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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

In re:	)	Case No. 07-_____
	)	Jointly Administered
MOVIE GALLERY, INC., et al.,[1]	)	Chapter 11
	)	
Debtors.	)	
	)	

MOTION OF THE DEBTORS FOR INTERIM AND FINAL ORDERS PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 363, 364(c), 364(d) AND 364(e) AND FED. R. BANKR. P. 4001 AND 9014 (I) AUTHORIZING DEBTORS TO OBTAIN SECURED POSTPETITION FINANCING ON SUPER-PRIORITY PRIMING LIEN BASIS, GRANTING ADEQUATE PROTECTION FOR PRIMING AND MODIFYING THE AUTOMATIC STAY, (II) AUTHORIZING DEBTORS TO USE CASH COLLATERAL OF EXISTING SECURED LENDERS AND GRANTING ADEQUATE PROTECTION FOR USE, (III) AUTHORIZING DEBTORS TO REPAY EXISTING REVOLVER INDEBTEDNESS UPON INTERIM APPROVAL AND (IV) PRESCRIBING FORM AND MANNER OF NOTICE AND SETTING THE TIME FOR THE FINAL HEARING

The above-captioned debtors (collectively, the "Debtors") hereby move the Court, pursuant to this motion (the "Motion"), for the entry of an interim order substantially in the form

[1] The Debtors in the cases include: Movie Gallery, Inc.; Hollywood Entertainment Corporation; M.G. Digital, LLC; M.G.A. Realty I, LLC; MG Automation LLC; and Movie Gallery US, LLC.

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attached hereto as Exhibit A (the "Interim DIP Order") and a final order (the "Final DIP Order," and with the Interim DIP Order, the "DIP Orders"), pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364(c), 364(d) and 364(e) and Fed. R. Bankr. P. 4001 and 9014, (i) authorizing the Debtors to obtain secured postpetition financing on a super-priority administrative claim and first priority priming lien basis, granting adequate protection to existing secured lenders for the priming of their existing liens, and modifying the automatic stay, (ii) authorizing the Debtors to use the cash collateral of existing secured lenders and granting adequate protection to existing secured lenders for the use of their cash collateral, (iii) authorizing the Debtors to repay the existing first lien revolver indebtedness upon entry of the Interim DIP Order, (iv) prescribing the form and manner of notice and setting the time for the final hearing on the Motion and (v) granting related relief, all as more fully described below and in the proposed DIP Orders. In support of this Motion, the Debtors respectfully state as follows:[2]

Jurisdiction

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157 (b)(2).

2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory bases for the relief requested herein are sections 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1) and 364(e) of the Bankruptcy Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"), Rules 4001 and 9014 of the Federal Rules of Bankruptcy

[2] The facts and circumstances supporting this Motion are set forth in the Affidavit of William C. Kosturos, Chief Restructuring Officer of Movie Gallery, Inc., in Support of First Day Motions (the "First Day Affidavit"), filed contemporaneously herewith.

Procedure (the "Bankruptcy Rules") and Rule 4001(a)-1 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Eastern District of Virginia.

Background

4. On the date hereof (the "Commencement Date"), each of the Debtors filed a petition with the Court under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases, and no committees have been appointed or designated. Concurrently with the filing of this Motion, the Debtors have sought procedural consolidation and joint administration of these chapter 11 cases.

5. The Debtors are the second largest North American home entertainment specialty retailer. They currently operate approximately 4,200 retail stores located throughout all 50 states. They rent and sell DVDs, videocassettes and video games through three distinct brands — Movie Gallery, Hollywood Video and Game Crazy.

6. In 2006, the aggregate annual revenues of the Debtors and their non-Debtor affiliates, including rental revenue and product sales, exceeded $2.5 billion. Of this amount, approximately 56% was attributed to DVD rentals, 15% to the sale of previously-rented DVDs, VHS cassettes and video games, 13% to the sale of new and used gaming products, 7% to game rentals, 4% to the sale of concessions and other miscellaneous products, 3% to the sale of movie-related products and merchandise and 2% to VHS cassette rentals. As of September 2, 2007, the Debtors and their non-Debtor affiliates employed approximately 38,800 employees, including approximately 7,500 full-time employees and 31,300 part-time employees.

7. Several factors have led to the filing of these chapter 11 cases. First, the video rental industry is highly competitive. The Debtors face direct competition from competitors such as Blockbuster and Netflix and indirect competition from pay-per-view, cable television and big-box retailers who sell DVDs at increasingly lower prices. Furthermore, recent box office receipts of rental releases have declined over the previous year, contributing to an industry-wide decline in demand for video rentals. Finally, as the Debtors' financial performance has deteriorated, they have experienced contracting trade terms, which have had a negative impact on the Debtors' liquidity, which, in turn, has contributed to the Debtors' inability to comply with certain financial covenants under their credit agreements.

The Debtors' Prepetition Financing

8. Prior to the commencement of the Debtors' chapter 11 cases, the Debtors obtained approximately $725 million in secured loans, advances and other credit accommodations pursuant to the terms and conditions set forth in the First Lien Credit and Guaranty Agreement, dated as of March 8, 2007, among the respective Debtors as borrower and the guarantors party thereto, the banks, financial institutions and other lenders parties thereto (the "Existing First Lien Lenders"), Goldman Sachs Credit Partners L.P. ("GSCP") as lead arranger and syndication agent, and Wachovia Bank, National Association, as collateral agent and documentation agent (such agents, the "Existing First Lien Agents," and together with the Existing First Lien Lenders, the "Existing First Lien Loan Parties")[3] (as the same has been

[3] The collective term "Existing First Lien Loan Parties" may mean one or more Existing First Lien Lenders, one or more Existing First Lien Agents or all of the Existing First Lien Lenders and the Existing First Lien Agents, depending on the context. To the extent that the Existing First Lien Loan Documents (as defined herein) specify the rights and responsibilities of the respective Existing First Lien Lenders and Existing First Lien Agents as between such parties, the terms of the Existing First Lien Loan Documents shall be determinative and shall not be deemed modified by the use of the collective term "Existing First Lien Loan Parties" in this Motion or in the DIP Orders.

amended, modified, restated, renewed, replaced and/or supplemented from time to time through the Commencement Date, the "Existing First Lien Credit Agreement"), together with other credit, guarantee and security agreements executed and/or delivered by the Debtors in favor of Existing First Lien Loan Parties and all other agreements, documents and instruments at any time executed and/or delivered in connection with or related to the Existing First Lien Credit Agreement (as all of the same have been amended, modified, restated, renewed, replaced and/or supplemented from time to time prior to the Commencement Date, and together with the Existing First Lien Credit Agreement, the "Existing First Lien Loan Documents").

9. In addition, the Debtors obtained an additional $175 million in secured term loans pursuant to the terms and conditions set forth in the Second Lien Credit and Guaranty Agreement, dated as of March 8, 2007, among the respective Debtors as borrower and the guarantors party thereto, the banks, financial institutions and other lenders parties thereto (the "Existing Second Lien Lenders"), GSCP as lead arranger and syndication agent, and Wells Fargo Bank, National Association, as successor administrative agent and collateral agent (such agents, the "Existing Second Lien Agents," and together with the Existing Second Lien Lenders, the "Existing Second Lien Loan Parties,"[4] and together with the Existing First Lien Loan Parties, the "Existing Lenders") (as the same has been amended, modified, restated, renewed, replaced and/or supplemented from time to time through the Commencement Date, the "Existing Second Lien Credit Agreement"), together with other credit, guarantee and security agreements executed

[4] The collective term "Existing Second Lien Loan Parties" may mean one or more Existing Second Lien Lenders, one or more Existing Second Lien Agents or all of the Existing Second Lien Lenders and the Existing Second Lien Agents, depending on the context. To the extent that the Existing Second Lien Loan Documents specify the rights and responsibilities of the respective Existing Second Lien Lenders and Existing Second Lien Agents as between such parties, the terms of the Existing Second Lien Loan Documents shall be determinative and shall not be deemed modified by the use of collective term "Existing Second Lien Loan Parties" in this Motion or in the DIP Orders.

and/or delivered by the Debtors in favor of Existing Second Lien Loan Parties and all other agreements, documents and instruments at any time executed and/or delivered in connection with or related to the Existing Second Lien Credit Agreement (as all of the same have been amended, modified, restated, renewed, replaced and/or supplemented from time to time prior to the Commencement Date, and together with the Existing Second Lien Credit Agreement, the "Existing Second Lien Loan Documents," and together with the Existing First Lien Loan Documents, the "Existing Loan Documents").

10. The aggregate $900 million obtained under the Existing Loan Documents was used by the Debtors to refinance an $829.9 million credit facility entered into in 2005 in connection with Movie Gallery, Inc.'s acquisition of Hollywood Video, Inc. (the "2005 Credit Facility"), which had $754.9 million outstanding at the time. The Debtors fully drew $600 million under the term loan component of the Existing First Lien Loan Documents and $175 million under the Existing Second Lien Loan Documents and, together with approximately $18.7 million of cash-on-hand, (a) repaid approximately $754.9 million in indebtedness under the 2005 Credit Facility, (b) paid approximately $23.2 million in fees and expenses and (c) paid approximately $15.6 million in accrued interest and fees.

11. The Debtors are indebted to the Existing First Lien Loan Parties in respect of all outstanding obligations under the Existing First Lien Loan Documents, which as of September 30, 2007 were in the aggregate principal amount of not less than $720.6 million, consisting of, among other things: (a) revolving exposure in the form of (i) revolving loans, (ii) swing line loans and (iii) reimbursement obligations in respect of letters of credit in an aggregate outstanding principal amount of not less than $100 million, (items (i), (ii) and (iii) of

this subpart (a) collectively, the "Existing Revolver Indebtedness"); (b) term loans of approximately $597 million, (c) reimbursement obligations in respect of synthetic letters of credit of approximately $23.6 million and (d) all interest, fees, and charges accrued and accruing thereon and chargeable with respect thereto, and as to the extent provided for in the Existing First Lien Loan Documents, all costs and expenses of the Existing First Lien Loan Parties (including, without limitation, attorneys' fees and legal expenses) (items (a), (b), (c) and (d), collectively, the "Existing First Lien Indebtedness"). As of the Commencement Date, the Existing First Lien Indebtedness was bearing interest at a daily rate, payable monthly, equal to the "Base Rate" plus 3.75% per annum for the revolving exposure, the "Base Rate" plus 4.75%, for term loans, and the "Adjusted Eurodollar Rate" plus 5.75% per annum, for synthetic letters of credit.

12. The Debtors are indebted to Existing Second Lien Loan Parties in respect of all outstanding obligations under the Existing Second Lien Loan Documents, which as of September 30, 2007 were in the aggregate principal amount of not less than $175 million, consisting of (a) term loans ($175 million) and (b) all interest, fees and charges accrued and accruing thereon and chargeable with respect thereto, and as to the extent provided for in the Existing Second Lien Loan Documents, all costs and expenses of the Existing Second Lien Loan Parties (including, without limitation, attorneys' fees and legal expenses) (items (a) and (b) together, the "Existing Second Lien Indebtedness"). As of the Commencement Date, the Existing Second Lien Indebtedness was in default and bearing interest at the "Base Rate" plus the "Applicable Margin," plus the applicable "PIK Margin Increase" (as defined in the Existing Second Lien Loan Documents) plus the applicable default margin. On August 20, 2007, Movie

Gallery, Inc. elected to pay-in-kind 100% of the interest on the entire principal amount of the Existing Second Lien Indebtedness commencing with the interest period following such date.

13. The Existing First Lien Indebtedness and the Existing Second Lien Indebtedness are unconditionally owing, due and payable by the Debtors, as borrower or guarantors on a joint and several basis, to Existing First Lien Loan Parties and Existing Second Lien Loan Parties, respectively, without offset, defense or counterclaim of any kind, nature and description whatsoever.

14. As of the Commencement Date, the Existing First Lien Indebtedness is oversecured on a going-concern basis pursuant to the Existing First Lien Loan Documents by perfected, valid, binding and non-avoidable first priority liens and security interests granted by the Debtors to or for the benefit of Existing First Lien Loan Parties upon all of the Collateral (as defined in the Existing First Lien Loan Documents) existing as of the time immediately prior to the Commencement Date and the postpetition proceeds and products thereof (collectively, with any other property of, among other things, each Debtor's estate in which a lien or security interest has been granted to or for the benefit of Existing First Lien Loan Parties immediately prior to the Commencement Date, the "Existing Collateral"). Essentially, the Existing Collateral consists of all tangible and intangible real and personal property of the Debtors (including cash collateral) except for certain leasehold mortgages on stores and 35% of the equity interests owned in existing and future wholly-owned non-domestic subsidiaries. The Existing Collateral also secures the Existing Second Lien Indebtedness, but the rights of Existing Second Lien Loan Parties in the Existing Collateral are junior and subordinate to the rights therein of Existing First

Lien Loan Parties pursuant to and in accordance with an Intercreditor Agreement dated as of March 8, 2007 (the "Intercreditor Agreement").

15. Under the Intercreditor Agreement, the Existing Second Lien Loan Parties have agreed not to oppose any cash collateral agreement or financing supported by the Existing First Lien Loan Parties so long as (a) the cash collateral usage or financing is on commercially reasonable terms, (b) the Existing Second Lien Loan Parties retain the right to object to any ancillary agreements or arrangements regarding the cash collateral usage or financing that are materially prejudicial to their interests, (c) the financing does not compel the Debtors to seek confirmation of a specific plan of reorganization for which all or substantially all of the material terms are set forth in the financing documentation and (d) the financing documentation or cash collateral order does not expressly require the liquidation of collateral prior to a default under the financing documentation or cash collateral order. The Debtors represent that those conditions are satisfied with the relief requested herein.

