized) be applied: (a) first, to the payment in full in cash of costs and expenses of ABL Agent in connection with any Exercise of Secured Creditor Remedies, (b) second, to the payment in full in cash or cash collateralization of the ABL Priority Obligations in accordance with the ABL Loan Documents, and in the case of payment of any revolving loans, together with the concurrent permanent reduction of any revolving loan commitment thereunder in an amount equal to the amount of such payment, (c) third, to the payment in full in cash of costs and expenses of Senior Lien Agent in connection

with any Exercise of Secured Creditor Remedies, (d) fourth, to the payment in full in cash of the Senior Lien Priority Obligations in accordance with the Senior Lien Loan Documents, (e) fifth, to the payment in full in cash of costs and expenses of First Lien Agent in connection with any Exercise of Secured Creditor Remedies, (f) sixth, to the payment in full in cash of the First Lien Priority Obligations in accordance with the First Lien Loan Documents, (g) seventh, to the payment in full in cash of costs and expenses of Junior Lien Agent in connection with any Exercise of Secured Creditor Remedies, (h) eighth, to the payment in full in cash of the Junior Lien Priority Obligations in accordance with the Junior Lien Loan Documents, (i) ninth, to the payment in full in cash of the Excess ABL Obligations in accordance with the ABL Loan Documents, (j) tenth, to the payment in full in cash of the Excess Senior Lien Obligations in accordance with the Senior Lien Loan Documents, (k) eleventh, to the payment in full in cash of the Excess First Lien Obligations in accordance with the First Lien Loan Documents, and (l) twelfth, to the payment in full in cash of the Excess Junior Lien Obligations in accordance with the Junior Lien Loan Documents. If any Exercise of Secured Creditor Remedies with respect to the Collateral produces non-cash proceeds, then such non-cash proceeds shall be held by the Agent with the Prior Lien in such non-cash proceeds as additional Collateral and, at such time as such non-cash proceeds are monetized, shall be applied as set forth above.

4.2 Turnover.

(a) Whether or not any Insolvency Proceeding has been commenced by or against any Grantor, any Collateral or proceeds thereof received by any holder of a Secondary Lien in connection with any Exercise of Secured Creditor Remedies relating to the Collateral or otherwise in contravention of this Agreement shall be segregated and held in trust and applied in accordance with Section 4.1 in the same form as received, with any necessary endorsements or as a court of competent jurisdiction may otherwise direct. In the event of the failure of an Agent to make any such endorsement to the applicable Agent holding the senior Prior Lien on such Collateral, each Agent is each hereby authorized to make any such endorsements as agent for the applicable Agent. This authorization is coupled with an interest and is irrevocable until the Discharge of ABL Priority Obligations, Discharge of Senior Lien Priority Obligations, Discharge of First Lien Priority Obligations and Discharge of Junior Lien Priority Obligations have occurred.

(b) Nothing in this Agreement shall prohibit the receipt by the Senior Lien Agent, any Senior Lien Claimholders, the First Lien Agent, any First Lien Claimholders, the Junior Lien Agent or any Junior Lien Claimholders of the required payments of interest, principal and other amounts owed in respect of their Senior Lien Obligations, First Lien Obligations and Junior Lien Obligations, so long as such receipt is not the direct or indirect result of the Exercise of Secured Creditor Remedies by the Senior Lien Agent, any Senior Lien Claimholders, the First Lien Agent, any First Lien Claimholder, the Junior Lien Agent or any Junior Lien Claimholders of rights or remedies as a secured creditor in respect of the Collateral (including set-off) or enforcement in contravention of this Agreement of any Lien held by any of them.

4.3 No Subordination of the Relative Priority of Claims. Anything to the contrary contained herein notwithstanding, the subordination of the Secondary Liens to the Prior Liens as set forth herein is with respect to the priority of the respective Liens held by or on behalf of them only and shall not constitute a subordination of any Obligations secured by Secondary Liens to any Obligations secured by Prior Liens.

4.4 [Payments and Proceeds in respect of the Litigation Trust and Asset Sales. Notwithstanding anything herein to the contrary and for the avoidance of doubt, payments and proceeds from [any Asset Sales (as defined in and permitted by the ABL Credit Agreement),] claims litigation with respect to the Chapter 11 Cases and the Litigation Trust (as defined in the ABL Credit Agreement) shall be applied (after repayment of any loans or advances made by a Borrower to the Litigation Trust) first, to the Senior Lien Priority Obligations to the extent the Senior Lien Obligations remain outstanding, second, to the First Lien Priority Obligations to the extent the First Lien Obligations remain outstanding, third, to the Junior Lien Priority Obligations to the extent the Junior Lien Obligations remain outstanding, and fourth, to the ABL Priority Obligations to the extent the ABL Obligations remain outstanding.]

SECTION 5. Releases; Dispositions; Other Agreements.

5.1 Releases.

(a) If in connection with the exercise of the ABL Agent's remedies in respect of any Collateral as provided for in Section 3.1 (including any Disposition of Collateral by a Grantor at the direction of the ABL Agent or the other ABL Claimholders pursuant to this Agreement or the ABL Credit Agreement), the ABL Agent, for itself and/or on behalf of any of the other ABL Claimholders, releases its Liens on any part of the Collateral, then the Secondary Liens, if any, of the other Agents and Claimholders on the Collateral sold or disposed of in connection with such exercise, shall be automatically, unconditionally and simultaneously released if the net cash proceeds resulting from any such exercise of remedies are applied to reduce permanently the ABL Obligations. Each Agent holding such a Secondary Lien, for itself and/or on behalf of any of its respective Claimholders, promptly shall execute and deliver to the ABL Agent or such Grantor such termination statements, releases and other documents as the ABL Agent or such Grantor may reasonably request to effectively confirm such release. If, and only if, a Discharge of ABL Priority Obligations shall have occurred, and in connection with the exercise of the Senior Lien Agent's remedies in respect of any Collateral as provided for in Section 3.1, the Senior Lien Agent, for itself and/or on behalf of any other Senior Lien Claimholders, releases its Liens on any part of the Collateral, then the Secondary Liens, if any, of the First Lien Agent, First Lien Claimholders, Junior Lien Agent and Junior Lien Claimholders on the Collateral sold or disposed of in connection with such exercise shall be automatically, unconditionally and simultaneously released if the net cash proceeds resulting from any such exercise of remedies are applied to reduce permanently the Senior Lien Obligations. The First Lien Agent and Junior Lien Agent holding such Secondary Liens, for themselves and/or on behalf of any of the First Lien Claimholders and Junior Lien Claimholders, promptly shall execute and deliver to the Senior Lien Agent or such Grantor such termination statements, releases and other documents as the Senior Lien Agent or such Grantor may reasonably request

to effectively confirm such release. If, and only if, a Discharge of ABL Priority Obligations and Discharge of Senior Lien Priority Obligations shall have occurred, and in connection with the exercise of the First Lien Agent's remedies in respect of any Collateral as provided for in Section 3.1, the First Lien Agent, for itself and/or on behalf of any other First Lien Claimholders, releases its Liens on any part of the Collateral, then the Secondary Liens, if any, of the Junior Lien Agent and Junior Lien Claimholders on the Collateral sold or disposed of in connection with such exercise shall be automatically, unconditionally and simultaneously released if the net cash proceeds resulting from any such exercise of remedies are applied to reduce permanently the First Lien Obligations. The Junior Lien Agent holding such a Secondary Lien, for itself and/or on behalf of any of the Junior Lien Claimholders, promptly shall execute and deliver to the First Lien Agent or such Grantor such termination statements, releases and other documents as the First Lien Agent or such Grantor may reasonably request to effectively confirm such release.

(b) In the event of any private or public Disposition of all or a material portion of the Collateral by one or more Grantors permitted under the terms of each of the ABL Loan Documents, the Senior Lien Loan Documents, the First Lien Loan Documents and the Junior Lien Loan Documents (other than in connection with the exercise of the applicable Agent's remedies against the Collateral as contemplated in Section 5.1(a) above), the ABL Agent, for itself and/or on behalf of any of the ABL Claimholders, releases its Liens on any part of the Collateral, in each case other than (A) in connection with the Discharge of ABL Priority Obligations or (B) after the receipt by the ABL Agent of a Default Notice from the Senior Lien Agent, First Lien Agent or Junior Lien Agent, then the Liens, if any, of the Senior Lien Agent, for itself and/or for the benefit of the Senior Lien Claimholders, the First Lien Agent, for itself and/or for the benefit of the First Lien Claimholders, and the Junior Lien Agent, for itself and/or for the benefit of the Junior Lien Claimholders, on such Collateral shall be automatically, unconditionally and simultaneously released (provided that the Liens securing the Senior Lien Obligations, the Liens securing the First Lien Obligations and the Liens securing the Junior Lien Obligations shall, subject to the terms of this Agreement, attach to the proceeds of any such Disposition, and provided further that the net cash proceeds of any such Disposition are applied in accordance with Section 4.1 (as if they were proceeds received in connection with an Exercise of Secured Creditor Remedies). Each Agent, for itself and/or on behalf of its respective Claimholders, promptly shall execute and deliver to the applicable other Agents or such Grantor such termination statements, releases and other documents as the applicable Agent or such Grantor may reasonably request to confirm such release.

(c) Until the Discharge of ABL Priority Obligations shall occur, the Senior Lien Agent, for itself and/or on behalf of the Senior Lien Claimholders, the First Lien Agent, for itself and/or on behalf of the First Lien Claimholders, and the Junior Lien Agent, for itself and/or for the benefit of the Junior Lien Claimholders, hereby irrevocably constitutes and appoints the ABL Agent and any of its officers or agents, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Agent or such Claimholder, whether in the ABL Agent's name or, at the option of the ABL Agent, in such Agent's or any such Claimholder's own name, from time to time in such ABL

Agent's discretion, for the purpose of carrying out the terms of this Section 5.1, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary to accomplish the purposes of this Section 5.1, including any endorsements or other instruments of transfer or release; provided that the ABL Agent shall only exercise such right upon the failure of any such Agent to take any action or execute any document or instrument when required to do so pursuant to the provisions of this Section 5.1(c).

(d) After the Discharge of ABL Priority Obligations and until the Discharge of Senior Lien Priority Obligations shall occur, the ABL Agent, for itself and/or on behalf of the ABL Claimholders, the First Lien Agent, for itself and/or for the benefit of the First Lien Claimholders, and the Junior Lien Agent, for itself and/or for the benefit of the Junior Lien Claimholders, hereby irrevocably constitutes and appoints the Senior Lien Agent and any of its officers or agents, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Agent or such Claimholder, whether in the Senior Lien Agent's name or, at the option of the Senior Lien Agent, in such Agent's or any such Claimholder's own name, from time to time in Senior Lien Agent's discretion, for the purpose of carrying out the terms of this Section 5.1, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary to accomplish the purposes of this Section 5.1, including any endorsements or other instruments of transfer or release; provided that the Senior Lien Agent shall only exercise such right upon the failure of any such Agent to take any action or execute any document or instrument when required to do so pursuant to the provisions of this Section 5.1(d).

(e) After the Discharge of ABL Priority Obligations and the Discharge of Senior Lien Priority Obligations and until the Discharge of First Lien Priority Obligations shall occur, the ABL Agent, for itself and/or on behalf of the ABL Claimholders, the Senior Lien Agent, for itself and/or for the benefit of the Senior Lien Claimholders and the Junior Lien Agent, for itself and/or for the benefit of the Junior Lien Claimholders, hereby irrevocably constitutes and appoints the First Lien Agent and any of its officers or agents, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Agent or such Claimholder, whether in the First Lien Agent's name or, at the option of the First Lien Agent, in such Agent's or any such Claimholder's own name, from time to time in First Lien Agent's discretion, for the purpose of carrying out the terms of this Section 5.1, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary to accomplish the purposes of this Section 5.1, including any endorsements or other instruments of transfer or release; provided that the First Lien Agent shall only exercise such right upon the failure of any such Agent to take any action or execute any document or instrument when required to do so pursuant to the provisions of this Section 5.1(e).

(f) Until the Discharge of ABL Priority Obligations, the Discharge of Senior Lien Priority Obligations, the Discharge of First Lien Priority Obligations, as applicable occurs, to the extent that an Agent or Claimholder with a Prior Lien (i) have released any Lien on Collateral or any guaranty from any Grantor with respect to the Obligations secured by the Prior

Lien, and any such Liens or obligations are later reinstated, or (ii) obtain any new Liens from any Grantor or obtain a guaranty from any Grantor of the Obligations secured by the Prior Lien, then each other Agent, for itself and for Claimholders with respect to Secondary Liens, shall be entitled to obtain a Lien on any such Collateral, subject to the terms (including the lien subordination provisions) of this Agreement, and a guaranty from such Grantor, as the case may be.

5.2 Insurance.

(a) Unless and until the Discharge of ABL Priority Obligations has occurred, subject to the terms of, and the rights of the Grantors under, the ABL Loan Documents, (i) the ABL Agent and the ABL Claimholders shall have the sole and exclusive right, subject to the rights of Grantors under the ABL Loan Documents, to adjust and settle any claim under any insurance policy covering the Collateral or the Liens with respect thereto in the event of any loss thereunder or with respect thereto and to approve any award granted in any condemnation or similar proceeding (or any deed in lieu of condemnation) affecting such Collateral; (ii) all proceeds of any such insurance policy and any such award (or any payments with respect to a deed in lieu of condemnation) if in respect to such Collateral and to the extent required by the ABL Loan Documents shall be paid to the ABL Agent for the benefit of the ABL Claimholders pursuant to the terms of the ABL Loan Documents (including, without limitation, for purposes of cash collateralization of letters of credit) and thereafter, to the extent no ABL Obligations are outstanding, and subject to the terms of, and the rights of the Grantors under, the Senior Lien Loan Documents, to the Senior Lien Agent for the benefit of the Senior Lien Claimholders to the extent required under the Senior Lien Loan Documents and then, to the extent no Senior Lien Obligations are outstanding, and subject to the terms of, and the rights of the Grantors under, First Lien Loan Documents, to the First Lien Agent for the benefit of the First Lien Claimholders to the extent required under the First Lien Loan Documents and then, to the extent no First Lien Obligations which were secured by such Collateral are outstanding, and subject to the terms of, and the rights of the Grantors under, the Junior Lien Loan Documents, to the Junior Lien Agent for the benefit of the Junior Lien Claimholders to the extent required under the Junior Lien Loan Documents and then, to the extent no Junior Lien Obligations which were secured by such Collateral are outstanding,, to the owner of the subject property, such other Person as may be entitled thereto, or as a court of competent jurisdiction may otherwise direct; and (iii) if the Senior Lien Agent, any Senior Lien Claimholders, the First Lien Agent, any First Lien Claimholder, the Junior Lien Agent or any Junior Lien Claimholder shall, at any time, receive any proceeds of any such insurance policy or any such award or payment in contravention of this Agreement, it shall segregate and hold in trust and forthwith pay such proceeds over to the ABL Agent in accordance with the terms of Section 4.2.

(b) To effectuate the foregoing, each Agent shall receive separate lender's loss payable endorsements naming themselves as loss payee and additional insured, as their interests may appear, with respect to policies which insure Collateral hereunder.

5.3 Amendments; Refinancings; Legend.

(a) The ABL Loan Documents, Senior Lien Loan Documents, First Lien Loan Documents and Junior Lien Loan Documents may be amended, supplemented or otherwise modified in accordance with the terms thereof and hereof. Without the prior written consent of each of the Agents, none of the ABL Loan Documents, Senior Lien Loan Documents, First Lien Loan Documents and Junior Lien Loan Documents shall, at any time, be amended, Refinanced or otherwise modified if such amendment or modification would:

(i) contravene the provisions of this Agreement or prohibit the Grantors from making any payment with respect to the Obligations secured by Secondary Liens which is permitted under the terms of the applicable Loan Documents as of the date hereof;

(ii) increase the commitments of the ABL Claimholders under the ABL Loan Documents to an amount that would exceed the ABL Cap or otherwise permit the aggregate outstanding principal amount of Advances plus the aggregate amount of outstanding undrawn Letters of Credit to exceed the ABL Cap;

(iii) increase the interest rates of the applicable Obligations by more than 2% (excluding any imposition of the default rate of interest or any changes resulting from application of the Alternate Base Rate (as such term is defined in each Credit Agreement) or the application of the Applicable Margin (as such term is defined in each Credit Agreement) as in effect on the Closing Date or in connection with Borrower Revolver Increases (as such term is defined in the ABL Credit Agreement));

(iv) other than in connection with any Exercise of Secured Creditor Remedies, accelerate the dates that principal of the applicable Obligations are due;

(v) change any financial covenants to be more restrictive on the Grantors;

(vi) extend the scheduled final maturity of the ABL Credit Agreement or any Refinancing thereof;

(vii) in the case of the Senior Lien Loan Documents or the First Lien Loan Documents only, extend the scheduled maturity date thereof (including with respect to any permitted refinancing thereof) to a date that is later than six months prior to the scheduled final maturity date of the Junior Lien Obligations; or

(viii) other than as a function of the requirement that all proceeds of Collateral be remitted to the ABL Agent for application to the ABL Obligations on a daily basis, modify (or have the effect of a modification of) the mandatory prepayment provisions of the ABL Credit Agreement or any ABL Loan Document in a manner that makes them more restrictive to Grantors;

provided, however, that any new holder of Refinancing debt shall execute and deliver an Intercreditor Joinder Agreement substantially in the form of Exhibit A attached hereto, or in such other form reasonably acceptable to the ABL Agent and addressed to each of the Agents.

(b) (i) Without the consent of the ABL Agent, the First Lien Agent and the Junior Lien Agent, the principal amount of the Senior Lien Obligations shall not exceed the Senior Lien Cap. (ii) Without the consent of the ABL Agent, Senior Lien Agent and the Junior Lien Agent, the principal amount of the First Lien Obligations shall not exceed the First Lien Cap.