The Debtors' Proposed Postpetition Financing

16. The Debtors have negotiated and reached agreement to enter into, subject to approval of the Court pursuant to the DIP Orders, a $150,000,000 Secured Super-Priority Debtor in Possession Credit and Guaranty Agreement, which consists of a $100,000,000 term loan (the "Term Loan Commitment") and a $50,000,000 revolving loan and letter of credit facility (the "Revolving Commitment"), by and among Movie Gallery, Inc., as borrower and the other Debtors as guarantors, GSCP as lead arranger, syndication agent and documentation agent (the "Arranger"), The Bank of New York as administrative agent and collateral agent (collectively, the "DIP Agents") and the banks, financial institutions and other lenders parties thereto

(collectively, the "Lenders" and with the DIP Agents, the "DIP Lenders")[5] (as the same now exists or may hereafter be amended, modified, ratified, extended, renewed, restated or replaced, the "Credit Agreement") and the other credit documents (the "Credit Documents").[6]

17. In addition to the postpetition financing to be provided under the Credit Agreement, the Debtors will require the use of cash on hand and amounts generated by the collection of accounts receivable, sales of inventory or other dispositions of the Existing Collateral, all of which constitute proceeds of the Existing Collateral and, therefore, is cash collateral of Existing Lenders (the "Cash Collateral"). The DIP Orders provide the terms on which the Debtors propose to use the Cash Collateral.

Relief Requested

18. By this Motion, the Debtors request that the Court grant the following relief as provided for in the Interim DIP Order and the Final DIP Order:

a. pursuant to sections 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), 364(d) and 364(e) of the Bankruptcy Code and Rules 4001 and 9014 of the Bankruptcy Rules:

   i. authorization for Debtors to obtain postpetition loans, advances and other financial accommodations pursuant to the Credit Agreement in the amount of $140,000,000 on an interim basis under the Interim DIP Order and $150,000,000 on a final basis under the Final DIP;

   ii. authorization for the Debtors to enter into and comply in all respects with the Credit Agreement and all other Credit Documents and approval of all of the terms and conditions of the Credit Agreement and all other Credit Documents;

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5 The collective term "DIP Lenders" may mean one or more Lenders, one or more Agents or all of Lenders and Agents, depending on the context. To the extent that the Credit Documents (as defined herein) specify the rights and responsibilities of the respective Lenders or Agents as between such parties, the terms of the Credit Documents shall be determinative and shall not be deemed modified by the use of the collective term "DIP Lenders" in this Motion or in the DIP Orders.

6 Defined terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Credit Agreement.

iii. the granting in favor of the DIP Lenders of super-priority administrative claim status pursuant to section 364(c)(1) of the Bankruptcy Code in respect of all Obligations (as defined in the Credit Agreement);

iv. as security for the Obligations, the granting in favor of the DIP Lenders of perfected, valid, enforceable and non-avoidable liens upon and security interests in all of the Collateral (as hereinafter defined, including avoidance actions and proceeds thereof upon entry of the Final DIP Order) having the priorities described in sections 364(c)(2) and 364(c)(3) of the Bankruptcy Code;

v. as further security for the Obligations, the granting of perfected, valid, enforceable and non-avoidable senior priming liens upon and security interests in the Existing Collateral pursuant to Section 364(d) of the Bankruptcy Code and, in consideration thereof, the granting of adequate protection for such priming in the form of subordinate super-priority administrative claims for the Existing First Lien Loan Parties and additional liens and security interests junior to those liens and security interests securing the Obligations for the Existing First Lien Loan Parties and the Existing Second Lien Loan Parties; and

vi. the waiver of the Debtors' right to surcharge the Collateral securing the Obligations pursuant to section 506(c) of the Bankruptcy Code;

b. pursuant to sections 361 and 363 of the Bankruptcy Code, authorization for the Debtors to use Cash Collateral pursuant to the terms and conditions set forth herein and the granting of adequate protection to Existing Lenders for such use of Cash Collateral, including cash interest payments for Existing First Lien Loan Parties and paid-in-kind interest for Existing Second Lien Loan Parties, payments of postpetition fees, costs and charges incurred by both parties, and the additional rights provided in the Interim DIP Order (including the waiver of the Debtors' right to surcharge the collateral securing the Existing First Lien Indebtedness and the Existing Second Lien Indebtedness pursuant to section 506(c) of the Bankruptcy Code);

c. upon the entry of the Interim DIP Order, authorization for the Debtors to immediately repay in full the Existing Revolver Indebtedness owed under the Existing First Lien Loan Documents with the proceeds of loans provided under the Credit Agreement;

d. the scheduling of the final hearing on the Motion to consider entry of the Final DIP Order authorizing and granting the relief requested in the Motion; and

e. the granting of certain related relief.

Summary of Principal Terms of Postpetition Financing

19. Beginning in August 2007, the Credit Agreement, to be substantially in the form attached hereto as Exhibit B, was negotiated by and among the Debtors and the DIP Lenders, through a good-faith and extensive, arm's-length process. In accordance with the terms and conditions of the Credit Agreement, the DIP Lenders have agreed to extend certain debtor in possession credit facilities to Movie Gallery, Inc. (the "Borrower") in an aggregate amount not to exceed $150,000,000, consisting of $100,000,000 aggregate principal amount of term loans (the "DIP Term Facility") and $50,000,000 aggregate principal amount of revolving commitments (the "DIP Revolving Facility," and with the DIP Term Facility, the "DIP Facilities," or "DIP Financing"). The other Debtors in these cases are guarantors under the Credit Agreement.

20. The DIP Lenders consist primarily of the Existing First Lien Loan Parties.[7] As the Credit Agreement requires the priming of the Existing Collateral on behalf of the DIP Lenders, it also requires that the interests of the Existing First Lien Loan Parties, as well as the junior interests of the Existing Second Lien Loan Parties, be adequately protected. As provided for in the DIP Orders, that adequate protection consists of additional liens and security interests in the Collateral (as defined in the Credit Agreement) that are, respectively, junior to the liens and security interests granted to the DIP Lenders and additionally, in the case of the Existing First Lien Loan Parties, repayment of the Existing Revolver Indebtedness following entry of the

[7] Notwithstanding the fact that certain of the DIP Lenders are also among the Existing First Lien Loan Parties, the rights and responsibilities of the DIP Lenders and the Existing First Lien Loan Parties are separate and distinct. No action or position taken or not taken by any of the DIP Lenders (including by GSCP as lead arranger and syndication agent) shall bind the Existing First Lien Loan Parties in any respect, and no action or position taken or not taken by any of the Existing First Lien Loan Parties (including by GSCP as administrative agent) shall bind the DIP Lenders in any respect.

Interim DIP Order and the grant of subordinate super-priority administrative expense claims pending the required repayments, pursuant to the Interim DIP Order.

21. Under the DIP Orders, the Debtors will be authorized to use the Cash Collateral of the Existing Lenders during the period from the Commencement Date through the earlier of (a) the acceleration of the Obligations following an Event of Default under the Credit Agreement, (b) the Maturity Date of the Credit Agreement and (c) the breach by the Debtors of their obligations to provide adequate protection to the Existing Lenders pursuant to the Credit Documents (collectively, the "Cash Collateral Usage Period").

22. The Debtors are advised that the Existing Lenders will agree that their Cash Collateral may be used by the Debtors, provided that they receive adequate protection for the diminution in value of their respective interests in the Existing Collateral, including for the use of the Cash Collateral and the use, sale, depreciation or other diminution in value of the other assets and property constituting the Existing Collateral, in the form of cash interest payments for Existing First Lien Loan Parties and paid-in-kind interest for Existing Second Lien Loan Parties, payments of postpetition fees, costs and charges incurred by both parties and the additional rights provided in the Interim DIP Order and additionally, in the case of the Existing First Lien Loan Parties, repayment of the Existing Revolver Indebtedness following entry of the Interim DIP Order.

23. The proceeds of the DIP Facilities will be used to (a) refinance the Existing Revolver Indebtedness following entry of the Interim DIP Order, (b) pay certain other fees and expenses relating to the credit facilities established under the Credit Agreement, (c) support the working capital and general corporate purposes of the Debtors and (d) make any other payments

permitted to be made by the Bankruptcy Code or in the DIP Orders or any other order of the Court to the extent not prohibited by the Credit Agreement or otherwise consented to by the DIP Lenders. The Cash Collateral will also be used for the foregoing purposes.

24. The Existing First Lien Indebtedness is oversecured on a going concern basis. Accordingly, the repayment of the Existing Revolver Indebtedness will benefit the Debtors' estates by reducing by 2.75% (or approximately $230,000 per month assuming fully-drawn instruments) the Debtors' interest expenses as well as certain fees, costs and expenses associated with maintaining the Existing Revolver Indebtedness during the pendency of these cases, including pursuant to section 506(b) of the Bankruptcy Code. As discussed in more detail below, the interests of the Debtors' estates are protected under the terms of the DIP Orders by provisions allowing a reasonable period of time for certain parties in interest to challenge the claims and liens of the Existing First Lien Loan Parties for the purpose of ensuring that they are oversecured and entitled to repayment in full. These same provisions allow for a challenge of the adequate protection granted to the Existing Lenders under the DIP Orders.

25. The significant terms of the Credit Agreement are as follows:[8]

a. Borrower: Movie Gallery, Inc.

b. Guarantors: Each domestic subsidiary of the Borrower, collectively, which are the other Debtors.

c. Total Commitment: (i) $100 million under the DIP Term Facility and (ii) up to $50 million under the DIP Revolving Facility.

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[8] This summary of the Credit Agreement is provided for the benefit of the Court and other parties in interest. The Credit Agreement proposed to be executed by the parties will be substantially in the form attached hereto as Exhibit C and incorporated herein by reference. To the extent there are any conflicts between this summary and the Credit Agreement, the terms of the Credit Agreement shall govern. Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Credit Agreement.

d. Initial Availability/Full Availability: Upon entry of the Interim DIP Order and satisfaction of the conditions to Initial Availability as described in the Credit Agreement, up to $100 million of the DIP Term Facility and $40 million of the DIP Revolving Facility shall be available to the Debtors. Upon entry of the Final DIP Order and satisfaction of the conditions to Full Availability as described in the Credit Agreement, the balance of the DIP Revolving Facility shall be available to the Debtors.

e. Maturity: The earlier of: (i) September 30, 2008; (ii) the effective date of a chapter 11 plan of reorganization or liquidation confirmed by the Court; and (iii) the date that all Loans shall become due and payable in full under the Credit Agreement, whether by acceleration or otherwise.

f. Swing Line Loans: At the Borrower's option, a portion of the DIP Revolving Facility to be agreed upon may be made available as swing line loans.

g. Letters of Credit: At the Borrower's option, a portion of the DIP Revolving Facility in an amount up to $7,500,000 may be made available for the issuance of letters of credit by an issuing bank to be agreed upon ("Letters of Credit").

h. Interest Rate: All amounts outstanding under the DIP Facility will bear interest, at the Borrower's option, as follows:

i. in the case of the DIP Revolving Facility:

a. if a Base Rate Loan, at the Base Rate plus 2.50% per annum plus the Applicable Case Milestone Margin (as defined herein) then in effect (if any); or

b. if a Eurodollar Rate Loan, at the Adjusted Eurodollar Rate plus 3.50% per annum plus the Applicable Case Milestone Margin then in effect (if any);

ii. in the case of Swing Line Loans, at the Base Rate plus 2.50% per annum plus the Applicable Case Milestone Margin then in effect (if any); and

iii. in the case of the DIP Term Facility:

a. if a Base Rate Loan, at the Base Rate plus 2.50% per annum plus the Applicable Case Milestone Margin then in effect (if any); or

b. if a Eurodollar Rate Loan, at the Adjusted Eurodollar Rate plus 3.50% per annum plus the Applicable Case Milestone Margin then in effect (if any).

The Applicable Case Milestone Margin is: (i) 0.75%, in the event the Debtors fail to file a chapter 11 plan of reorganization or liquidation and a related disclosure statement with the Bankruptcy Court on or prior to January 15, 2008, and/or in the event an order approving the Debtors' disclosure statement is not entered by the Court on or prior to March 1, 2008; (ii) 1.50%, in the event an order confirming the Debtors' chapter 11 plan of reorganization or liquidation is not entered by the Bankruptcy Court on or prior to April 30, 2008; and (iii) 2.25%, in the event the effective date of the Debtors' chapter 11 plan of reorganization or liquidation has not occurred on or prior to May 31, 2008.

i. Interest Payments: To be paid quarterly (commencing with the quarter ending December 31, 2007), in arrears, for loans bearing interest with reference to the Base Rate and on the last day of selected interest periods (which shall be one, two, three or six months) for loans bearing interest with reference to the reserve adjusted Eurodollar Rate (and at the end of every three months, in the case of interest periods of longer than three months) and, upon prepayment, in each case payable in arrears and computed on the basis of a 360-day year (365/366 day year with respect to loans bearing interest with reference to the Base Rate).

j. Fees, Costs, Expenses and Indemnities: The Borrower has agreed to the following:

i. payment to GSCP, as Arranger, of a facility fee on the Closing Date;

ii. payment to the Administrative Agent, of an acceptance fee and an agency fee payable annually in advance on the Closing Date and each anniversary thereof for so long as any loans under the DIP Facilities shall be outstanding or any DIP Lender shall have any commitment under the DIP Facilities;

iii. payment to the DIP Lenders having Revolving Exposure, of (a) commitment fees equal to (1) the average of the daily difference between (a) the Revolving Commitments and (b) the aggregate principal amount of (x) all outstanding Revolving Loans plus (y) the Letter of Credit Usage times (2) 0.50% per annum, and (b) letter of credit fees equal to (1) 3.50% per annum plus the Applicable Case Milestone Margin then in effect (if any) times (2) the average aggregate daily maximum amount available to be drawn under all such Letters of Credit (regardless of whether any conditions for drawing could then be met and determined as of the close of business on any date of determination);

iv. payment to an Issuing Bank, for its own account, of (a) a fronting fee equal to 0.25% per annum, times the average aggregate daily maximum amount available to be drawn under all Letters of Credit (determined as of

the close of business on any date of determination) and (b) such documentary and processing charges for any issuance, amendment, transfer or payment of a Letter of Credit as are in accordance with an Issuing Bank's standard schedule for such charges and as in effect at the time of such issuance, amendment, transfer or payment, as the case may be;

v. payment of (a) all the actual and reasonable costs and expenses of the DIP Agents, the Arranger and the Issuing Bank in connection with the negotiation, preparation, execution and administration of the Credit Documents and any consents, amendments, waivers or other modifications thereto and any other documents or matters requested by the Borrower, including, without limitation, the reasonable fees, expenses and disbursements of counsel, (b) all the costs of furnishing all opinions by counsel for the Borrower and the other Credit Parties, (c) all the actual costs and reasonable expenses of creating, perfecting and recording the Liens, including filing and recording fees, expenses and taxes, stamp or documentary taxes, search fees, title insurance premiums and reasonable fees, expenses and disbursements of counsel to the DIP Lenders and of counsel providing any opinions that the DIP Lenders may request, (d) all the actual costs and reasonable fees, expenses and disbursements of any auditors, accountants, consultants or appraisers, (e) all the actual costs and reasonable expenses in connection with the custody or preservation of any of the Collateral, (f) all other actual and reasonable costs and expenses incurred by each Agent and the Arranger in connection with the syndication of the Loans and Commitments and (g) after the occurrence of a Default or an Event of Default, all costs and expenses, including reasonable attorneys' fees and costs of settlement, incurred by any of the DIP Agents, Arranger and DIP Lenders in enforcing any Obligations of or in collecting any payments due from any Credit Party or under the other Credit Documents by reason of such Default or Event of Default or in connection with any refinancing or restructuring of the credit arrangements in the nature of a "work-out" or pursuant to any insolvency or bankruptcy cases or proceedings; and

vi. indemnify the DIP Lenders from all "Indemnified Liabilities" as defined in the Credit Agreement, with a continuing indemnity in favor of GSCP with respect to syndication.

k. Voluntary Prepayments: The DIP Facilities may be prepaid in whole or in part without premium or penalty; provided that loans bearing interest with reference to the reserve adjusted Eurodollar Rate will be prepayable only on the last day of the related interest period unless the Borrower pays any related breakage costs.

l. Mandatory Prepayments: Mandatory prepayments will be required, subject to certain limitations, for the net cash proceeds of certain asset sales, proceeds of insurance on account of any loss of property or assets and net cash proceeds received from the incurrence of indebtedness not permitted by the loan documents.

m. Priority/Security: All obligations of the Borrower to the DIP Lenders, subject to the Carve-Out (as defined herein), shall at all times:

i. pursuant to section 364(c)(1) of the Bankruptcy Code and the DIP Orders (as applicable), all Obligations at all times shall constitute allowed joint and several super-priority administrative expense claims in each of these cases having priority over all administrative expenses of the kind specified in sections 503(b) or 507(b) of the Bankruptcy Code;

ii. pursuant to section 364(c)(2) of the Bankruptcy Code and the DIP Orders (as applicable), all Obligations shall be secured by a perfected First Priority senior Lien on all Collateral that is not otherwise subject to valid, perfected and nonavoidable liens as of the Commencement Date;

iii. pursuant to section 364(c)(3) of the Bankruptcy Code and the DIP Orders (as applicable), all Obligations shall be secured by a perfected second priority junior Lien on all Collateral that is otherwise subject to (a) valid, perfected and nonavoidable liens as of the Commencement Date or (b) valid liens in existence at the Commencement Date that are perfected subsequent to the Commencement Date as permitted by section 546(b) of the Bankruptcy Code (other than Collateral that is subject to the Liens securing the obligations under the Existing Agreements referred to in clause (iv) below, which Liens shall be primed by the Liens described in such clause); and

iv. pursuant to section 364(d)(1) of the Bankruptcy Code and the DIP Orders (as applicable), all Obligations shall be secured by a perfected First Priority senior priming Lien on the Existing Collateral, subject to those valid, perfected and nonavoidable Liens in existence on the Commencement Date to which the Liens in the Existing Collateral granted in connection with the Existing Credit Agreements are subject in accordance with the Existing Credit Agreements, to the extent such liens and security interests are valid, perfected, enforceable and non-avoidable (provided that with respect to such excepted liens and security interests, the DIP Lenders shall be granted junior liens and security interests under subparagraph (iii) above).

Except for the Carve-Out, no costs or expenses of administration shall be imposed against the DIP Lenders or any of the Collateral under section

105 or 506(c) of the Bankruptcy Code, or otherwise, and each of the Debtors waives for itself and on behalf of their estates in bankruptcy, any and all rights under section 105 or 506(c), or otherwise, to assert or impose or seek to assert or impose, any such costs or expenses of administration against the DIP Lenders or the Collateral.

No filings, recordings or other actions will be necessary to perfect and maintain the perfection and status of any liens or security interests granted to the DIP Lenders.

n. Collateral: The assets and property subject to the liens and security interests granted to the DIP Lenders include, without limitation: Existing Collateral and all other of the Debtors' now owned or hereafter acquired real and personal property, including, but not limited to, leasehold interests, inventory, accounts, chattel paper, documents, general intangibles, goods, instruments, insurance, intellectual property, investment related property, letter of credit rights, money, receivables and receivable records, commercial tort claims and upon entry of a Final DIP Order, avoidance claims and causes of action brought under Chapter 5 of the Bankruptcy Code, all collateral records, collateral support and supporting obligations relating to any of the foregoing; and all proceeds, products, accessions, rents and profits of or in respect of any of the foregoing (but limited to 65% of the Debtors' interests in Foreign Subsidiaries as and to the extent set forth in the Credit Documents, (collectively, the "Collateral").[9]

o. Carve-Out: The following claims are included within the Carve-Out: (a) fees pursuant to 28 U.S.C. § 1930(a)(6); (b) fees payable to the clerk of the Court and any agent thereof; (c) in the event of a conversion of these cases to cases under Chapter 7 of the Bankruptcy Code, fees and expenses incurred by a trustee and any professionals retained by such trustee, in an aggregate amount not exceeding $75,000; and (d) professional fees and expenses incurred by the Debtors and the Committee (collectively, the "Professional Fees") subsequent to the delivery of a Carve-Out Trigger Notice (regardless of when such Professional Fees become allowed by order of the Court), in an aggregate amount not in excess of $7,000,000 plus all unpaid Professional Fees incurred prior to the delivery of a Carve-Out Trigger Notice to the extent previously or subsequently allowed by the Court, subject to the right of the DIP Lenders and any other party in interest to object to the award of such Professional Fees in accordance with any applicable

[9] In no event shall: (a) any lien or security interest granted pursuant to the Credit Documents or this Interim Order be subject to any lien or security interest that is avoided and preserved for the benefit of the Debtors'estates under section 551 of the Bankruptcy Code; (b) any person or entity who pays (or through the extension of credit to any Debtor, causes to be paid) any of the Obligations be subrogated, in whole or in part, to any rights, remedies, claims, privileges, liens or security interests granted in favor of, or conferred upon, DIP Lenders by the terms of the Credit Documents or the DIP Orders, until such time as all of the Obligations are indefeasibly paid in full in cash in accordance with the Credit Documents and the DIP Orders; or (c) DIP Lenders be subject to the equitable doctrine of "marshaling" or any similar doctrine with respect to the Collateral.

Bankruptcy Rule or, if applicable, order of the Court relating to the approval of Professional Fees and objections thereto. The Carve-Out shall not include, apply to, or be available for any Professional Fees incurred by any party, including the Credit Parties, any Committee or any Professional in connection with the investigation, initiation or prosecution of any claims, defenses or causes of action against the DIP Agents, the DIP Lenders or the Existing First Lien Loan Parties; provided, further, that prior to delivery of a Carve-Out Trigger Notice, the payment of Professional Fees allowed and payable under the Bankruptcy Code or otherwise pursuant to an order of the Court, as the same may be due and payable, shall not reduce the Carve-Out, subject to the right of the Administrative Agent, the DIP Lenders and any other party in interest to object to such payments in accordance with applicable Bankruptcy Rule or, if applicable, order of the Court relating to the approval of Professional Fees and objections thereto. As used herein, the "Carve-Out Trigger Notice" is a written notice delivered by the Administrative Agent to counsel for the Borrower following the occurrence of an Event of Default expressly stating that the Carve-Out has been invoked.

p. Events of Default: The Credit Agreement contains such events of default (and, as appropriate, grace periods) as are usual and customary for financings of this kind, including, without limitation, failure to pay any principal, interest or letter of credit reimbursement with respect to the Obligations; failure to pay material amounts due with respect to other postpetition indebtedness or breach of any material term of the agreement governing such indebtedness; failure to comply with specific covenants in the Credit Documents; breach of any representation, warranty, certification or other statement made or deemed made in any Credit Document; any other default under the Credit Documents that is not remedied or waived within thirty (30) days of notice; the occurrence of certain ERISA events; the occurrence of a change of control; and the failure of or challenge to the validity or enforceability of any Guaranty, Collateral Document or other Credit Document with respect to the Obligations. In addition to the foregoing, the DIP Facilities include the following bankruptcy–related Events of Default:

i. the Final DIP Order Entry Date shall not occur within forty (40) days after the Interim DIP Order Entry Date or the Full Availability Closing Date does not occur within five (5) Business Days of the Final DIP Order Entry Date;

ii. the Court shall dismiss any of these chapter 11 cases or shall convert any of these chapter 11 cases to a chapter 7 case;

iii. the Debtors shall file, support or fail to oppose a motion seeking, or the Court shall enter, an order in any of these chapter 11 cases appointing (a) a trustee under chapter 7 or chapter 11 of the Bankruptcy Code, (b) a responsible officer or (c) an examiner, in each case with enlarged powers

relating to the operation of the business (powers beyond those set forth in subclauses (3) and (4) of section 1106(a) of the Bankruptcy Code) under section 1106(b) of the Bankruptcy Code in these chapter 11 cases;

iv. the Debtors shall file, support or fail to oppose a motion seeking, or the Court shall enter, an order in any of these cases (a) approving additional financing under section 364(c) or (d) of the Bankruptcy Code not otherwise permitted pursuant to the Credit Agreement, (b) granting any Lien (other than Permitted Liens or Liens expressly permitted in the DIP Orders) upon or affecting any Collateral that are pari passu or senior to the Liens on the Collateral in favor of Collateral Agent, for the benefit of the DIP Lenders, (c) granting any claim priority senior to or pari passu with the claims of the DIP Lenders under the Credit Documents or any other claim having priority over any or all administrative expenses of the kind specified in section 503(b) or section 507(b) of the Bankruptcy Code or (d) granting any other relief that is adverse to the Administrative Agent's, Syndication Agent's, Collateral Agent's or the DIP Lenders' interests under any Credit Document or their rights and remedies thereunder or their interest in the Collateral;

v. (a) any Debtor shall fail to comply with the terms of the DIP Orders in any material respect, (b) the DIP Orders shall be amended, supplemented, stayed, reversed, vacated or otherwise modified without the written consent of the Requisite Lenders, or (c) any Debtor shall file a motion for reconsideration with respect to the DIP Orders or (d) the right of the Borrower to borrow under the Credit Agreement is terminated by an order entered by the Court;

vi. the Debtors or any of their Subsidiaries shall seek to, or shall support (in any such case by way of any motion or other pleading filed with the Court or any other writing to another party in interest executed by or on behalf of the Debtors or any of their Subsidiaries) any other Person's motion to, disallow in whole or in part the DIP Lenders' claim in respect of the Obligations or to challenge the validity and enforceability of the Liens in favor of Collateral Agent;

vii. other than payments to Existing Lenders permitted under the Credit Agreement and the DIP Orders and certain other payments permitted by the Credit Documents, the Debtors shall make any payment (whether by way of adequate protection or otherwise) of principal or interest or otherwise on account of any Prepetition Indebtedness;

viii. the Court shall enter an order granting relief from the automatic stay to any creditor or party in interest (a) to permit foreclosure (or the granting of a deed in lieu of foreclosure or the like) on any assets of the Debtors that

have an aggregate value in excess of $2,500,000 or (b) to permit other actions that would have a material adverse effect on the Debtors or the chapter 11 estates;

ix. any judgments that, to the extent not covered by insurance, are in the aggregate in excess of $2,500,000 as to any postpetition obligation shall be rendered against the Debtors and the enforcement thereof shall not be stayed (by court ordered stay or by consent of the party litigants), it being understood that Federal Rule of Civil Procedure 62(a) provides for a ten (10) day stay on enforcement of money judgments or there shall be rendered against any of the Debtors a non-monetary judgment with respect to a postpetition event that causes or would reasonably be expected to cause a material adverse change or a material adverse effect on the ability of the Debtors to perform their obligations under the Loan Documents;

x. absent the written consent of Requisite Lenders, entry by the Court of an order under section 363 or 365 of the Bankruptcy Code authorizing or approving the sale or assignment of a material portion of any of the Debtors' assets, or procedures in respect thereof, or any of the Debtors shall seek, support or fail to contest in good faith, the entry of such an order in these chapter 11cases; or

xi. a chapter 11 plan of reorganization or liquidation with respect to the Debtors is filed and (a) the treatment of the claims of the DIP Lenders in such plan is not approved by Administrative Agent and Syndication Agent or (b) such plan does not provide for the payment in full in cash of the Obligations on or prior to the date of consummation thereof.

q. Remedies: Subject to the terms and conditions of the Interim DIP Order, upon the occurrence of an Event of Default, after giving five (5) business days notice in writing: (i) all of the Obligations will become immediately due and payable; (ii) the automatic stay provided for pursuant to section 362 of the Bankruptcy Code and any other restrictions on the enforcement by DIP Lenders of their liens upon and security interests in the Collateral or any other rights under the Credit Documents will be automatically vacated and modified without any further action being required; and (iii) the DIP Lenders, without further notice, hearing or approval of the Court, will be authorized to take any and all actions or remedies to proceed against and realize upon the Collateral.