(c) Each Agent shall use its best efforts to notify the other parties of any written amendment or modification to any ABL Loan Document, Senior Lien Loan Document, First Lien Loan Document or Junior Lien Loan Document, as applicable, but the failure to do so shall not create a cause of action against the party failing to give such notice or create any claim or right on behalf of any third party. In connection with amendments or modifications permitted by this Section 5.3, each Agent shall, upon request of the other parties, provide copies of all such modifications or amendments and copies of all other relevant documentation to the other Persons.

(d) Each Grantor agrees that any promissory note evidencing the Obligations secured by Secondary Liens shall at all times include the following language (or language to similar effect):

“Anything herein to the contrary notwithstanding, the liens and security interests securing the obligations evidenced by this promissory note, the exercise of any right or remedy with respect thereto, and certain of the rights of the holder hereof are subject to the provisions of the Intercreditor Agreement dated as of [•], (as amended, restated, supplemented, or otherwise modified from time to time, the “Intercreditor Agreement”), by and between PNC Bank, National Association, as ABL Agent, [•], as Senior Lien Agent, [•], as First Lien Agent and [•], as Junior Lien Agent. In the event of any conflict between the terms of the Intercreditor Agreement and this promissory note, the terms of the Intercreditor Agreement shall govern and control.”

5.4 Bailees for Perfection.

(a) Each Agent agrees to hold or control that part of the Collateral (excluding any Deposit Accounts (as defined in the ABL Credit Agreement)) that is in its respective possession or control (or in the possession or control of its agents or bailees), if any, to the extent that possession or control thereof is taken to perfect a Lien thereon under the UCC or other applicable law (such Collateral being referred to as the “**Pledged Collateral**”) as collateral agent for each of the Claimholders and as bailee for each of the Agents (such bailment being intended, among other things, to satisfy the requirements of Sections 8-301(a)(2), 9-313(c), 9-104, 9-105, 9-106, and 9-107 of the UCC) solely for the purpose of perfecting the security interest granted under the ABL Loan Documents, the Senior Lien Loan Documents, the First Lien Loan

Documents and the Junior Lien Loan Documents, as applicable, subject to the terms and conditions of this Section 5.4. Unless and until the Discharge of ABL Priority Obligations, each other Agent agrees to promptly notify ABL Agent of any Pledged Collateral held by it or by any of its respective Claimholders, and, immediately upon the request of ABL Agent at any time prior to the Discharge of ABL Priority Obligations, each other Agent agrees to deliver to ABL Agent any such Pledged Collateral held by it or by any of its respective Claimholders, together with any necessary endorsements (or otherwise allow ABL Agent to obtain control of such Pledged Collateral). [ABL Agent hereby agrees that upon the Discharge of ABL Priority Obligations, upon the written request of any other Agent, to the extent that the applicable control agreement is in full force and effect and has not been terminated, ABL Agent shall continue to act as such a bailee and non-fiduciary agent for such other Agent (solely for the purpose of perfecting the security interest granted under the applicable Loan Documents and at the expense of such other Agent) with respect to the deposit account or securities account that is the subject of such control agreement, until the earlier to occur of (i) 30 days after the date when the Discharge of ABL Priority Obligations has occurred, and (ii) the date when a control agreement is executed in favor of such other Agent with respect to such deposit account or securities account.

(b) No Person shall have any obligation whatsoever to any other Person to ensure that the Pledged Collateral is genuine or owned by any of the Grantors or to preserve rights or benefits of any Person except as expressly set forth in this Section 5.4. The duties or responsibilities under this Section 5.4 shall be limited solely to holding or controlling the Pledged Collateral as bailee or agent in accordance with this Section 5.4 and delivering the Pledged Collateral upon a Discharge of ABL Priority Obligations, Discharge of Senior Lien Priority Obligations, Discharge of First Lien Priority Obligations or Discharge of Junior Lien Priority Obligations, as the case may be, as provided in clauses (d)-(g) below.

(c) No Person acting pursuant to this Section 5.4 shall have by reason of the ABL Loan Documents, the Senior Lien Loan Documents, the First Lien Loan Documents, the Junior Lien Loan Documents or this Agreement, a fiduciary relationship with any other Person with respect to such acts.

(d) Upon the Discharge of ABL Priority Obligations, the ABL Agent shall deliver the remaining Pledged Collateral (if any) together with any necessary endorsements, first, to the Senior Lien Agent to the extent the Senior Lien Obligations which are secured by such Pledged Collateral remain outstanding, second, if the Discharge of Senior Lien Priority Obligations has occurred, to the First Lien Agent to the extent the First Lien Obligations which are secured by such Pledged Collateral remain outstanding, third, if the Discharge of First Lien Priority Obligations has occurred, to the Junior Lien Agent to the extent the Junior Lien Obligations which are secured by such Pledged Collateral remain outstanding, fourth, if the Discharge of Junior Lien Priority Obligations has occurred, to the ABL Agent to the extent the ABL Obligations which are secured by such Pledged Collateral remain outstanding, fifth, to the Agent holding the most senior Prior Lien, to be applied in accordance with the relative priorities set out in Section 2.1 to the extent any Obligations secured by Pledged Collateral remain

outstanding, and sixth, thereafter to the applicable Grantor (in each case, so as to allow such Person to obtain possession or control of such Pledged Collateral). The ABL Agent further agrees to take all other action reasonably requested by the Senior Lien Agent, First Lien Agent or Junior Lien Agent, as applicable, in connection with either such Agent obtaining a first-priority interest in the Collateral (to the extent provided herein) or as a court of competent jurisdiction may otherwise direct.

(e) Upon the Discharge of Senior Lien Priority Obligations, the Senior Lien Agent shall deliver the remaining Pledged Collateral (if any) together with any necessary endorsements, first, to the First Lien Agent to the extent the First Lien Priority Obligations which are secured by such Pledged Collateral remain outstanding, second, to the Junior Lien Agent to the extent the Junior Lien Priority Obligations which are secured by such Pledged Collateral remain outstanding, third, if the Discharge of Junior Lien Priority Obligations has occurred, to the ABL Agent to the extent the ABL Obligations which are secured by such Pledged Collateral remain outstanding, fourth, to the Agent holding the most senior Prior Lien, to be applied in accordance with the relative priorities set out in Section 2.1 to the extent any Obligations secured by Pledged Collateral remain outstanding, and fifth, thereafter to the applicable Grantor (in each case, so as to allow such Person to obtain possession or control of such Pledged Collateral). The Senior Lien Agent further agrees to take all other action reasonably requested by the First Lien Agent or Junior Lien Agent, as applicable, in connection with either such Agent obtaining a first-priority interest in the Collateral (to the extent provided herein) or as a court of competent jurisdiction may otherwise direct.

(f) Upon the Discharge of First Lien Priority Obligations, the First Lien Agent shall deliver the remaining Pledged Collateral (if any) together with any necessary endorsements, first, to the Junior Lien Agent to the extent the Junior Lien Priority Obligations which are secured by such Pledged Collateral remain outstanding, second, if the Discharge of Junior Lien Priority Obligations has occurred, to the ABL Agent to the extent the ABL Obligations which are secured by such Pledged Collateral remain outstanding, third, to the Agent holding the most senior Prior Lien, to be applied in accordance with the relative priorities set out in Section 2.1 to the extent any Obligations secured by Pledged Collateral remain outstanding, and fourth, thereafter to the applicable Grantor (in each case, so as to allow such Person to obtain possession or control of such Pledged Collateral). The First Lien Agent further agrees to take all other action reasonably requested by the Junior Lien Agent in connection with either such Agent obtaining a first-priority interest in the Collateral (to the extent provided herein) or as a court of competent jurisdiction may otherwise direct.

(g) Upon the Discharge of Junior Lien Priority Obligations, the Junior Lien Agent shall deliver the remaining Pledged Collateral (if any) together with any necessary endorsements, first, to the ABL Agent to the extent the ABL Obligations which are secured by such Pledged Collateral remain outstanding, second, to the Agent holding the most senior Prior Lien, to be applied in accordance with the relative priorities set out in Section 2.1 to the extent any Obligations secured by Pledged Collateral remain outstanding, and third, thereafter to the

applicable Grantor (in each case, so as to allow such Person to obtain possession or control of such Pledged Collateral).