Basis for Expedited Relief

26. The Debtors bring this Motion on an expedited basis in light of the immediate and irreparable harm that will likely be suffered by the Debtors' estates if they cannot obtain the

financing needed to sustain their business as a going concern. Indeed, the Debtors have an urgent need to obtain the DIP Financing and use Cash Collateral for, among other things, continuing the operation of their business in an orderly manner, maintaining business relationships with vendors, suppliers and customers, paying employees and satisfying other working capital and operational needs — all of which are necessary to preserve and maintain the Debtors' going-concern values and, ultimately, effectuate a successful reorganization.

27. The fourth quarter, which includes the holiday season, is often the most important time of the year as it relates to the Debtors' profitability. The Debtors' access to financing during this time, especially in light of their recent precarious financial position, will be key to the long-term success of the Debtors' business and the Debtors' overall ability to maximize value for all parties in interest. Indeed, because of the Debtors' recent financial distress, which included most of its key vendors demanding cash in advance or cash on delivery payment terms, the Debtors require access to immediate funding to satisfy product delivery requirements to permit the Debtors to maintain adequate inventory during the holiday season.

28. In light of the foregoing, the Debtors anticipate accessing the DIP Financing and using Cash Collateral immediately for certain requirements, which will enable the Debtors to demonstrate to their customers, suppliers, employees and vendors that they have sufficient capital to ensure ongoing operations. If approved by the Court on an interim basis, the Debtors will immediately have initial availability of up to $140,000,000 under the terms and conditions of the Credit Agreement as well as access to Cash Collateral. Thus, the Credit Agreement provides the Debtors with funding needed to operate and maintain their business and to pay necessary expenses during the pendency of their chapter 11 cases. Absent approval of the DIP

Orders, the Debtors may have to curtail or even terminate their business operations to the material detriment of creditors, employees and other parties in interest.

29. The Debtors were unsuccessful in their attempt to obtain such financing (a) as unsecured credit pursuant to section 364(a) or (b) of the Bankruptcy Code, (b) allowable as an administrative expense under section 503(b)(1) of the Bankruptcy Code or (c) as secured credit pursuant to section 364(c) of the Bankruptcy Code on more favorable terms from other sources. Accordingly, pursuant to the Credit Agreement, the Lenders have agreed to provide funding needed to sustain the Debtors' business operations. In exchange, the Credit Agreement provides the DIP Lenders with reasonable protections considering the circumstances of these chapter 11 cases.

Applicable Authority for Approval to Use Cash Collateral

30. The Debtors' use of property of their estates is governed by section 363 of the Bankruptcy Code, which provides in pertinent part that:

> If the business of the debtor is authorized to be operated under section . . . 1108 . . . of this title and unless the court orders otherwise, the [debtor] may enter into transactions, including the sale or lease of property of the estate, in the ordinary course of business, without notice or a hearing, and may use property of the estate in the ordinary course of business without notice or a hearing.

11 U.S.C. § 363(c)(1).

31. A debtor in possession has all of the rights and powers of a trustee with respect to property of the estate, including the right to use property of the estate in compliance with section 363 of the Bankruptcy Code. See 11 U.S.C. § 1107(a).

32. Pursuant to section 363(c)(2) of the Bankruptcy Code, the Court may authorize the Debtors to use cash collateral as long as the applicable secured creditors are adequately protected. In re Mellor, 734 F.2d 1396, 1400 (9th Cir. 1984); see also In re McCormick, 354 B.R. 246, 251 (Bankr. C.D. Ill. 2006) (to use the cash collateral of a secured creditor, the debtor must have the consent of the secured creditor or must establish to the Court that the secured creditor's interest in the cash collateral is adequately protected.). Section 363(c)(2) of the Bankruptcy Code establishes a special requirement with respect to "cash collateral," by providing that a debtor may not use, sell or lease "cash collateral" under subsection (c)(1) unless: each entity that has an interest in such collateral consents; or the court, after notice and a hearing, authorizes such use, sale or lease in accordance with the provisions of this section. "Cash Collateral" is defined as, "cash, negotiable instruments, documents of title, securities, deposit accounts or other cash equivalents in which the estate and an entity other than the estate have an interest." 11 U.S.C. § 363(a).

33. The Debtors have an urgent need for the immediate use of the Cash Collateral pending the final hearing on this Motion. Accordingly, the Debtors seek to use all Cash Collateral existing on or after the Commencement Date subject to the Existing Lenders' liens. The Debtors require use of the Cash Collateral to, among other things, pay present operating expenses, including payroll and vendors, to ensure a continued supply of goods and services essential to the Debtors' continued viability. In addition, the DIP Financing is explicitly conditioned on the Court granting the Debtors' use of the Cash Collateral.

Applicable Authority for Approval of Adequate Protection for Existing Lenders

34. Appropriate adequate protection is decided on a case-by-case basis. See e.g., In re Snowshoe Co., 789 F.2d 1085, 1088 (4th Cir. 1986); In re Mosello, 195 B.R. 277, 289 (Bankr. S.D.N.Y. 1996); In re Beker Indus. Corp., 58 B.R. 725 (Bankr. S.D.N.Y. 1986); see also In re JKJ Chevrolet, Inc., 190 B.R. 542, 545 (Bankr. E.D. Va. 1995) (adequate protection is a flexible concept that is determined by considering the facts of each case) (citing In re O'Connor, 808 F.2d 1393, 1396-97 (10th Cir.1987). Although adequate protection is not defined in the Bankruptcy Code, section 361 of the Bankruptcy Code provides the following three nonexclusive examples of what may constitute adequate protection:

> (1) requiring the [debtor] to make a cash payment or periodic cash payments to such entity, to the extent that the . . . use . . . under section 363 . . . results in a decrease in the value of such entity's interest in such property;
>
> (2) providing to such entity an additional or replacement lien to the extent that such . . . use . . . results in a decrease in the value of such entity's interest in such property; or
>
> (3) granting such other relief . . . as will result in the realization by such entity of the indubitable equivalent of such entity's interest in such property.

11 U.S.C. § 361. Essentially, with the provision of adequate protection, the Bankruptcy Code seeks to shield a secured creditor from diminution in the value of its interest in the particular collateral during the period of use. See In re Hubbard Power & Light, 202 B.R. 680, 685 (Bankr. E.D.N.Y. 1996); In re 495 Cent. Park Ave. Corp., 136 B.R. 626, 631 (Bankr. S.D.N.Y. 1992); In re Beker Indus. Corp., 58 B.R. at 736; see also In re Nice, 355 B.R. 554, 563 (Bankr. N.D. Va.

2006) ("adequate protection is solely a function of preserving the value of the creditor's secured claim as of the petition date due to a debtor's continued use of collateral").

35. Pursuant to section 363(c)(2), a debtor may not use cash collateral without the consent of the applicable secured party or court approval. Section 363(e) provides that upon request of an entity that has an interest in property to be used by a debtor, the court shall prohibit or condition such use as necessary to provide adequate protection of such interest. Further, as previously noted, under section 364(d), a debtor may obtain credit secured by a senior or equal lien only if an existing secured creditor's interest in the collateral is adequately protected.

36. As adequate protection for, and to the extent of, any diminution in value of the Existing Lenders' interest in the Existing Collateral resulting from the priming of their liens upon and security interests in the Existing Collateral by the liens and security interests granted to the DIP Lenders to secure the Obligations, the use of their Cash Collateral, the use, sale, lease, depreciation or other diminution in value of the Existing Collateral and the imposition of the automatic stay, but subject in all cases to the Carve-Out, the Debtors propose that (a) the Existing First Lien Loan Parties receive super-priority administrative expense claims subordinate to those of the DIP Lenders, liens on and security interests in all Collateral junior to the liens granted to the DIP Lenders, current payment of interest at the rate in effect on the Commencement Date, payment of letter of credit, agency, administrative and other fees under the Existing First Lien Loan Documents, and payment of all other fees, costs and charges (including for lawyers, financial advisors and other advisors), consent rights with respect to motions and orders (other than "first day" motions and orders) that seek the right to pay or otherwise satisfy prepetition claims, and protection against any surcharge under section 506(c) of the Bankruptcy Code; and

(b) the Existing Second Lien Loan Parties receive liens on and security interests in all Collateral junior to the liens granted to the DIP Lenders and the First Lien Loan Parties, interest paid-in-kind in accordance with the terms of the Existing Second Lien Agreement in an amount equal to the interest (including the PIK Margin Increase (as defined in the Existing Second Lien Loan Documents) to the extent applicable) on the Existing Second Lien Indebtedness at the rate in effect as of the Commencement Date, payment of letter of credit, agency, administrative and other fees under the Existing Second Lien Loan Documents, and payment of all other fees, costs and charges (including for lawyers, financial advisors and other advisors).

Applicable Authority for Approval of DIP Facilities

A. Incurrence of Secured Super-Priority Debt Under Section 364(c) and (d)

37. The Debtors' reorganization efforts hinge upon being able to access postpetition financing and use cash collateral. Section 364 of the Bankruptcy Code distinguishes among (a) obtaining unsecured credit in the ordinary course of business, (b) obtaining unsecured credit outside the ordinary course of business and (c) obtaining credit with specialized priority or on a secured basis. As discussed below, if a debtor cannot obtain postpetition credit on an unsecured basis, a court may authorize such debtor to obtain credit or incur debt that is entitled to super-priority administrative expense status, secured by a senior lien on unencumbered property or secured by a junior lien on encumbered property. See 11 U.S.C. § 364(c)(1), (2) and (3); see also In re Garland Corp., 6 B.R. 456, 461 (1st Cir. B.A.P. 1980) (secured credit under section 364(c)(2) authorized, after notice and a hearing, upon showing that unsecured credit unobtainable); In re Ames Dept. Stores, Inc., 115 B.R. 34, 37-39 (Bankr. S.D.N.Y. 1990) (debtor must show that it made reasonable efforts to seek other sources of financing under section

364(a), (b)); In re Crouse Group, Inc., 71 B.R. 544, 549 (Bankr. E.D. Pa. 1987) (debtor seeking unsecured credit under section 364(c) must prove that it cannot obtain unsecured credit pursuant to section 364(b)); see also In re The Rowe Cos., Case No. 06-11142 (KRH) (Bankr. E.D. Va. Oct. 16, 2006) (authorizing credit on a super-priority basis); In re US Airways, Inc., Case No. 04-13819 (SSM) (Bankr. E.D. Va. Feb. 28, 2005) (same); In re NTELOS Inc., Case No. 03-32094 (DOT) (Bankr. E.D. Va. Mar. 24, 2003) (same); In re AMF Bowling Worldwide, Inc., Case No. 01-61119 (DHA) (Bankr. E.D. Va. Aug. 8, 2001) (same).

38. The Debtors' efforts to obtain necessary postpetition financing from other sophisticated lending institutions satisfy the statutory requirements of section 364(c). See, e.g., Ames, 115 B.R. at 40 (approving financing facility and holding that debtor made reasonable efforts to satisfy the standards of section 364(c) to obtain less onerous terms where debtor approached four lending institutions, was rejected by two and selected the least onerous financing option from the remaining two lenders); see also In re Snowshoe Co., 789 F.2d 1085, 1088 (4th Cir. 1986) ("[t]he statute imposes no duty to seek credit from every possible lender before concluding that such credit is unavailable"). Moreover, where few lenders likely can or will extend the necessary credit to a debtor, "it would be unrealistic and unnecessary to require [the debtor] to conduct an exhaustive search for financing." In re Sky Valley, Inc., 100 B.R. 107, 113 (Bankr. N.D. Ga. 1988), aff'd sub nom., Anchor Sav. Bank FSB v. Sky Valley, Inc., 99 B.R. 117, 120 n.4 (N.D. Ga. 1989).

39. Pursuant to section 364(d), a court may authorize postpetition credit secured by a senior or equal lien on encumbered property (*i.e.*, a "priming" lien) without consent from affected secured parties if the debtor cannot obtain credit elsewhere and the interests of existing

lienholders are adequately protected. See 11 U.S.C. § 364(d)(1). Specifically, section 364(d)(1) provides, in relevant part, that a court may, after notice and a hearing:

> authorize the obtaining of credit or the incurring of debt secured by a senior or equal lien on property of the estate that is subject to a lien only if —
>
> (A) the [debtor] is unable to obtain credit otherwise; and
>
> (B) there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted.

11 U.S.C. § 364(d)(1).

B. The Debtors Do Not Have a More Favorable Alternative to the DIP Financing

40. Before the Commencement Date, the Debtors, with the assistance of their financial advisor and investment banker Lazard Frères & Co. ("Lazard") assessed their financing needs. In addition to the proposal from the DIP Agents, the Debtors also received a proposal from the majority holder of the Debtors' 11% senior notes due in 2012 (the "Majority Holder"). The Debtors, after fully considering this proposal and the DIP Agents' proposal, and, with the assistance of Lazard evaluating the terms and costs associated with the DIP Agents' proposal as compared to other similar facilities provided to debtors in the retail industry, determined that the proposal by the DIP Agents provided the most advantageous and flexible terms to the Debtors' estates. Among other benefits, since the DIP Lenders are substantially the same as the Existing First Lien Loan Parties, obtaining financing through the DIP Lenders allows the Debtors to avoid the cost and risks to business operations associated with attempting to prime the Existing First Lien Indebtedness over the Existing First Lien Loan Parties' potential objection.