5.5 When Discharge of First Lien Priority Obligations Deemed to Not Have Occurred. If concurrently with the Discharge of ABL Priority Obligations, the Discharge of Senior Lien Priority Obligations, the Discharge of First Lien Priority Obligations or the Discharge of Junior Lien Priority Obligations, any of the Grantors enters into any Refinancing of any ABL Obligation, Senior Lien Obligation, First Lien Obligation or Junior Lien Obligation, as the case may be, which Refinancing is permitted by the ABL Loan Documents, the Senior Lien Loan Documents, the First Lien Loan Documents and the Junior Lien Loan Documents, then such Discharge of ABL Priority Obligations, Discharge of Senior Lien Priority Obligations, Discharge of First Lien Priority Obligations or Discharge of Junior Lien Priority Obligations, as the case may be, shall automatically be deemed not to have occurred for all purposes of this Agreement (other than with respect to any actions taken as a result of the occurrence of such first Discharge of ABL Priority Obligations or Discharge of Senior Lien Priority Obligations or Discharge of First Lien Priority Obligations or Discharge of Junior Lien Priority Obligations) and, from and after the date on which the New Debt Notice (as defined below) is delivered to the ABL Agent, the Senior Lien Agent, the First Lien Agent or the Junior Lien Agent, as appropriate, in accordance with the next sentence, the obligations under such Refinancing shall automatically be treated as ABL Obligations or Senior Lien Obligations or First Lien Obligations or Junior Lien Obligations, as applicable, for all purposes of this Agreement, including for purposes of the Lien priorities and rights in respect of Collateral set forth herein, and the ABL Agent, Senior Lien Agent, First Lien Agent or Junior Lien Agent, as the case may be, under such new ABL Loan Documents, Senior Lien Loan Documents, First Lien Loan Documents or Junior Lien Loan Documents shall be the ABL Agent, Senior Lien Agent, First Lien Agent or Junior Lien Agent for all purposes of this Agreement. Upon receipt of a notice (the “**New Debt Notice**”) stating that any of the Grantors has entered into new ABL Loan Documents, new Senior Lien Loan Documents, new First Lien Loan Documents or new Junior Lien Loan Documents (which notice shall include a complete copy of the relevant new documents and provide the identity of the new agent for such facility, such agent, the “**New Agent**”), the ABL Agent, the Senior Lien Agent, the First Lien Agent and the Junior Lien Agent shall promptly (a) enter into such documents and agreements (including amendments or supplements to this Agreement) as such Grantor or such New Agent shall reasonably request in order to provide to the New Agent the rights contemplated hereby, in each case consistent in all material respects with the terms of this Agreement and (b) deliver, to the extent contemplated by this Agreement, to the New Agent any Pledged Collateral held by it together with any necessary endorsements (or otherwise allow the New Agent to obtain control of such Pledged Collateral). The New Agent shall agree in a writing addressed to the ABL Agent, Senior Lien Agent, First Lien Agent, Junior Lien Agent, the ABL Claimholders, Senior Lien Claimholders, First Lien Claimholders and Junior Lien Claimholders, as the case may be, to be bound by the terms of this Agreement.

5.6 Purchase Option.

(a) Upon the occurrence and during the continuation of a Triggering Event, then, in any such case, any one or more of the Senior Lien Claimholders (acting in their individual capacity or through one or more affiliates) shall have the right, but not the obligation (each Senior Lien Claimholder having a ratable right to make the purchase, with each Senior Lien Claimholder's right to purchase being automatically proportionately increased by the amount not purchased by another Senior Lien Claimholder), upon 5 Business Days advance written notice from such Senior Lien Claimholder (a "**Purchase Notice**") to the ABL Agent, for the benefit of the ABL Claimholders, to acquire from ABL Claimholders all (but not less than all) of the right, title, and interest of ABL Claimholders in and to the ABL Obligations and the ABL Loan Documents. The Purchase Notice, if given, shall be irrevocable.

(b) If the Senior Lien Claimholders do not exercise the purchase option set forth in the preceding clause (a), such purchase option may be exercised by the First Lien Claimholders, provided that the First Lien Claimholders may only acquire from the ABL Claimholders all (but not less than all) of the right, title, and interest of ABL Claimholders in and to the ABL Obligations and the ABL Loan Documents if such First Lien Claimholders concurrently therewith acquire from the Senior Lien Claimholders all (but not less than all) of the right, title, and interest of Senior Lien Claimholders in and to the Senior Lien Obligations and the Senior Lien Loan Documents.

(c) On the date specified by applicable Agent in the Purchase Notice (which shall not be more than 5 Business Days after the receipt by the ABL Agent of the Purchase Notice), ABL Claimholders shall sell to the Purchasing Claimholders and the Purchasing Claimholders shall purchase from ABL Claimholders, the ABL Obligations.

(d) On the date of such purchase and sale, the Purchasing Claimholders shall (i) pay to ABL Agent, for the benefit of ABL Claimholders, as the purchase price therefor, the full amount of all the ABL Obligations (other than ABL Obligations cash collateralized in accordance with clause (c)(ii) below) then outstanding and unpaid, (ii) furnish cash collateral to ABL Agent in such amounts as ABL Agent determines is reasonably necessary to secure ABL Agent and ABL Claimholders in connection with (A) any issued and outstanding Letters of Credit (but not in any event in an amount greater than that 105% of the aggregate undrawn face amount of such Letters of Credit) and (B) Hedge Liabilities under Lender-Provided Interest Rate Hedges (in an amount not to exceed the limitation set forth with respect thereto in the definition of ABL Cap), and (iii) agree to reimburse ABL Agent and ABL Claimholders for all expenses to the extent earned or due and payable in accordance with the ABL Loan Documents (including the reimbursement of extraordinary expenses, financial examination expenses, and appraisal fees).

(e) Such purchase shall be expressly made without representation or warranty of any kind by ABL Agent and ABL Claimholders as to the ABL Obligations so purchased or otherwise and without recourse to ABL Agent or any ABL Claimholder, except that each ABL

Claimholder shall represent and warrant: (i) that the amount quoted by such ABL Claimholder as its portion of the purchase price represents the amount shown as owing with respect to the claims transferred as reflected on its books and records, (ii) it owns, or has the right to transfer to the Purchasing Claimholders, the rights being transferred, and (iii) such transfer will be free and clear of Liens.

(f) In the event that any one or more of the Purchasing Claimholders exercises and consummates the purchase option set forth in this Section 5.6, (i) ABL Agent shall have the right, but not the obligation, to immediately resign under the ABL Credit Agreement, and (ii) the Purchasing Claimholders shall have the right, but not the obligation, to require ABL Agent to immediately resign under the ABL Credit Agreement.

(g) For the avoidance of doubt, a purchase or sale of any right, title, and interest in and to the Obligations in accordance with this Section 5.6 shall be deemed to satisfy any and all of the requirements (including consent) pertaining to commitment and loan assignments contained in any Credit Agreement, including Section 16.3 of the ABL Credit Agreement.

5.7 Injunctive Relief. Should any Claimholder in any way take, attempt to, or threaten to take any action contrary to terms of this Agreement with respect to the Collateral, or fail to take any action required by this Agreement, any Agent or any Claimholder whose Obligations are secured by Secondary Lien or a Prior Lien may obtain relief against such Claimholder by injunction, specific performance, or other appropriate equitable relief, it being understood and agreed that (a) damages from such actions may at that time be difficult to ascertain and may be irreparable, and (b) each Claimholder waives any defense that such Claimholders cannot demonstrate damage and/or be made whole by the awarding of damages. Each Agent hereby irrevocably waives any defense based on the adequacy of a remedy at law and any other defense which might be asserted to bar the remedy of specific performance in any action which may be brought by any other Agent or Claimholders.

SECTION 6. Insolvency Proceedings.

6.1 Enforceability and Continuing Priority. This Agreement shall be applicable both before and after the commencement of any Insolvency Proceeding and all converted or succeeding cases in respect thereof. The relative rights of Claimholders in or to any distributions from or in respect of any Collateral or proceeds of Collateral, shall continue after the commencement of any Insolvency Proceeding. Accordingly, the provisions of this Agreement are intended to be and shall be enforceable as a subordination agreement within the meaning of Section 510 of the Bankruptcy Code.

6.2 Financing.

(a) Until the Discharge of ABL Priority Obligations has occurred, if any Grantor shall be subject to any Insolvency Proceeding and the ABL Agent shall, acting in accordance with the ABL Credit Agreement, agree to permit (i) the use of **Cash Collateral**; or

(ii) any Grantor to obtain financing, whether from the ABL Claimholders or any other Person, under Section 364 of the Bankruptcy Code or any similar Bankruptcy Law (“**DIP Financing**”); then each Senior Lien Claimholder, First Lien Claimholder and Junior Lien Claimholder agrees that it will raise no objection to or contest such Cash Collateral use or DIP Financing so long as such Cash Collateral use or DIP Financing meets the following requirements: (i) it is on commercially reasonable economic terms, (ii) the principal amount of such DIP Financing plus the principal amount of pre-petition ABL Obligations remaining outstanding after giving effect to such DIP Financing shall not in the aggregate exceed the ABL Cap (it being understood and agreed that a “roll-up” of the pre-petition ABL Obligations into such DIP Financing would not violate this clause (a) as long as the total principal amount thereof shall not exceed the ABL Cap), (iii) the terms of such DIP Financing (A) do not compel the applicable Grantor to seek confirmation of a specific plan of reorganization for which all or substantially all of the material terms are set forth in such DIP Financing documentation or a related document and (B) do not expressly require the liquidation of the Collateral prior to a default under the DIP Financing documentation or Cash Collateral order; (iv) the Senior Lien Agent, the First Lien Agent and the Junior Lien Agent retain Liens on the Collateral (including the proceeds thereof arising after the commencement of such Insolvency Proceeding) with the same priority vis-à-vis the Liens securing the ABL Obligations as existed prior to the commencement of such Insolvency Proceeding; (v) the Senior Lien Agent, First Lien Agent and the Junior Lien Agent receive replacement Liens on post-petition assets to the same extent granted to the ABL Agent with the same priority vis-a-vis the Liens securing the ABL Obligations as existed prior to the commencement of such Insolvency Proceeding; and (vi) to the extent the ABL Obligations remain outstanding, such DIP Financing is secured by a Lien that is senior or *pari passu* with the Liens securing the ABL Obligations. The foregoing shall not prevent the Senior Lien Claimholders, the First Lien Claimholders or the Junior Lien Claimholders from exercising their rights to vote for or against a plan of reorganization.