41. Additionally, the Debtors were unable to obtain more favorable postpetition financing in the form of unsecured credit, an administrative expense or credit secured by junior liens on the Debtors' assets. Nonetheless, a debtor need only demonstrate "by a good faith effort that credit was not available" without the protections afforded to potential lenders by section 364(c) or 364(d). In re Snowshoe Co., 789 F.2d 1085, 1088 (4th Cir. 1986) ("the statute imposes no duty to seek credit from every possible lender before concluding that such credit is unavailable"); Ames, 115 B.R. at 40 (finding that debtors demonstrated the unavailability of unsecured financing where debtors approached several lending institutions).

C. The DIP Facilities Are Necessary to Preserve Assets of the Debtors' Estates

42. It is vital that the Debtors are successful in immediately instilling confidence in their employees, vendors and customers by displaying their ability to seamlessly transition into chapter 11, operate normally in this environment and, ultimately, reorganize in a successful and expedient manner. The DIP Financing will provide the working capital necessary to allow the Debtors to continue operating their business in the ordinary course and navigate the course of these chapter 11 cases with the ultimate goal of maintaining and maximizing value for the benefit of all parties in interest.

43. Indeed, the ultimate success of these chapter 11 cases and the stabilization of the Debtors' operations at the outset of these chapter 11 cases is largely dependent upon the confidence of the Debtors' employees, vendors and customers, which, in turn, depends upon the Debtors' ability to minimize the disruption of the chapter 11 filings. All major constituencies understand that the Debtors are suffering severe liquidity constraints and cannot continue to operate without additional financing. If the relief sought in this Motion is delayed or denied,

confidence may be shattered. As previously noted, the Debtors are embarking upon the most critical part of their business year, which includes the holiday season and the release of many featured titles. As reflected in the budget provided to the Existing First Lien Loan Parties and incorporated into the Credit Agreement, the Debtors must have the immediate ability to borrow $40 million to ensure that adequate inventory is placed on the Debtors' shelves so that customers are able to rent and purchase the titles that they expect to see throughout the holiday season. The last several months have been debilitating to the Debtors' business, as many studios and vendors have insisted upon cash in advance prior to delivering essential product and inventory. At this time, and in the face of financial instability, the Debtors simply cannot operate without an infusion of $40 million for their near-term financing needs.

44. The Debtors' inability to access financing and thereby generate revenues to support adequately their business at this critical juncture would severely jeopardize the reorganization efforts. Approval and implementation of the DIP Financing, however, will enable continued functioning of the Debtors' operations on a daily basis and preserve the going concern value of the Debtors' estates for the benefit of all parties.

D. The Terms of the DIP Financing Are Fair, Reasonable and Appropriate

45. The terms and conditions of the DIP Financing are fair and reasonable and were negotiated by the parties in good faith and at arm's-length. In the reasonable exercise of the Debtors' business judgment, the DIP Financing is the best financing option available under the present circumstances. Further, with the inclusion of the Carve-Out, the DIP Financing does not directly or indirectly deprive the Debtors' estates or other parties in interest of possible rights and powers by restricting the services for which professionals may be paid in these cases. See Ames,

115 B.R. at 38 (observing that courts insist on carve-outs for professionals representing parties in interest because "[a]bsent such protection, the collective rights and expectations of all parties-in-interest are sorely prejudiced").

46. Generally, the proposed DIP Financing subjects the security interests and administrative expense claims of the DIP Lenders and the Existing Lenders to the Carve-Out, as described above. In Ames, the court found such "carve-outs" for professional fees to be not only reasonable but necessary to ensure that official committees and debtors' estates can retain assistance from counsel. See Id. at 41.

47. Likewise, the various fees and charges required under the DIP Financing are reasonable and appropriate under the circumstances. Courts routinely authorize similar lender incentives beyond the explicit liens and rights specified in section 364. See, e.g., In re Delphi Corp., No. 05-44481 (Bankr. S.D.N.Y. Jan. 5, 2007); In re Defender Drug Stores, Inc., 145 B.R. 312, 316 (9th Cir. BAP 1992) (approving financing facility pursuant to section 364 that included a lender "enhancement fee").

48. Moreover, pursuant to the terms of the Credit Agreement, the Debtors seek authority to repay the Existing Revolver Indebtedness with the proceeds of the DIP Facility upon entry of the Interim DIP Order. The Credit Agreement contemplates making the repayment of the Existing Revolver Indebtedness subject to the right of the Court to unwind the repayment in the event that there is a timely and successful challenge to the validity, enforceability, extent, perfection or priority of the Existing First Lien Loan Parties' claims or liens, or a determination that the Existing Revolver Indebtedness is undersecured as of the Commencement Date.

49. The Existing First Lien Indebtedness and the Existing Second Lien Indebtedness total approximately $900 million and are secured by substantially all of the Debtors' assets. In addition to the $100 million that the Debtors propose to pay to the Existing First Lien Loan Parties under the Existing Revolver, the DIP Lenders are providing $50 million in new financing to the Debtors, which will benefit the Debtors' estates and help preserve the value of their business. Furthermore, the Debtors acknowledge that the Existing Revolver Indebtedness constitutes valid indebtedness that is secured by perfected liens on the Existing Collateral that has a value in excess of the amount of the Existing First Lien Indebtedness. Approval of the Credit Agreement would significantly benefit the Debtors by providing a meaningful infusion of new funding for the Debtors' operations without bestowing any special rights or protections to the Existing First Lien Loan Parties that they do not already enjoy and without prejudicing parties in interest. Furthermore, based upon their secured status and the terms of the Existing First Lien Credit Agreement, it is undisputed that the Existing First Lien Loan Parties would be entitled to be paid before other creditors in these chapter 11 cases. Thus, the Existing First Lien Loan Parties holding the Existing Revolver Indebtedness are simply being repaid early. Since the Credit Agreement provides that the repayment of the Existing Revolver Indebtedness may be unwound in appropriate circumstances, interim approval of the repayment of the Existing Revolver Indebtedness will not adversely affect parties in interest. Accordingly, the Debtors submit that repaying the Existing Revolver Indebtedness with borrowings under the Credit Agreement is appropriate under the circumstances and will not give undue advantage to the Existing First Lien Loan Parties without a countervailing benefit to the estates.

50. Courts in this district and elsewhere have approved debtor in possession financing facilities that were used, in part, to repay prepetition secured credit obligations. See, e.g., In re Rowe Cos., Case No. 06-11142 (KRH) (Bankr. E.D. Va. Oct. 16, 2006) (interim order authorizing and directing debtors to draw the interim financing under the DIP facility to immediately repay in full all prepetition obligations due and owing under the prepetition secured credit facility); In re Tyringham Holdings, Inc., Case No. 06-32385 (DOT) (Bankr. E.D. Va. Sept. 8, 2006) (interim order authorizing debtors to pay all proceeds of collateral and make all other payments and transfers to the agent on account of prepetition obligations); In re Twinlab Corp., Case No. 03-15564 (Bankr. S.D.N.Y. Sept. 4, 2003) (interim order authorizing debtors to pay the prepetition lenders on account of prepetition obligations).

E. Application of the Business Judgment Standard

51. After appropriate investigation and analysis, the Debtors have concluded that the DIP Financing presents the best alternative available under the circumstances. Bankruptcy courts routinely defer to a debtor's business judgment on most business decisions, including the decision to borrow money, unless such decision fails the arbitrary and capricious standard. See In re Trans World Airlines, Inc., 163 B.R. 964, 974 (Bankr. D. Del. 1994) (noting that approval of interim loan, receivables facility and asset-based facility "reflect[ed] sound and prudent business judgment . . . [was] reasonable under the circumstances and in the best interests of [the debtor] and its creditors"); cf. Group of Inst. Investors v. Chicago, Mil., St. P. & Pac. Ry., 318 U.S. 523, 550 (1943) (holding that decisions regarding assumption or rejection of leases are left to the business judgment of the debtor); In re Simasko Prod. Co., 47 B.R. 444, 449 (D. Colo. 1985) ("[b]usiness judgments should be left to the board room and not to this Court"). Indeed,

"[m]ore exacting scrutiny [of the debtors' business decisions] would slow the administration of the debtors' estate and increase its cost, interfere with the Bankruptcy Code's provision for private control of administration of the estate, and threaten the court's ability to control a case impartially." Richmond Leasing Co. v. Capital Bank, N.A., 762 F.2d 1303, 1311 (5th Cir. 1985).

52. The Debtors have exercised sound business judgment in determining the appropriateness of the DIP Facilities and have satisfied the legal prerequisites to incur debt on the terms and conditions set forth in the Credit Agreement. The Debtors believe that the Credit Agreement contains terms that are fair, reasonable and in the best interests of the Debtors and their estates. Accordingly, pursuant to section 364(c) and (d), the Debtors respectfully submit that they should be granted authority to enter into the Credit Agreement and obtain funds from the DIP Lenders on the secured and administrative "super-priority" basis described herein.

Support for Modification of Automatic Stay

53. As set forth more fully in the proposed DIP Orders, the proposed financing under the Credit Agreement contemplates a modification of the automatic stay established pursuant to section 362 of the Bankruptcy Code to permit the DIP Lenders, in their sole discretion, to: (a) file financing statements, deeds of trust, mortgages or other similar documents to evidence the DIP Lenders' liens and security interests; (b) give the Debtors any notice provided for in the Credit Agreement; (c) execute upon their security interests or exercise other remedies under the Credit Documents upon the occurrence of an Event of Default, after giving five (5) business days notice in writing, served by hand or telefax upon the Debtors' counsel, counsel to any Court appointed official committee, any trustee of Debtors, if appointed, and the U.S. Trustee, and filed

on the Court's docket; and (d) take such other actions required or permitted by the Credit Documents. Stay modification provisions of this sort are ordinary and usual features of postpetition debtor in possession financing facilities and, in the Debtors' business judgment, are reasonable under the present circumstances. The Court accordingly should modify the automatic stay to the extent contemplated by the Credit Agreement and the proposed DIP Orders.

Interim Approval Should Be Granted

54. The Debtors respectfully request that the Court conduct an expedited preliminary hearing on this Motion and authorize the Debtors (from and after the entry of the Interim DIP Order and pending the final hearing) to obtain credit under the Credit Agreement in the amount of not more than $140,000,000, which the Debtors shall be permitted to use for, among other things, payment of the Existing Revolver Indebtedness, working capital purposes and the payment of certain obligations in accordance with the relief authorized by the Court. Interim access to the DIP Financing will ensure that the Debtors maintain ongoing operations and avoid immediate and irreparable harm and prejudice to their estates and all parties in interest pending the final hearing.

55. Bankruptcy Rule 4001(c) governs the procedures for obtaining authorization to obtain postpetition financing and provides, in relevant part:

> The court may commence a final hearing on a motion for authority to obtain credit no earlier than 15 days after service of the motion. If the motion so requests, the court may conduct a hearing before such 15 day period expires, but the court may authorize the obtaining of credit only to the extent necessary to avoid immediate and irreparable harm to the estate pending a final hearing.

Fed. R. Bankr. P. 4001(c)(2).

56. After the final hearing, Bankruptcy Rule 4001(c) does not limit the request solely to those amounts necessary to prevent immediate and irreparable harm to the estates, and the debtor can borrow those amounts it views as prudent to the operation of its business. See, e.g., Ames, 115 B.R. at 36. The Debtors submit that, for the reasons set forth herein, immediate access to the $140,000,000 and the use of Cash Collateral (first, on an interim basis as requested in this Motion) is necessary to preserve the value of the Debtors' estates for the benefit of all parties in interest.

Request for Final Hearing

57. Pursuant to Bankruptcy Rule 4001(b)(2) and 4001(c)(2), the Debtors request that the Court set a date for the final hearing that is as soon as practicable, but in no event later than 30 days following the entry of the Interim DIP Order, and fix the time and date prior to the final hearing for parties to file objections to this Motion.

Request for Waiver of Stay

58. The Debtors further seek a waiver of any stay of the effectiveness of the DIP Orders that may be imposed by any applicable Bankruptcy Rule. As set forth above, the financing to be provided under the Credit Agreement and the use of Cash Collateral are essential to prevent potentially irreparable damage to the Debtors' operations, value and ability to reorganize. Accordingly, the Debtors submit that ample cause exists to justify a waiver of any stay imposed by the Bankruptcy Rules, to the extent applicable.

Waiver of Memorandum of Points and Authority

59. The Debtors respectfully request that this Court treat this Motion as a written memorandum of points and authorities or waive any requirement that this Motion be

accompanied by a written memorandum of points and authorities as described in Local Bankruptcy Rule 9013-1(G).

Notice

60. The Debtors have provided notice of this Motion to: (a) the Office of the United States Trustee for the Eastern District of Virginia; (b) the entities listed on the Consolidated List of Creditors Holding the 30 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d); (c) counsel to the agent for the Debtors' proposed postpetition secured lenders; (d) counsel to the agent for the Debtors' prepetition first lien facilities; (e) counsel to the agent for the Debtors' prepetition second lien facility; (f) the trustee for the Debtors' 11% senior unsecured notes; (g) counsel to Sopris Capital Advisors LLC; (h) the trustee for the Debtors' 9.625% senior subordinated unsecured notes; (i) counsel for certain movie studios; (j) the Internal Revenue Service; (k) the Securities and Exchange Commission; and (l) the banks that process disbursements in the Debtors' cash management system (Bank of America, Canadian Imperial Bank of Commerce and Wachovia Bank) (collectively, the "Interim Notice Parties"). Additionally, the Debtors have provided notice of this Motion to the Debtors' landlords for whom the Debtors have facsimile numbers by serving upon them a notice substantially in the form of Exhibit C attached hereto (the "Landlord Interim DIP Hearing Notice"). No later than two business days after entry of the Interim DIP Order, the Debtors shall serve the Notice of Entry of Interim DIP Order substantially in the form of Exhibit D attached hereto on: (a) the Interim Notice Parties; (b) the Debtors' landlords; (c) the taxing authorities to which the Debtors pay taxes; and (d) those other creditors known to the Debtors who may have liens upon or

perfected security interests in any of the Debtors' assets and properties. In light of the nature of the relief requested, the Debtors respectfully submit that no further notice is necessary.

WHEREFORE, for the reasons set forth herein and in the First Day Affidavit, the Debtors respectfully request that the Court enter an interim order, substantially in the form attached hereto as Exhibit A, and a final order (a) authorizing the Debtors to obtain secured postpetition financing on a super-priority administrative claim and first priority priming lien basis, granting adequate protection to Existing Lenders for the priming of their liens on Existing Collateral, and modifying the automatic stay, (b) authorizing the Debtors to use the Cash Collateral of Existing Lenders and granting adequate protection to Existing Lenders for the use of their Cash Collateral, (c) authorizing the Debtors to repay the Existing Revolver Indebtedness upon entry of the Interim DIP Order, (d) prescribing the form and manner of notice and setting the time for the final hearing on the Motion and (e) granting such other and further relief as is just and proper.

Richmond, Virginia
Dated: October 16, 2007

/s/ Michael A. Condyles

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Proposed Co-Counsel to the Debtors

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

In re:	)	Chapter 11
	)	
MOVIE GALLERY, INC., et al.,[1]	)	Case No. [_____]
	)	
Debtors.	)	(Jointly Administered)

INTERIM ORDER PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 363, 364(c), 364(d) AND 364(e) AND FED. R. BANKR. P. 4001 AND 9014 (I) AUTHORIZING DEBTORS TO OBTAIN SECURED POST-PETITION FINANCING ON SUPER-PRIORITY PRIMING LIEN BASIS, GRANTING ADEQUATE PROTECTION FOR PRIMING AND MODIFYING AUTOMATIC STAY, (II) AUTHORIZING DEBTORS TO USE CASH COLLATERAL OF EXISTING SECURED LENDERS AND GRANTING ADEQUATE PROTECTION FOR USE, (III) AUTHORIZING DEBTORS TO REPAY EXISTING REVOLVER INDEBTEDNESS UPON INTERIM APPROVAL AND (IV) PRESCRIBING FORM AND MANNER OF NOTICE AND SETTING TIME FOR FINAL HEARING

THIS MATTER came before this Court for an interim hearing on [_____], 2007 (the "*Interim Hearing*"), upon the Motion (the "*Motion*") filed on October 16, 2007, by the above-captioned Debtors, seeking, inter alia:

(a) pursuant to Sections 105, 361, 362, 363, 364(c)(1), 364(c)(2), 364(c)(3), 364(d) and 364(e) of the United States Bankruptcy Code, 11 U.S.C. §§ 101, et seq. (the "*Bankruptcy Code*") and Rules 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the "*Bankruptcy Rules*"):

[1] The Debtors in the cases include: Movie Gallery, Inc.; Hollywood Entertainment Corporation; M.G. Digital, LLC; M.G.A Realty I, LLC; MG Automation LLC ; and Movie Gallery US, LLC.

(i) authorization for Debtors to obtain post-petition loans, advances and other financial accommodations in the amount of $140,000,000 on an interim basis under this Interim Order and $150,000,000 on a final basis under the Final DIP Order, in each case pursuant to the Secured Super-Priority Debtor in Possession Credit and Guaranty Agreement by and among MGI as Borrower and the other Debtors herein as Guarantors, Goldman Sachs Credit Partners L.P. as Lead Arranger, Syndication Agent and Documentation Agent and The Bank of New York as Administrative Agent and Collateral Agent (such Arranger and Agents collectively, "*Agents*"), and the banks, financial institutions and other lenders parties thereto (collectively, "*Lenders*") (Agents and Lenders together, "*DIP Lenders*")[2] (as the same now exists or may hereafter be amended, modified, ratified, extended, renewed, restated or replaced subject to the limitations in this Interim Order, the "*DIP Credit Agreement*") and the other Credit Documents (as defined in the DIP Credit Agreement);[3]

(ii) authorization for Debtors to enter into and comply in all respects with the DIP Credit Agreement and all other Credit Documents, and approval of all of the terms and conditions of the DIP Credit Agreement and all other Credit Documents;

(iii) the granting in favor of DIP Lenders of super-priority administrative claim status pursuant to Section 364(c)(1) of the Bankruptcy Code in respect of all Obligations;

[2] The collective term "DIP Lenders" may mean one or more Lenders, one or more Agents or all of Lenders and Agents, depending on the context. To the extent that the Credit Documents specify the rights and responsibilities of the respective Lenders or Agents as between such parties, the terms of the Credit Documents shall be determinative and shall not be deemed modified by the use of the collective term "DIP Lenders" in this Interim Order.

[3] Defined terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the DIP Credit Agreement.

(iv) as security for the Obligations, the granting in favor of DIP Lenders of perfected, valid, enforceable and non-avoidable liens upon and security interests in all of the Collateral (as hereinafter defined), including avoidance actions under Chapter 5 of the Bankruptcy Code and the proceeds thereof upon entry of the Final DIP Order (as hereinafter defined), having the priorities described in Sections 364(c)(2) and 364(c)(3) of the Bankruptcy Code;

(v) as further security for the Obligations, the granting of perfected, valid, enforceable and non-avoidable senior priming liens upon and security interests in the Existing Collateral (as hereinafter defined) pursuant to Section 364(d) of the Bankruptcy Code as set forth herein; and in consideration thereof, the granting of adequate protection for such priming in the form of subordinate super-priority administrative claims for Existing Lenders (as hereinafter defined) and additional liens and security interests junior to those liens and security interests securing the Obligations for Existing First Lien Loan Parties (as hereinafter defined) and Existing Second Lien Loan Parties (as hereinafter defined); and

(vi) the waiver of Debtors' right to surcharge the Collateral securing the Obligations pursuant to Section 506(c) of the Bankruptcy Code;

(b) pursuant to Sections 361 and 363 of the Bankruptcy Code, authorization for Debtors to use the cash collateral of Existing Lenders pursuant to the terms and conditions set forth herein, and the granting of adequate protection to Existing Lenders for such use of cash collateral in the form of cash interest payments for Existing First Lien Loan Parties and paid-in-kind interest for Existing Second Lien Loan Parties, payments of outstanding pre-petition and post-petition fees, costs and charges incurred by both parties, and the additional rights provided in paragraph 26 of this Interim Order (including the waiver of Debtors' right to

surcharge the collateral securing the Existing First Lien Indebtedness (as hereinafter defined) and the Existing Second Lien Indebtedness (as hereinafter defined) pursuant to Section 506(c) of the Bankruptcy Code);

(c) upon the entry of this Interim Order, authorization for Debtors to immediately repay in full the Existing Revolver Indebtedness owed under the Existing First Lien Loan Documents (as hereinafter defined) with the initial proceeds of loans provided under the DIP Credit Agreement;

(d) the scheduling of the Final Hearing on the Motion to consider entry of a final order (the "*Final DIP Order*") authorizing and granting the relief requested in the Motion; and

(e) the granting of certain related relief.

Due and appropriate notice of the Motion, the relief requested therein, the material terms of this Interim Order and the Interim Hearing has been served by Debtors, whether by telecopy, e-mail, overnight courier or hand delivery, on the following parties: (a) the Office of the United States Trustee for the Eastern District of Virginia (the "*U.S. Trustee*"); (b) the entities listed on the Consolidated List of Creditors Holding the 30 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d); (c) counsel to the Agents; (d) counsel to the Existing First Lien Agents; (e) counsel to the Existing Second Lien Agents; (f) counsel to the trustee for Debtors' 11% senior unsecured notes; (g) counsel to Sopris Capital Advisors LLC; (h) the trustee for Debtors' 9.625% senior subordinated unsecured notes; (i) counsel for certain movie studios; (j) the Internal Revenue Service; (k) the Securities and Exchange Commission; and (l) the banks that process disbursements in Debtors' cash management system (Bank of America, Canadian Imperial Bank of Commerce and Wachovia Bank) (collectively, the "*Interim Notice Parties*").

Additionally, Debtors have provided notice of the Motion to Debtors' landlords for whom Debtors have facsimile numbers by serving the Landlord Interim DIP Hearing Notice, which notice is sufficient and adequate under the circumstances.

Upon the record made by Debtors at the Interim Hearing, including the Motion and other filings and pleadings in Debtors' Chapter 11 cases, and good and sufficient cause appearing therefor;

THE COURT MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

A. Petition. On October 16, 2007 (the "*Petition Date*"), each of Debtors filed voluntary petitions under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Virginia, Richmond Division (the "*Bankruptcy Court*" or this "*Court*").

B. Debtor-in-Possession Status. Each Debtor is continuing in the management and possession of its business and properties as a debtor-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

C. Jurisdiction and Venue. Consideration of this Motion constitutes a "core proceeding" as defined in 28 U.S.C. §§ 157(b)(2)(A), (D), (G), (K), (M) and (O). This Court has jurisdiction over this proceeding and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157 and 1334.

D. Notice. Sufficient and adequate notice of this Interim Order has been provided based upon (i) the notice sent to the Interim Notice Parties and (ii) the consent to the relief sought in the Motion and approved by this Interim Order by DIP Lenders and Existing Lenders; no other party herein has filed an objection to the Motion pursuant to Bankruptcy Rules

4001(c) and (d) and 9014 and Section 102(1) of the Bankruptcy Code; and no further notice of, or hearing on, the Motion or this Interim Order is necessary or required.

E. Acknowledgements and Agreements as to Existing Secured Debt. Without prejudice to the rights of any other party-in-interest in Debtors' Chapter 11 cases (but subject to the limitations with respect to such rights contained in paragraph 28 of this Interim Order), Debtors admit, stipulate, acknowledge and agree that:

(i) *Existing Secured Financing Arrangements.* Prior to the commencement of Debtors' Chapter 11 cases, Debtors obtained secured loans, advances and other credit accommodations pursuant to the terms and conditions set forth in the First Lien Credit and Guaranty Agreement, dated as of March 8, 2007, among the respective Debtors as borrower and the guarantors party thereto, the banks, financial institutions and other lenders parties thereto ("*Existing First Lien Lenders*"), Goldman Sachs Credit Partners L.P. as lead arranger, syndication agent and administrative agent, and Wachovia Bank, National Association, as collateral agent and documentation agent (such agents, "*Existing First Lien Agents*", and together with Existing First Lien Lenders, "*Existing First Lien Loan Parties*")[4] (as the same has been amended, modified, restated, renewed, replaced and/or supplemented from time to time through the Petition Date, the "*Existing First Lien Credit Agreement*"), together with all other credit, guarantee and security agreements executed and/or delivered by Debtors in favor of Existing First Lien Loan Parties and all other agreements, documents and instruments at any time executed and/or delivered in connection with or related to the Existing First Lien Credit

[4] The collective term "Existing First Lien Loan Parties" may mean one or more Existing First Lien Lenders, one or more Existing First Lien Agents or all of Existing First Lien Lenders and Existing First Lien Agents, depending on the context. To the extent that the Existing First Lien Loan Documents specify the rights and responsibilities of the respective Existing First Lien Lenders and Existing First Lien Agents as between such parties, the terms of the Existing First Lien Loan Documents shall be determinative and shall not be deemed modified by the use of the collective term "Existing First Lien Loan Parties" in this Interim Order.

Agreement (as all of the same have been amended, modified, restated, renewed, replaced and/or supplemented from time to time prior to the Petition Date, and together with the Existing First Lien Credit Agreement, the "*Existing First Lien Loan Documents*"). In addition, Debtors obtained secured term loans pursuant to the terms and conditions set forth in the Second Lien Credit and Guaranty Agreement, dated as of March 8, 2007, among the respective Debtors as borrower and the guarantors party thereto, the banks, financial institutions and other lenders parties thereto ("*Existing Second Lien Lenders*"), Goldman Sachs Credit Partners L.P. as lead arranger and syndication agent, and Wells Fargo Bank, National Association, as successor administrative agent and collateral agent (such agents, "*Existing Second Lien Agents*", and together with Existing Second Lien Lenders, "*Existing Second Lien Loan Parties*",[5] and together with Existing First Lien Loan Parties, the "*Existing Lenders*") (as the same has been amended, modified, restated, renewed, replaced and/or supplemented from time to time through the Petition Date, the "*Existing Second Lien Credit Agreement*"), together with all other credit, guarantee and security agreements executed and/or delivered by Debtors in favor of Existing Second Lien Loan Parties and all other agreements, documents and instruments at any time executed and/or delivered in connection with or related to the Existing Second Lien Credit Agreement (as all of the same have been amended, modified, restated, renewed, replaced and/or supplemented from time to time prior to the Petition Date, and together with the Existing Second Lien Credit Agreement, the "*Existing Second Lien Loan Documents*", and together with the Existing First Lien Loan Documents, the "*Existing Loan Documents*").

[5] The collective term "Existing Second Lien Loan Parties" may mean one or more Existing Second Lien Lenders, one or more Existing Second Lien Agents or all of Existing Second Lien Lenders and Existing Second Lien Agents, depending on the context. To the extent that the Existing Second Lien Loan Documents specify the rights and responsibilities of the respective Existing Second Lien Lenders and Existing Second Lien Agents as between such parties, the terms of the Existing Second Lien Loan Documents shall be determinative and shall not be deemed modified by the use of collective term "Existing Second Lien Loan Parties" in this Interim Order.