(b) Following Discharge of the ABL Priority Obligations until the Discharge of Senior Lien Priority Obligations has occurred, if any Grantor shall be subject to any Insolvency Proceeding and the Senior Lien Agent shall, acting in accordance with the Senior Lien Credit Agreement, agree to permit (i) the use of Cash Collateral; or (ii) any Grantor to obtain DIP Financing; then each First Lien Claimholder and Junior Lien Claimholder agrees that it will raise no objection to or contest such Cash Collateral use or DIP Financing so long as such Cash Collateral use or DIP Financing meets the following requirements: (i) it is on commercially reasonable terms, (ii) the First Lien Claimholders and Junior Lien Claimholders retain the right to object to any agreements or arrangements regarding the Cash Collateral use or the DIP Financing that are materially prejudicial to their interests in the Collateral, (iii) the principal amount of such DIP Financing plus the principal amount of pre-petition Senior Lien Obligations remaining outstanding after giving effect to such DIP Financing shall not in the aggregate exceed the Senior Lien Cap (it being understood and agreed that a “roll-up” of the pre-petition Senior Lien Obligations into such DIP Financing would not violate this clause (iii) as long as the total principal amount thereof shall not exceed the Senior Lien Cap), (iv) the terms of such DIP Financing (A) do not compel the applicable Grantor to seek confirmation of a specific plan of reorganization for which all or substantially all of the material terms are set forth in such

DIP Financing documentation or a related document and (B) do not expressly require the liquidation of the Collateral prior to a default under the DIP Financing documentation or Cash Collateral order; (v) the First Lien Agent and the Junior Lien Agent retain Liens on the Collateral (including the proceeds thereof arising after the commencement of such Insolvency Proceeding) with the same priority vis-à-vis the Liens securing the Senior Lien Obligations as existed prior to the commencement of such Insolvency Proceeding; (vi) the First Lien Agent and the Junior Lien Agent receive replacement Liens on post-petition assets to the same extent granted to the Senior Lien Agent with the same priority vis-a-vis the Liens securing the Senior Lien Obligations as existed prior to the commencement of such Insolvency Proceeding; and (vii) to the extent the Senior Lien Obligations remain outstanding, such DIP Financing is secured by a Lien that is senior or pari passu with the Liens securing the Senior Lien Obligations. The foregoing shall not prevent the First Lien Claimholders or the Junior Lien Claimholders from exercising their rights to vote for or against a plan of reorganization.

(c) Following Discharge of the ABL Priority Obligations and Discharge of the Senior Lien Priority Obligations and until the Discharge of First Lien Priority Obligations has occurred, if any Grantor shall be subject to any Insolvency Proceeding and the First Lien Agent shall, acting in accordance with the First Lien Credit Agreement, agree to permit (i) the use of Cash Collateral; or (ii) any Grantor to obtain DIP Financing; then each Junior Lien Claimholder agrees that it will raise no objection to or contest such Cash Collateral use or DIP Financing so long as such Cash Collateral use or DIP Financing meets the following requirements: (i) it is on commercially reasonable terms, (ii) the Junior Lien Claimholders retain the right to object to any agreements or arrangements regarding the Cash Collateral use or the DIP Financing that are materially prejudicial to their interests in the Collateral, (iii) the principal amount of such DIP Financing plus the principal amount of pre-petition First Lien Obligations remaining outstanding after giving effect to such DIP Financing shall not in the aggregate exceed the First Lien Cap (it being understood and agreed that a “roll-up” of the pre-petition First Lien Obligations into such DIP Financing would not violate this clause (iii) as long as the total principal amount thereof shall not exceed the First Lien Cap), (iv) the terms of such DIP Financing (A) do not compel the applicable Grantor to seek confirmation of a specific plan of reorganization for which all or substantially all of the material terms are set forth in such DIP Financing documentation or a related document and (B) do not expressly require the liquidation of the Collateral prior to a default under the DIP Financing documentation or Cash Collateral order; (v) the Junior Lien Agent retain Liens on the Collateral (including the proceeds thereof arising after the commencement of such Insolvency Proceeding) with the same priority vis-à-vis the Liens securing the First Lien Obligations as existed prior to the commencement of such Insolvency Proceeding; (vi) the Junior Lien Agent receives replacement Liens on post-petition assets to the same extent granted to the First Lien Agent with the same priority vis-a-vis the Liens securing the First Lien Obligations as existed prior to the commencement of such Insolvency Proceeding; and (vii) to the extent the First Lien Obligations remain outstanding, such DIP Financing is secured by a Lien that is senior or pari passu with the Liens securing the First Lien Obligations. The foregoing shall not prevent the Junior Lien Claimholders from exercising their rights to vote for or against a plan of reorganization.

(d) Following Discharge of the ABL Priority Obligations, Discharge of the Senior Lien Priority Obligations and Discharge of the First Lien Priority Obligations until the Discharge of Junior Lien Priority Obligations has occurred, if any Grantor shall be subject to any Insolvency Proceeding and the Junior Lien Agent shall, acting in accordance with the Junior Lien Credit Agreement, agree to permit (i) the use of Cash Collateral; or (ii) any Grantor to obtain DIP Financing; then each Junior Lien Claimholder agrees that it will raise no objection to or contest such Cash Collateral use or DIP Financing so long as such Cash Collateral use or DIP Financing meets the following requirements: (i) it is on commercially reasonable terms, (ii) the principal amount of such DIP Financing plus the principal amount of pre-petition Junior Lien Obligations remaining outstanding after giving effect to such DIP Financing shall not in the aggregate exceed the Junior Lien Cap (it being understood and agreed that a “roll-up” of the pre-petition Junior Lien Obligations into such DIP Financing would not violate this clause (ii) as long as the total principal amount thereof shall not exceed the Junior Lien Cap), (iii) the terms of such DIP Financing (A) do not compel the applicable Grantor to seek confirmation of a specific plan of reorganization for which all or substantially all of the material terms are set forth in such DIP Financing documentation or a related document and (B) do not expressly require the liquidation of the Collateral prior to a default under the DIP Financing documentation or Cash Collateral order; and (iv) to the extent that Obligations secured by Prior Liens remain outstanding, such DIP Financing is secured by a Lien that is senior or pari passu with the Liens securing the Junior Lien Obligations.

6.3 Sales. Each Agent holding a Secondary Lien agrees that it will consent, and will not object or oppose a motion under Section 363 of the Bankruptcy Code or pursuant to a plan of reorganization to Dispose of any Collateral free and clear of the Liens or other claims in favor of any Agent holding a Prior Lien, if the requisite Claimholders holding such Prior Lien under the applicable Credit Agreement have consented to such Disposition of such assets, and such motion does not impair, subject to the priorities set forth in this Agreement, the rights of the Claimholders holding Secondary Liens under Section 363(k) of the Bankruptcy Code (so long as the right of any Claimholder holding Secondary Liens to offset its claim against the purchase price is only after the Obligations secured by Prior Liens have been paid in full in cash). The foregoing notwithstanding, Claimholders holding Secondary Liens may raise any objections to such Disposition of the Collateral that could be raised by a creditor of Grantors whose claims are not secured by Liens on such Collateral, provided such objections are not inconsistent with any other term or provision of this Agreement and are not based on their status as secured creditors (without limiting the foregoing, Claimholders holding Secondary Liens may not raise any objections based on rights afforded by Sections 363(e) and (f) of the Bankruptcy Code to secured creditors (or any comparable provision of any other Bankruptcy Law) with respect to the Liens granted to the applicable Agent holding such Secondary Lien in respect of such assets).

6.4 Relief from the Automatic Stay.

(a) Until the Discharge of ABL Priority Obligations has occurred, the Senior Lien Agent, each Senior Lien Claimholder, the First Lien Agent, each First Lien Claimholder,

the Junior Lien Agent and each Junior Lien Claimholder agrees not to (a) seek (or support any other Person seeking) relief from the automatic stay or any other stay in any Insolvency Proceeding in respect of the Collateral, without the prior written consent of the ABL Agent, unless a motion for adequate protection by the Senior Lien Agent that is permitted under Section 6.5 has been denied by the court before which the applicable Insolvency Proceeding is pending, or (b) oppose any request by the ABL Agent or any ABL Claimholder to seek relief from the automatic stay or any other stay in any Insolvency Proceeding in respect of the Collateral.

(b) Until the Discharge of Senior Lien Priority Obligations has occurred, the First Lien Agent, each First Lien Claimholder, the Junior Lien Agent and each Junior Lien Claimholder agrees not to (a) seek (or support any other Person seeking) relief from the automatic stay or any other stay in any Insolvency Proceeding in respect of the Collateral, without the prior written consent of Senior Lien Agent, unless a motion for adequate protection by the First Lien Agent that is permitted under Section 6.5 has been denied by the court before which the applicable Insolvency Proceeding is pending, or (b) oppose any request by the Senior Lien Agent or any Senior Lien Claimholder to seek relief from the automatic stay or any other stay in any Insolvency Proceeding in respect of the Collateral.

(c) Until the Discharge of First Lien Priority Obligations has occurred, the Junior Lien Agent and each Junior Lien Claimholder agrees not to (a) seek (or support any other Person seeking) relief from the automatic stay or any other stay in any Insolvency Proceeding in respect of the Collateral, without the prior written consent of First Lien Agent, unless a motion for adequate protection by the Junior Lien Agent that is permitted under Section 6.5 has been denied by the court before which the applicable Insolvency Proceeding is pending, or (b) oppose any request by the First Lien Agent or any First Lien Claimholder to seek relief from the automatic stay or any other stay in any Insolvency Proceeding in respect of the Collateral.

6.5 Adequate Protection.

(a) In any Insolvency Proceeding involving a Grantor, each Senior Lien Agent, First Lien Agent and Junior Lien Agent and each Senior Lien Claimholder, First Lien Claimholder and Junior Lien Claimholder agrees that it shall not contest (or support any other Person contesting):

(i) any request by the ABL Agent or other ABL Claimholders for adequate protection; or

(ii) any objection by the ABL Agent or ABL Claimholders to any motion, relief, action, or proceeding based on the ABL Agent or the ABL Claimholders claiming a lack of adequate protection.

(b) In any Insolvency Proceeding involving a Grantor:

(i) if any one or more Claimholders are granted adequate protection in the form of a replacement Lien (on existing or future assets of Grantors) in connection

with any DIP Financing or use of Cash Collateral, then the applicable Agent agrees that each other Agent shall also be entitled to seek, without objection from any other Claimholders, adequate protection in the form of a replacement Lien (on such existing or future assets of Grantors), which replacement Lien, if obtained, shall have the same relative priority with respect to the claims of the other Claimholders as the Liens as set out in this Agreement pursuant to Section 2.1 (including those under a DIP Financing permitted under Section 6.2);

(ii) if any one or more Claimholders are granted adequate protection in the form of an expense of administration claim in connection with any DIP Financing or use of Cash Collateral, then the applicable Agent agrees that each other Agent shall also be entitled to seek, without objection from any Claimholders, adequate protection in the form of an expense of administration claim, which administration claim, if obtained, shall have the same relative priority with respect to the claims of the other Claimholders as the Liens as set out in this Agreement;

(iii) [Any Agent (a) may seek, without objection from any Claimholders or other Agent, adequate protection with respect to such Claimholders' rights in the Collateral in the form of periodic cash payments in an amount not exceeding interest at the non-default contract rate, together with payment of reasonable out-of-pocket expenses; provided, however, that each Agent holding a Secondary Lien for itself and on behalf of its Claimholders agrees that it shall not seek or request such adequate protection payments unless all Agents with respect to all Prior Liens have been granted such adequate protection payments.]

(c) No Agent or any Claimholder shall object to, oppose, or challenge any claim by any other Agent or any other Claimholder for allowance in any Insolvency Proceeding of its Obligations consisting of post-petition interest, fees, or expenses.

6.6 Avoidance Issues. If any ABL Claimholder is required in any Insolvency Proceeding or otherwise to turn over, disgorge or otherwise pay to the estate of any Grantor any amount paid in respect of ABL Obligations (a "**Recovery**"), then such ABL Claimholders shall be entitled to a reinstatement of ABL Obligations with respect to all such recovered amounts, and all rights, interests, priorities and privileges recognized in this Agreement shall apply with respect to any such Recovery. If this Agreement shall have been terminated prior to such Recovery, this Agreement shall be reinstated in full force and effect, and such prior termination shall not diminish, release, discharge, impair, or otherwise affect the obligations of the parties hereto from such date of reinstatement and to the extent the ABL Cap was decreased in connection with such payment of the ABL Obligations, the ABL Cap shall be increased to such extent.

6.7 Plan of Reorganization.

(a) If, in any Insolvency Proceeding involving a Grantor, debt obligations of the reorganized debtor secured by Liens upon any property of the reorganized debtor are

distributed pursuant to a plan of reorganization or similar dispositive restructuring plan on account of any Obligations, then, to the extent the debt obligations distributed on account of the Obligations are secured by Liens upon the same property, the provisions of this Agreement will survive the distribution of such debt obligations pursuant to such plan and will apply with like effect to the Liens securing such debt obligations.

(b) No Agent or Claimholder shall propose or support any plan of reorganization that is inconsistent with the priorities or other provisions of this Agreement.

6.8 Section 1111(b) of the Bankruptcy Code. Each Agent holding a Secondary Lien, for itself and on behalf of its Claimholders, shall not object to, oppose, support any objection, or take any other action to impede, the right of any Claimholder holding a Prior Lien to make an election under Section 1111(b)(2) of the Bankruptcy Code. Each Agent holding a Secondary Lien, for itself and on behalf of its Claimholders, waives any claim it may hereafter have against any Claimholder holding a Prior Lien arising out of the election by any such Claimholder holding a Prior Lien of the application of Section 1111(b)(2) of the Bankruptcy Code.

SECTION 7. Reliance; Waivers; Etc.

7.1 Reliance. Other than any reliance on the terms of this Agreement, each Agent, on behalf of itself and its respective Claimholders, acknowledges that it and such Claimholders have, independently and without reliance on any other Agent or any other Claimholder, and based on documents and information deemed by them appropriate, made their own credit analysis and decision to enter into the applicable Loan Documents and be bound by the terms of this Agreement and will continue to make their own credit decisions in taking or not taking any action under the applicable Loan Documents or this Agreement.

7.2 No Warranties or Liability. Each Agent, on behalf of itself and its respective Claimholders under the applicable Loan Documents, acknowledges and agrees that each of other Agents and Claimholders have made no express or implied representation or warranty, including with respect to the execution, validity, legality, completeness, collectibility or enforceability of any of the other Loan Documents, the ownership of any Collateral or the perfection or priority of any Liens thereon. Except as otherwise provided in this Agreement, each Agent and each of the Claimholders will be entitled to manage and supervise their respective loans and extensions of credit under the applicable Loan Documents in accordance with law and as they may otherwise, in their sole discretion, deem appropriate. None of the Agents and Claimholders shall have any duty to the other Agents or Claimholders to act or refrain from acting in a manner which allows, or results in, the occurrence or continuance of an event of default or default under any agreements with any Grantor (including the applicable Loan Documents), regardless of any knowledge thereof which they may have or be charged with.

7.3 No Waiver of Lien Priorities.

(a) No right of any Agent or any Claimholder to enforce any provision of this Agreement or any applicable Loan Document shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of any Grantor or by any act or failure to act by any Claimholder or Agent, or by any noncompliance by any Person with the terms, provisions, and covenants of this Agreement, or any of the Loan Documents, regardless of any knowledge thereof which any Agent or any Claimholder may have or be otherwise charged with.

(b) Without in any way limiting the generality of the foregoing paragraph (but subject to any rights of Grantors under the applicable Loan Documents and subject to the provisions of Section 5.3(a)), each of the Agents and Claimholders may, at any time and from time to time in accordance with the applicable Loan Documents and/or applicable law, without the consent of, or notice to, the other Persons (as the case may be), without incurring any liabilities to such Persons and without impairing or releasing the Lien priorities and other benefits provided in this Agreement (even if any right of subrogation or other right or remedy is affected, impaired or extinguished thereby) do any one or more of the following:

(i) change the manner, place, or terms of payment or change or extend the time of payment of, or amend, renew, exchange, increase, or alter, the terms of any of the Obligations or any Lien on any Collateral or guarantee thereof or any liability of any Grantor, or any liability incurred directly or indirectly in respect thereof (including any increase in or extension of the Obligations, without any restriction as to the tenor or terms of any such increase or extension) or otherwise amend, renew, exchange, extend, modify, or supplement in any manner any Liens or any rights and remedies under any of the Loan Documents;

(ii) sell, exchange, release, surrender, realize upon, enforce or otherwise deal with in any manner and in any order any part of the Collateral or any liability of any Grantor to any Claimholder or Agent, or any liability incurred directly or indirectly in respect thereof;

(iii) settle or compromise any Obligation or any other liability of any Grantor or any security therefore or any liability incurred directly or indirectly in respect thereof and apply any sums by whomsoever paid and however realized to any liability in any manner or order that is not inconsistent with the terms of this Agreement; and

(iv) exercise or delay in or refrain from exercising any right or remedy against any Grantor or any security or any other Grantor or any other Person, elect any remedy and otherwise deal freely with any Grantor.