(ii) *Existing Secured Indebtedness*. Debtors are indebted to Existing First Lien Loan Parties in respect of all "Obligations" under the Existing First Lien Loan Credit Agreement, which as of September 30, 2007 were in the aggregate principal amount of not less than $720,600,000, consisting of, among other things, (A) amounts owed to Existing First Lien Lenders holding "Revolving Loan Commitments" thereunder and Wachovia Bank, National Association, in its capacity as swing line lender and issuing bank, in an aggregate outstanding principal amount of not less than $100,000,000, consisting of (1) revolving loans, (2) swing line loans, (3) letters of credit and (4) all interest, fees and charges accrued and accruing thereon and/or chargeable with respect thereto, and as and to the extent provided for in the Existing First Lien Loan Documents all costs and expenses of the First Lien Loan Parties with respect thereto (including, without limitation, attorneys' fees and legal expenses) (items (1), (2), (3) and (4) collectively, the "*Existing Revolver Indebtedness*"); (B) term loans of approximately $597,000,000, (C) reimbursement and other obligations in respect of synthetic letters of credit of approximately $23,600,000 and (D) all interest, fees and charges accrued and accruing thereon and chargeable with respect thereto, and as and to the extent provided for in the Existing First Lien Loan Documents all other costs and expenses of the First Lien Loan Parties (including, without limitation, attorneys' fees and legal expenses) (the "Obligations," consisting of items (A), (B), (C) and (D) collectively, the "*Existing First Lien Indebtedness*"). As of the Petition Date, the Existing First Lien Indebtedness was accelerated and bearing interest at a daily rate, payable monthly, equal to the "Base Rate" plus 3.75% per annum for the revolving exposure, the "Base Rate" plus 4.75% per annum for term loans, and the "Adjusted Eurodollar Rate" plus 5.75% per annum for synthetic letters of credit. Debtors are indebted to Existing Second Lien Loan Parties in respect of all outstanding obligations under the Existing Second Lien Loan

Documents, which as of September 30, 2007 were in the aggregate principal amount of not less than $175,000,000, consisting of (A) term loans and (B) all interest, fees and charges accrued and accruing thereon and chargeable with respect thereto, and as and to the extent provided for in the Existing Second Lien Loan Documents all costs and expenses of the Second Lien Loan Parties (including, without limitation, attorneys' fees and legal expenses) (items (A) and (B) together, the "*Existing Second Lien Indebtedness*"). As of the Petition Date, the Existing Second Lien Indebtedness was in default and bearing interest at a rate equal to the "Base Rate," plus, the "Applicable Margin," plus, the "PIK Margin Increase" (each as defined in the Existing Second Lien Agreement), plus the applicable default margin. The Existing First Lien Indebtedness and the Existing Second Lien Indebtedness are unconditionally owing, due and payable by Debtors to Existing First Lien Loan Parties and Existing Second Lien Loan Parties, respectively, without offset, defense or counterclaim of any kind, nature and description whatsoever.

(iii) *Existing Collateral*. As of the Petition Date, the Existing First Lien Indebtedness is oversecured on a going-concern basis pursuant to the Existing First Lien Loan Documents by perfected, valid, binding and non-avoidable first priority liens and security interests granted by Debtors to or for the benefit of Existing First Lien Loan Parties upon all of the Collateral (as defined in the Existing First Lien Loan Documents) existing as of the time immediately prior to the Petition Date, and the post-petition proceeds and products thereof (collectively, together with any other property of, among other things, each Debtors' estate in which a lien or security interest has been granted to or for the benefit of Existing First Lien Loan Parties immediately prior to the Petition Date, the "*Existing Collateral*"). The Existing Collateral also secures the Existing Second Lien Indebtedness, but the rights of Existing Second Lien Loan Parties in the Existing Collateral are junior and subordinate to the rights

therein of Existing First Lien Loan Parties pursuant to and in accordance with an Intercreditor Agreement dated as of March 8, 2007 (the "*Intercreditor Agreement*"). Furthermore, as of the Petition Date, the Existing Second Lien Indebtedness is oversecured on a going-concern basis pursuant to the Existing Second Lien Loan Documents by perfected, valid, binding and non-avoidable liens and security interests, junior to such liens and security interests granted by Debtors to or for the benefit of Existing First Lien Loan Parties, granted by Debtors to or for the benefit of Existing Second Lien Loan Parties upon all of the Existing Collateral.

(iv) *Existing Lenders Consent to Financing Under Intercreditor Agreement*. Under the Intercreditor Agreement, the Existing Second Lien Loan Parties have agreed not to oppose any cash collateral agreement or financing supported by the Existing First Lien Loan Parties so long as (A) the cash collateral usage or financing is on commercially reasonable terms, (B) the Existing Second Lien Loan Parties retain the right to object to any ancillary agreements or arrangements regarding the cash collateral usage or financing that are materially prejudicial to their interests, (C) the financing does not compel Debtors to seek confirmation of a specific plan of reorganization for which all or substantially all of the material terms are set forth in the financing documentation and (D) the financing documentation or cash collateral order does not expressly require the liquidation of collateral prior to a default under the financing documentation or cash collateral order. Subject to the first sentence of this paragraph E, Debtors represent that those conditions are satisfied.

(v) *Existing Lenders' Consent to Priming Liens.* Debtors are advised that Existing Lenders will agree that their liens upon and security interests in the Existing Collateral may be primed by senior liens and security interests granted to DIP Lenders to secure the Obligations under the DIP Credit Agreement, provided that they receive adequate

protection for such priming in the form of additional liens and security interests in the Collateral that are respectively junior to the liens and security interests granted to DIP Lenders, as further described in paragraph 26(a)(iii)-(iv) of this Interim Order, and provided, further that in the case of Existing First Lien Loan Parties, the Existing Revolver Indebtedness is repaid in full following entry of this Interim Order and Existing First Lien Loan Parties are granted, pursuant to paragraph 26(a)(ii), subordinate super-priority administrative expense claims pending the required repayment.

(vi) *Existing Lenders' Consent to Cash Collateral Usage*. Certain cash on hand of Debtors and amounts generated by the collection of accounts receivable, sale of inventory or other dispositions of the Existing Collateral constitute proceeds of the Existing Collateral and, therefore, is cash collateral of Existing Lenders. Debtors are advised that Existing Lenders will agree that their cash collateral may be used by Debtors, provided that they receive adequate protection, as further described in paragraph 26(a)(v)-(xi) of this Interim Order, as applicable, for the diminution in value of their respective interests in the Existing Collateral, including for the use of the cash collateral and the use, sale, depreciation or other diminution in value of the other assets and property constituting the Existing Collateral, in the form of cash interest payments for Existing First Lien Loan Parties and paid-in-kind interest for Existing Second Lien Loan Parties, payments of any outstanding pre-petition and post-petition fees, costs and charges incurred by both parties and reimbursable under the Existing Loan Documents, and the additional rights provided in paragraph 26 of this Interim Order, and provided, further that in the case of Existing First Lien Loan Parties, the Existing Revolver Indebtedness is repaid in full following entry of this Interim Order as provided in paragraph 26(a)(i) of this Interim Order.

F. Findings Regarding Post-Petition Financing.

(i) *Need for Post-Petition Financing*. Debtors represent that without the financing proposed by the Motion, Debtors will not have the funds necessary to pay post-petition payroll, payroll taxes, trade vendors, suppliers, overhead and other expenses necessary for the continued operation of Debtors' businesses and the management and preservation of Debtors' assets and properties. Debtors have requested that, pursuant to the DIP Credit Agreement, the other Credit Documents and this Interim Order, DIP Lenders make loans and advances and provide other financial accommodations to Debtors to be used by Debtors to: (A) support the working capital and general corporate purposes of Debtors and preserve the value of Debtors' assets, (B) make any payments permitted to be made by the Bankruptcy Code or in this Interim Order or any other order of the Bankruptcy Court to the extent permitted under the DIP Credit Agreement or consented to by such of DIP Lenders as provided for in the DIP Credit Agreement, (C) pay certain fees and expenses relating to the credit facilities established under the DIP Credit Agreement and (D) upon entry of this Interim Order, repay the Existing Revolver Indebtedness. The ability of Debtors to continue their businesses and remain viable entities and thereafter reorganize under Chapter 11 of the Bankruptcy Code depends upon Debtors' obtaining such financing from DIP Lenders. DIP Lenders are willing to make such loans and advances and provide such other financial accommodations on a secured basis as more particularly described herein pursuant to the terms and conditions of the DIP Credit Agreement and all other Credit Documents, including, without limitation, the Pledge and Security Agreement, to be dated as of the date hereof, by and among Debtors and DIP Lenders, and in accordance with this Interim Order. Accordingly, the relief requested in the Motion is necessary, essential, and appropriate for the continued operation of Debtors' businesses, the management

and preservation of their assets and properties and is in the best interests of Debtors, their estates and creditors.

(ii) *No Credit Available on More Favorable Terms*. Debtors represent that they are unable to obtain unsecured credit allowable under Section 503(b)(1) of the Bankruptcy Code or pursuant to Sections 364(a), (b) or (c)(1) of the Bankruptcy Code or secured credit pursuant to Sections 364(c)(2) and (c)(3) on more favorable terms. Additionally, Debtors were unable to procure the necessary financing on more favorable terms than those offered by DIP Lenders pursuant to the DIP Credit Agreement, the other Credit Documents and this Interim Order. The Existing First Lien Indebtedness is oversecured on a going-concern basis. Accordingly, the repayment of the Existing Revolver Indebtedness will benefit Debtors' estates by eliminating substantial interest and other fees, costs and expenses associated with maintaining the Existing Revolver Indebtedness during the pendency of these cases, including pursuant to Section 506(b) of the Bankruptcy Code. The interests of other creditors with respect to such repayment are protected by the provisions in paragraph 28 of this Interim Order.

(iii) *Business Judgment and Good Faith Pursuant to Section 364(e)*. Debtors represent that the terms of the DIP Credit Agreement and the other Credit Documents among Debtors and DIP Lenders, pursuant to which the post-petition loans, advances, letters of credit and other credit and financial accommodations will be made or provided to Debtors by DIP Lenders have been negotiated at arms' length and in good faith, as that term is used in Section 364(e) of the Bankruptcy Code, and are in the best interests of Debtors, their estates and creditors. Debtors further represent that DIP Lenders are extending financing to Debtors in good faith and DIP Lenders are entitled to the benefits of the provisions of Section 364(e) of the Bankruptcy Code.

(iv) *Good Cause, Immediate Entry*. Debtors represent that the relief requested by the Motion pursuant to the terms of the DIP Credit Agreement, the other Credit Documents and this Interim Order is necessary to avoid immediate and irreparable harm to Debtors' estates. Good, adequate and sufficient cause has been shown to justify the granting of the relief requested herein, and the immediate entry of this Interim Order. No party appearing in Debtors' Chapter 11 cases has filed or made an objection to the relief sought in the Motion and the entry of this Interim Order, and to the extent any objections were made (and not withdrawn prior to the entry of this Interim Order) such objections are overruled.

G. Committee. As of the date hereof, the Office of the U.S. Trustee has not appointed an official committee of unsecured creditors (the "*Committee*") in accordance with section 1102 of the Bankruptcy Code.

Based upon the foregoing, and after due consideration and good cause appearing therefor:

IT IS ORDERED, ADJUDGED AND DECREED, that:

1. Motion Granted. The Motion is granted and approved to the extent provided below.

2. Objections Overruled. All objections to the entry of this Interim Order are resolved by the terms hereof or, to the extent not resolved, are overruled.

3. Interim Borrowing Authorization. Debtors are authorized and empowered to immediately borrow and obtain, and to guarantee as applicable, Revolving Loans, Term Loans and other financial and credit accommodations from DIP Lenders pursuant to the terms and conditions of the DIP Credit Agreement, the other Credit Documents and this Interim Order, in such amount or amounts as may be made available to Debtors by DIP Lenders, in accordance

with the terms and conditions set forth in the DIP Credit Agreement, the other Credit Documents and this Interim Order; provided, however, that the aggregate amount of all such Loans and other financial and credit accommodations provided to Debtors by DIP Lenders in accordance with the Credit Documents and this Interim Order during the period commencing on the date hereof and ending upon entry of the Final DIP Order shall not exceed (a) in the case of Revolving Exposure the aggregate principal amount of $40,000,000 outstanding at any one time and (b) in the case of Term Loans the aggregate principal amount of $100,000,000.

4. Execution and Compliance with Credit Documents. Debtors are authorized and directed to execute, deliver, perform and comply with all of the terms and covenants of the DIP Credit Agreement, the other Credit Documents and the Syndication Letter dated October 9, 2007 between GSCP and MGI, each of which constitute valid, binding, enforceable and non-avoidable obligations of Debtors for all purposes during Debtors' Chapter 11 cases, any subsequently converted case of any Debtor under Chapter 7 of the Bankruptcy Code or after the dismissal or reorganization of any Debtor's Chapter 11 case. Debtors are authorized and directed to perform all acts, and execute and comply with the terms of such other documents, instruments, and agreements in addition to the Credit Documents, as DIP Lenders may reasonably require as evidence of and for the protection of the Obligations and the Collateral or which may be otherwise deemed necessary by DIP Lenders to effectuate the terms and conditions of this Interim Order and the Credit Documents, each of such additional documents, instruments, and agreements being included in the definition of "Credit Documents" as used herein.

5. Use of Loan Proceeds. Subject to the limitations applicable in the DIP Credit Agreement with respect to the Initial Revolver Availability and the Initial Term

Availability, Debtors shall use the proceeds of the Revolving Loans, Letters of Credit and Term Loan made or arranged for by DIP Lenders pursuant to the DIP Credit Agreement, the other Credit Documents and this Interim Order (a) to repay the Existing Revolver Indebtedness, (b) to support the working capital and general corporate purposes of Debtors, (c) to make any other payments permitted to be made by the Bankruptcy Code, in this Interim Order or in any other order of this Court to the extent provided for under the DIP Credit Agreement or consented to by such of DIP Lenders as provided in the DIP Credit Agreement, (d) to pay certain fees and expenses relating to the credit facilities established under the DIP Credit Agreement and (e) to pay all present and future costs and expenses, including all reasonable fees and expenses of consultants, advisors and attorneys paid or incurred at any time in connection with the financing transactions as and to the extent provided for in the Credit Documents, all of which unpaid costs and expenses shall be added to, and are included as part of, the principal amount of the Obligations, secured by the Collateral and afforded all of the rights, priorities and protections afforded to DIP Lenders in respect of the Obligations under this Interim Order and the Credit Documents.