7.4 Obligations Unconditional. For so long as this Agreement is in full force and effect, all rights, interests, agreements and obligations of each Agent and each Claimholder hereunder shall remain in full force and effect irrespective of:

(a) any lack of validity or enforceability of any of the Loan Documents;

(b) except as otherwise expressly set forth in this Agreement, any change in the time, manner or place of payment of, or in any other terms of, all or any of the Obligations, or any amendment or waiver or other modification, including any increase in the amount thereof, whether by course of conduct or otherwise, of the terms of any Loan Document;

(c) except as otherwise expressly set forth in this Agreement, any exchange of any security interest in any Collateral or any other collateral, or any amendment, waiver or other modification, whether in writing or by course of conduct or otherwise, of all or any of the Obligations or any guaranty thereof;

(d) the commencement of any Insolvency Proceeding in respect of any Grantor; or

(e) any other circumstances which otherwise might constitute a defense available to, or a discharge of, any Grantor in respect of any Agent, any Obligations or any Claimholder in respect of this Agreement.

SECTION 8. Representations and Warranties.

8.1 Representations and Warranties of Each Party. Each Agent represents and warrants to the other Agents as follows:

(a) Such party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and has all requisite power and authority to execute and deliver this Agreement and to perform its obligations hereunder.

(b) This Agreement has been duly executed and delivered by such party and constitutes a legal, valid and binding obligation of such party, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

(c) The execution, delivery, and performance by such party of this Agreement (i) do not require any consent or approval of, registration or filing with or any other action by any Governmental Authority and (ii) will not violate any provision of law, statute, rule or regulation, or of the certificate or articles of incorporation or other constitutive documents or by-laws of such party or any order of any Governmental Authority or any provision of any indenture, agreement or other instrument binding upon such party.

8.2 Representations and Warranties of Each Agent. Each Agent represents and warrants to the other that it has been authorized by ABL Lenders, Senior Lien Lenders, First Lien Lenders or Junior Lien Lenders, as applicable, under the applicable Credit Agreement, to enter into this Agreement and that each of the agreements, covenants, waivers, and other provisions hereof is valid, binding, and enforceable against the ABL Lenders, Senior Lien

Lenders, First Lien Lenders and Junior Lien Lenders, as applicable, as fully as if they were parties hereto.

SECTION 9. Miscellaneous.

9.1 Conflicts. In the event of any conflict between the provisions of this Agreement and the provisions of any of the Loan Documents, the provisions of this Agreement shall govern and control.

9.2 Effectiveness; Continuing Nature of this Agreement; Severability. This Agreement shall become effective when executed and delivered by the parties hereto. This is a continuing agreement of lien subordination and each of the Agents and Claimholders may continue, at any time and without notice to any of the others, to extend credit and other financial accommodations and lend monies to or for the benefit of any Grantor in reliance hereon. Each such Agent hereby waives any right it may have under applicable law to revoke this Agreement or any of the provisions of this Agreement. The terms of this Agreement shall survive, and shall continue in full force and effect, in any Insolvency Proceeding. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. All references to any Grantor shall include such Grantor as debtor and debtor-in-possession and any receiver or trustee for any Grantor (as the case may be) in any Insolvency Proceeding. This Agreement shall terminate and be of no further force and effect:

(a) with respect to the ABL Agent, the ABL Claimholders and the ABL Obligations, on the date of the Discharge of ABL Priority Obligations, subject to the rights of the ABL Agent and ABL Claimholders under Section 6.4;

(b) with respect to the Senior Lien Agent, the Senior Lien Claimholders and the Senior Lien Obligations, on the date of the Discharge of Senior Lien Priority Obligations, subject to the rights of the Senior Lien Agent and the Senior Lien Claimholders under Section 6.4;

(c) with respect to the First Lien Agent, the First Lien Claimholders and the First Lien Obligations, on the date of the Discharge of First Lien Priority Obligations, subject to the rights of the First Lien Agent and the First Lien Claimholders under Section 6.4; and

(d) with respect to the Junior Lien Agent, the Junior Lien Claimholders and the Junior Lien Obligations, on the date of the Discharge of Junior Lien Priority Obligations, subject to the rights of the Junior Lien Agent and the Junior Lien Claimholders under Section 6.4.

9.3 Amendments; Waivers. No amendment, modification or waiver of any of the provisions of this Agreement shall be deemed effective unless the same shall be in writing signed on behalf of the parties hereto or their respective authorized agents, and each waiver, if any, shall

be a waiver only with respect to the specific instance involved and shall in no way impair the rights of the parties making such waiver or the obligations of the other parties to such party in any other respect or at any other time. Notwithstanding the foregoing, no Grantor shall have any right to consent to or approve any amendment, modification or waiver of any provision of this Agreement except to the extent its rights are directly affected (which includes, but is not limited to any amendment to the Grantors' ability to cause additional obligations to constitute ABL Obligations, Senior Lien Obligations, First Lien Obligations or Junior Lien Obligations, as the Grantors may designate).

9.4 Information Concerning Financial Condition of the Parent and its Subsidiaries. Each Agent and Claimholder shall be responsible for keeping themselves informed of (i) the financial condition of the Loan Parties and all endorsers and/or guarantors of their respective Obligations and (ii) all other circumstances bearing upon the risk of nonpayment of the Obligations. No Agent or Claimholder shall have any duty to advise any other Agent or Claimholder of information known to it or them regarding such condition or any such circumstances or otherwise. In the event that any Agent or Claimholder undertakes at any time or from time to time to provide any such information to any other Agent or Claimholder, it or they shall be under no obligation:

(a) to make, and shall not make, any express or implied representation or warranty, including with respect to the accuracy, completeness, truthfulness or validity of any such information so provided;

(b) to provide any additional information or to provide any such information on any subsequent occasion;

(c) to undertake any investigation; or

(d) to disclose any information, which pursuant to accepted or reasonable commercial finance practices, such party wishes to maintain confidential or is otherwise required to maintain confidential.

9.5 Subrogation. With respect to the value of any payments or distributions in cash, property or other assets that any of the Claimholders or Agents pays over to any other Agent or Claimholders under the terms of this Agreement, and subject to Section 2.3, the Claimholders and Agent making such payment shall be subrogated to the rights of the Agent and Claimholders receiving such payment; provided, however, that, any of the Claimholders and Agents making such payment hereby agrees not to assert or enforce any such rights of subrogation it may acquire as a result of any payment hereunder until the Discharge of the applicable Obligations has occurred. Each Grantor acknowledges and agrees that, to the extent permitted by applicable law, the value of any payments or distributions in cash, property or other assets received by any Agent or Claimholder that are paid over to any other Agent or Claimholders pursuant to this Agreement shall not reduce the amounts which such Grantor shall be obligated to pay the Agents and Claimholders making such payment.

9.6 SUBMISSION TO JURISDICTION; WAIVERS.

(a) ALL JUDICIAL PROCEEDINGS BROUGHT AGAINST ANY PARTY ARISING OUT OF OR RELATING HERETO MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION IN THE STATE, COUNTY, AND CITY OF NEW YORK. BY EXECUTING AND DELIVERING THIS AGREEMENT, EACH PARTY, FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, IRREVOCABLY:

(i) ACCEPTS GENERALLY AND UNCONDITIONALLY THE NON-EXCLUSIVE JURISDICTION AND VENUE OF SUCH COURTS;

(ii) WAIVES ANY DEFENSE OF FORUM NON CONVENIENS;

(iii) AGREES THAT SERVICE OF ALL PROCESS IN ANY SUCH PROCEEDING IN ANY SUCH COURT MAY BE MADE BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE APPLICABLE PARTY AT ITS ADDRESS PROVIDED IN ACCORDANCE WITH SECTION 9.7; AND

(iv) AGREES THAT SERVICE AS PROVIDED IN CLAUSE (iii) ABOVE IS SUFFICIENT TO CONFER PERSONAL JURISDICTION OVER THE APPLICABLE PARTY IN ANY SUCH PROCEEDING IN ANY SUCH COURT, AND OTHERWISE CONSTITUTES EFFECTIVE AND BINDING SERVICE IN EVERY RESPECT.

(b) EACH OF THE PARTIES HERETO (INCLUDING THE PARENT ON BEHALF OF ITSELF AND ITS SUBSIDIARIES) HEREBY WAIVES ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON THIS AGREEMENT OR ARISING HEREUNDER. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER HEREOF, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. EACH PARTY HERETO ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP THAT EACH HAS ALREADY RELIED ON THIS WAIVER IN ENTERING INTO THIS AGREEMENT, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN ITS RELATED FUTURE DEALINGS. EACH PARTY HERETO FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE; MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS SECTION (b) AND EXECUTED BY EACH OF THE PARTIES HERETO), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS, OR

MODIFICATIONS HERETO. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

9.7 Notices. All notices to any Agent or Claimholder permitted or required under this Agreement shall also be sent to each other Agent. Unless otherwise specifically provided herein, any notice hereunder shall be in writing and may be personally served, telexed or sent by telefacsimile or United States mail or courier service or overnight mail and shall be deemed to have been given when delivered in person or by courier service or electronic mail and signed for against receipt thereof, upon receipt of telefacsimile or telex or electronic mail, one Business Day after sending by overnight mail, or three Business Days after depositing it in the United States mail with postage prepaid and properly addressed. For the purposes hereof, the addresses of the parties hereto shall be as set forth below each party's name on the signature pages hereto, or, as to each party, at such other address as may be designated by such party in a written notice to all of the other parties.

9.8 Further Assurances. Each Agent agrees to take such further action and to execute and deliver such additional documents and instruments (in recordable form, if requested) as any other Agent may reasonably request to effectuate the terms of and the Lien priorities contemplated by this Agreement, all at the expense of Borrowers to the extent required by the applicable Credit Agreement.

9.9 APPLICABLE LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

9.10 Binding on Successors and Assigns. This Agreement shall be binding upon each Agent and each of the Claimholders, and their respective successors and assigns.

(a) Notwithstanding any other provision of this Agreement, following the Discharge of ABL Priority Obligations and until the occurrence of the Discharge of Senior Lien Priority Obligations, the Senior Lien Agent and Senior Lien Claimholders shall succeed to all rights and obligations of the ABL Agent and ABL Claimholders under this Agreement with respect to the Collateral as against the First Lien Agent and First Lien Claimholders, and the Junior Lien Agent and Junior Lien Claimholders, and such First Lien Agent, First Lien Claimholders, Junior Lien Agent and Junior Lien Claimholders shall continue to be bound hereby and subject hereto as holders of a Junior Lien on the Collateral.

(b) Notwithstanding any other provision of this Agreement, following the Discharge of ABL Priority Obligations and Discharge of Senior Lien Priority Obligations and until the occurrence of the Discharge of First Lien Priority Obligations, the First Lien Agent and First Lien Claimholders shall succeed to all rights and obligations of the Senior Lien Agent and Senior Lien Claimholders under this Agreement with respect to the Collateral as against the Junior Lien Agent and Junior Lien Claimholders, and such Junior Lien Agent and Junior Lien Claimholders shall continue to be bound hereby and subject hereto as holders of a Junior Lien on the Collateral.

9.11 Headings. Section 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 or be given any substantive effect.

9.12 Counterparts. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement or any document or instrument delivered in connection herewith by telecopy or other electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement or such other document or instrument, as applicable.

9.13 No Third Party Beneficiaries. This Agreement and the rights and benefits hereof shall inure to the benefit of each of the parties hereto and its respective successors and assigns and shall inure to the benefit of and bind each of the Claimholders.

9.14 Provisions Solely to Define Relative Rights. The provisions of this Agreement are and are intended solely for the purpose of defining the relative rights of the Agents and the Claimholders. None of the Grantors or any other creditor thereof shall have any rights hereunder and none of the Grantors may rely on the terms hereof, other than as expressly provided in Section 5.1 and the second sentence of Section 9.3. Nothing in this Agreement is intended to or shall impair the obligations of any Grantor, which are absolute and unconditional, to pay the Obligations, as and when the same shall become due and payable in accordance with their respective terms.

9.15 Costs and Attorneys Fees. In the event it becomes necessary for any Agent or any Claimholder to commence or become a party to any proceeding or action to enforce the provisions of this Agreement, the court or body before which the same shall be tried shall award to the prevailing party all costs and expenses thereof, including reasonable attorneys fees, the usual and customary and lawfully recoverable court costs, and all other expenses in connection therewith.

[signature pages follow]

Acknowledged and Agreed to by:

BORROWERS

HABAND COMPANY LLC

By: _____
Name: T. Neale Attenborough
Title: Treasurer

JOHNNY APPLESEED'S, INC.

By: _____
Name: T. Neale Attenborough
Title: Chief Executive Officer

NORM THOMPSON OUTFITTERS, INC.

By: _____
Name: T. Neale Attenborough
Title: Chief Executive Officer

DRAPER'S & DAMON'S LLC

By: _____
Name: T. Neale Attenborough
Title: President

BLAIR LLC

By: _____
Name: T. Neale Attenborough
Title: President

WINTERSILKS, LLC

By: _____
Name: T. Neale Attenborough
Title: Chief Executive Officer

GOLD VIOLIN LLC

By: _____
Name: T. Neale Attenborough
Title: President

ARIZONA MAIL ORDER COMPANY, INC.

By: _____
Name: T. Neale Attenborough
Title: Chief Executive Officer

BEDFORD FAIR APPAREL, INC.

By: _____
Name: T. Neale Attenborough
Title: Chief Executive Officer

LM&B CATALOG, INC.

By: _____
Name: T. Neale Attenborough
Title: Chief Executive Officer

MONTEREY BAY CLOTHING COMPANY, INC.

By: _____
Name: T. Neale Attenborough
Title: Chief Executive Officer

ORCHARD BRANDS INSURANCE AGENCY
LLC

By: _____
Name: T. Neale Attenborough
Title: Chief Executive Officer

LINEN SOURCE ACQUISITION LLC

By: _____
Name: T. Neale Attenborough
Title: Chief Executive Officer

GUARANTORS

ORCHARD BRANDS CORPORATION

By: _____

Name: T. Neale Attenborough

Title: Chief Executive Officer

APPLESEED'S INTERMEDIATE HOLDINGS
LLC

By: _____

Name: T. Neale Attenborough

Title: Chief Executive Officer

HABAND ACQUISITION LLC

By: _____

Name: T. Neale Attenborough

Title: Treasurer

HABAND ONLINE, LLC

By: _____

Name: T. Neale Attenborough

Title: Assistant Secretary

FAIRVIEW ADVERTISING LLC

By: _____

Name: T. Neale Attenborough

Title: Assistant Secretary

HABAND OAKS, LP

By: HABAND OPERATIONS, LLC

By: _____

Name: T. Neale Attenborough

Title: Assistant Secretary

HABAND OPERATIONS, LLC

By: _____
Name: T. Neale Attenborough
Title: Assistant Secretary

APPLESEED'S ACQUISITION, INC.

By: _____
Name: T. Neale Attenborough
Title: Chief Executive Officer

APPLESEED'S HOLDINGS, INC.

By: _____
Name: T. Neale Attenborough
Title: Chief Executive Officer

DRAPER'S & DAMON'S ACQUISITION LLC

By: _____
Name: T. Neale Attenborough
Title: President

NTO ACQUISITION CORPORATION

By: _____
Name: T. Neale Attenborough
Title: Chief Executive Officer

BLAIR PAYROLL, LLC

By: _____
Name: T. Neale Attenborough
Title: President

BLAIR HOLDINGS, INC.

By: _____
Name: T. Neale Attenborough
Title: President

BLAIR CREDIT SERVICES CORPORATION

By: _____

Name: T. Neale Attenborough

Title: President

BLAIR INTERNATIONAL HOLDINGS, INC.

By: _____

Name: T. Neale Attenborough

Title: President

BLAIR FACTORING COMPANY

By: _____

Name: T. Neale Attenborough

Title: President

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

PNC BANK, NATIONAL ASSOCIATION, as
Issuer, Agent, Swingline Lender and a Lender under
the ABL Credit Agreement

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Notice Address:

[•]

With a copy to:

[•]

[•], as Agent and a Lender under the Senior Lien
Credit Agreement

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Notice Address:

[•]

With a copy to:

[•]

[•], as Agent and a Lender under the First Lien
Credit Agreement

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

Notice Address:

[•]

With a copy to:

[•]

[•], as Agent and a Lender under the Junior Lien
Credit Agreement

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

Notice Address:

[•]

With a copy to:

[•]

EXHIBIT A

FORM OF INTERCREDITOR AGREEMENT JOINDER

The undersigned, _____, a _____, hereby agrees to become party as [ABL Agent] [Senior Lien Agent] [First Lien Agent] [Junior Lien Agent] [a Grantor] under the Intercreditor Agreement dated as of [•] (the “**Intercreditor Agreement**”) among PNC BANK, NATIONAL ASSOCIATION, as Administrative Agent (in such capacity, the “**ABL Agent**”) under the ABL Credit Agreement (as defined below), [•], as Administrative Agent (in such capacity, the “**Senior Lien Agent**”) under the Senior Lien Credit Agreement (as defined below), [•], as Administrative Agent (in such capacity, the “**First Lien Agent**”) under the First Lien Credit Agreement (as defined below), and [•], as Administrative Agent (in such capacity, the “**Junior Lien Agent**”) under the Junior Lien Credit Agreement, as amended, supplemented, amended and restated or otherwise modified and in effect from time to time, for all purposes thereof on the terms set forth therein, and to be bound by the terms of the Intercreditor Agreement as fully as if the undersigned had executed and delivered the Intercreditor Agreement as of the date thereof.

The provisions of Article 8 of the Intercreditor Agreement will apply with like effect to this Joinder.

IN WITNESS WHEREOF, the parties hereto have caused this Intercreditor Agreement Joinder to be executed by their respective officers or representatives as of _____, 20__

[_____]

By: _____
Name: _____
Title: _____

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