6. Conclusive Evidence of Obligations. The terms, conditions and covenants of the DIP Credit Agreement and the other Credit Documents shall be sufficient and conclusive evidence of the borrowing and financing arrangements among Debtors and DIP Lenders for all purposes, including, without limitation, Debtors' obligation to pay all principal, interest, fees (including, without limitation, unused line fees, agency fees, servicing fees, letter of credit fees, closing fees, syndication fees, early termination fees and appraisal fees), and other costs and expenses (including, without limitation, all reasonable fees and expenses of consultants, advisors

and attorneys), as more fully set forth and to the extent provided in the DIP Credit Agreement and the other Credit Documents.

7. Super-Priority Claim. For all Obligations now existing or hereafter arising pursuant to the DIP Credit Agreement, the other Credit Documents and/or this Interim Order, DIP Lenders are granted an allowed super-priority administrative claim pursuant to Section 364(c)(1) of the Bankruptcy Code, which claim shall have priority in right of payment over any and all other obligations, liabilities and indebtedness of Debtors, now in existence or hereafter incurred by any of Debtors and over any and all administrative expenses or priority claims of the kind specified in, or ordered pursuant to, inter alia, Sections 105, 326, 328, 330, 331, 503(b), 507(a), 507(b), and/or 364(c)(1) of the Bankruptcy Code (the "*Super-Priority Claim*"), provided, however, that the Super-Priority Claim shall be subordinate to the Carve-Out as and to the extent set forth in paragraph 27 of this Interim Order.

8. DIP Lenders Lien Grant. To secure the prompt payment and performance of any and all Obligations under the DIP Credit Agreement, the other Credit Documents and/or this Interim Order, DIP Lenders shall have, and are granted in accordance with the terms and conditions of the Credit Documents, effective on and after the Petition Date, but subject in all cases to the Carve-Out:

(a) pursuant to Section 364(c)(2) of the Bankruptcy Code, valid, perfected, enforceable and non-avoidable first priority liens on and security interests in all now owned or hereafter acquired assets and property of Debtors, including, without limitation, avoidance actions under Chapter 5 of the Bankruptcy Code and the proceeds thereof upon entry of the Final DIP Order, that are not subject to valid, perfected, enforceable and non-avoidable liens as of the Petition Date;

(b) pursuant to Section 364(c)(3) of the Bankruptcy Code, valid, perfected, enforceable and non-avoidable second priority or other junior liens on and security interests in all now owned or hereafter acquired assets and property of Debtors that are subject to valid, perfected, enforceable and non-avoidable liens in existence on the Petition Date or to valid liens in existence on the Petition Date that are perfected subsequent to such commencement as permitted by Section 546(b) of the Bankruptcy Code (other than assets and property that are subject to the existing liens as referred to in subparagraph (c) below, which existing liens shall be primed as provided therein); and

(c) subject to the grant of adequate protection in paragraph 26 of this Interim Order, pursuant to Section 364(d) of the Bankruptcy Code, valid, perfected, enforceable and non-avoidable first priority senior priming liens on and security interests in the Existing Collateral, except as to those liens and security interests in existence on the Petition Date to which the Existing Collateral is subject in accordance with the Existing Loan Documents, to the extent such liens and security interests are valid, perfected, enforceable and non-avoidable (provided that with respect to such excepted liens and security interests, DIP Lenders shall be granted the second priority or other junior liens granted in subparagraph (b) above).

9. Collateral. The assets and property subject to the liens and security interests granted in this Interim Order (notwithstanding anything to the contrary in the Credit Documents) include, without limitation, Existing Collateral and all other of Debtors' now owned or hereafter acquired real and personal property, including but not limited to leasehold interests, inventory, accounts, chattel paper, documents, general intangibles, goods, instruments, insurance, intellectual property, investment related property, letter of credit rights, money, receivables and receivable records, commercial tort claims, and avoidance claims and causes of

action brought under Chapter 5 of the Bankruptcy Code and the proceeds thereof upon entry of the Final DIP Order; all collateral records, collateral support and supporting obligations relating to any of the foregoing; and all proceeds, products, accessions, rents and profits of or in respect of any of the foregoing (but limited to 65% of Debtors' interests in Foreign Subsidiaries as and to the extent set forth in the Credit Documents) (collectively, the "*Collateral*"). In no event shall: (a) any lien or security interest granted pursuant to the Credit Documents or this Interim Order be subject to any lien or security interest that is avoided and preserved for the benefit of Debtors' estates under section 551 of the Bankruptcy Code; (b) any person or entity who pays (or through the extension of credit to any Debtor, causes to be paid) any of the Obligations be subrogated, in whole or in part, to any rights, remedies, claims, privileges, liens or security interests granted in favor of, or conferred upon, DIP Lenders by the terms of the Credit Documents or this Interim Order, until such time as all of the Obligations are indefeasibly paid in full in cash in accordance with the Credit Documents and this Interim Order; or (c) DIP Lenders be subject to the equitable doctrine of "marshaling" or any similar doctrine with respect to the Collateral.

10. Waiver of 506(c) Claims Against DIP Lenders. Except for the Carve-Out, no costs or expenses of administration which already have been, or may hereafter be, incurred in Debtors' Chapter 11 cases or in any subsequently converted case under Chapter 7 of the Bankruptcy Code shall be charged or asserted by Debtors against DIP Lenders, their claims or the Collateral, pursuant to Sections 105 or 506(c) of the Bankruptcy Code or otherwise without the prior written consent of such of DIP Lenders as provided in the DIP Credit Agreement (and no such consent shall be implied from any other action, inaction or acquiescence by such DIP Lenders).

11. Lien Perfection. This Interim Order shall be sufficient and conclusive evidence of the priority, perfection and validity of all of the liens and security interests in and upon the Collateral granted pursuant to this Interim Order and/or the Credit Documents, without the necessity of (a) filing, recording or serving any financing statements, mortgages, deeds of trust or other agreements, documents or instruments which may otherwise be required under federal or state law in any jurisdiction (collectively, the "*Lien Recording Documents*"), (b) taking possession of Collateral or evidence thereof (provided, that, without limiting the foregoing, any third party in possession of any Collateral, including, without limitation, any Existing Lender, is hereby deemed a bailee for the benefit of and on behalf of DIP Lenders) or (c) taking any other action to validate or perfect the liens and security interests granted in this Interim Order and/or the Credit Documents. If DIP Lenders shall, in their discretion, elect for any reason to file any such Lien Recording Documents with respect to such liens and security interests, Debtors are authorized and directed to execute, or cause to be executed, all such Lien Recording Documents upon DIP Lenders' request and the filing, recording or service thereof (as the case may be) of such Lien Recording Documents shall be deemed to have been made at the time of and on the Petition Date. DIP Lenders may, in their discretion, file a certified copy of this Interim Order in any filing or recording office in any county or other jurisdiction in which Debtors have an interest in real or personal property and, in such event, the subject filing or recording officer is authorized and directed to file or record such certified copy of this Interim Order. To the extent that any applicable non-bankruptcy law would otherwise restrict the grant, scope, enforceability, attachment or perfection of the liens and security interests authorized or created hereby, or otherwise would impose filing or registration requirements with respect thereto, such law is preempted to the maximum extent permitted by the Bankruptcy Code, applicable federal law,

and the judicial power of this Court (provided that if DIP Lenders take steps to perfect their liens and security interests under otherwise applicable state law, they do so without waiving the benefits of this provision of this Interim Order). In the event that any Lien Recording Document which DIP Lenders elect to file in accordance with this paragraph contains any limitations, defects, deficiencies or other information which might otherwise limit or adversely affect DIP Lenders' liens upon and security interests in the Collateral or any of DIP Lenders' claims, rights, priorities and/or protections afforded under this Interim Order and/or the Credit Documents, such limitations, defects, deficiencies or other information shall not impair, limit, restrict or adversely affect in any way any of DIP Lenders' liens and security interests in the Collateral or their claims, rights, priorities and/or protections granted under this Interim Order and/or the Credit Documents.

12. Nullifying Pre-Petition Restrictions on Post-Petition Lien Grants. Notwithstanding anything to the contrary contained in any pre-petition agreement, contract, lease, document, note or instrument to which any Debtor is a party or under which any Debtor is obligated, any provision that restricts, limits or impairs in any way any Debtor's ability or right to grant liens or security interests upon any of the Collateral (including, among other things, any anti-lien granting or anti-assignment clauses in any leases or other contractual arrangements to which any Debtor is a party) under the Credit Documents or this Interim Order or otherwise enter into and comply with all of the terms, conditions and provisions thereof (all such provisions being collectively referred to as the "*Restrictive Clauses*") shall not be effective and shall be unenforceable against any such Debtor and DIP Lenders to the maximum extent permitted under the Bankruptcy Code and other applicable law, but only with respect to the entry of this Interim Order granting such post-petition financing (and in no event shall this paragraph preclude any

lessor from enforcing any provision of its applicable lease in the event that (1) DIP Lenders become a tenant or lessee under such lease by foreclosing on the leasehold mortgage granted herein with respect to such lease, and (2) any reorganized Debtor obtains new financing, including exit financing), and, therefore, shall not adversely affect the validity, priority or enforceability (subject to paragraphs 15, 16 and 17 of this Interim Order) of the liens, security interests, claims, rights, priorities and/or protections granted to DIP Lenders pursuant to this Interim Order, the DIP Credit Agreement and/or the other Credit Documents or any of the rights of DIP Lenders hereunder or thereunder to the maximum extent permitted under the Bankruptcy Code and other applicable law. Subject to paragraphs 15, 16 and 17 of this Interim Order, such Restrictive Clauses shall not, to the maximum extent permitted under the Bankruptcy Code and applicable law, render any contract or lease unable to be assumed and/or assigned by any Debtor (or by DIP Lenders pursuant to the provisions contained in this Interim Order), or in any way impair or limit the ability or right of any Debtor (or by DIP Lenders, on behalf of any Debtor, pursuant to the provisions contained in this Interim Order) to assume and/or assign any contract or lease, or any lessor's right to object to such relief on any other grounds, under Sections 365 or 1123 of the Bankruptcy Code.

13. Maintenance of Collateral. Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the Collateral, except for sales of Debtors' inventory in the ordinary course of their businesses or except as otherwise provided for in the DIP Credit Agreement, the other Credit Documents and/or this Interim Order. Nothing contained in this paragraph shall limit or impair the right of any lessor or other contract party of any Debtor to request that the Court compel Debtors to assume or reject any lease or license of real or personal property.

14. Modification of Automatic Stay. Except as otherwise specifically provided with respect to DIP Lenders' rights and remedies after the occurrence of an Event of Default (as hereinafter defined) and subject to the provisions of paragraph 15 of this Interim Order, the automatic stay provisions of Section 362 of the Bankruptcy Code are vacated and modified to the extent necessary to permit DIP Lender to implement the provisions of the Credit Documents and this Interim Order.

15. Remedies upon Occurrence of Event of Default. In the event of any of the following: (a) the failure of Debtors to perform in any material respect any of their obligations pursuant to this Interim Order, (b) the occurrence and continuation of any "Event of Default" as defined under the DIP Credit Agreement or the other Credit Documents or (c) the termination or non-renewal of the Credit Documents as provided for in the DIP Credit Agreement, or if terminated sooner by an order of this Court, (each of the foregoing being referred to in this Interim Order, individually, as an "*Event of Default*" and collectively, as the "*Events of Default*"); then (unless such Event of Default is specifically waived in writing by such of DIP Lenders as provided for in the Credit Documents, which waiver shall not be implied from any other action, inaction or acquiescence by such DIP Lenders) and upon or after the occurrence of any of the foregoing, and at all times thereafter, after giving five (5) business days notice in writing, served by hand or telefax upon the Court, Debtors' counsel, counsel to the Committee, counsel to the Existing First Lien Agents, any trustee of Debtors, if appointed, and the U.S. Trustee, and filed on the Court's docket: (i) all of the Obligations shall become immediately due and payable, (ii) the automatic stay provided for pursuant to Section 362 of the Bankruptcy Code and any other restrictions on the enforcement by DIP Lenders of their liens upon and security interests in the Collateral or any other rights under the Credit Documents granted to or for the

benefit of DIP Lenders or pursuant to this Interim Order shall be automatically vacated and modified without any further action being required, and (iii) DIP Lenders, without further notice, hearing or approval of this Court, are authorized, in the discretion of DIP Lenders, to take any and all actions or remedies which DIP Lenders may deem appropriate to proceed against and realize upon the Collateral to obtain the full and indefeasible repayment of the Obligations. Nothing contained in this Interim Order or otherwise shall be construed to obligate DIP Lenders in any way to lend or advance any additional funds to Debtors, or provide other financial accommodations to Debtors upon or after the occurrence of an Event of Default.

16. Leasehold Property Rights of DIP Lenders. Without limiting any of the rights or remedies of DIP Lenders (including, without limitation, all rights afforded under applicable state law) provided in paragraph 15 of this Interim Order or otherwise herein or in any of the Credit Documents, upon the acceleration of the Obligations following an Event of Default under the DIP Credit Agreement, and subject to such notices as are otherwise provided for herein and the consent of the "Requisite Lenders" under the Existing First Lien Loan Documents, DIP Lenders shall have the right to file and pursue (as the secured party with respect to any leasehold property) any motion or other appropriate pleading with this Court seeking the assumption, assignment or rejection of such of the leases with respect to the leasehold property as DIP Lenders shall specify and in the case of the assignment, assigned to such person or other entity as DIP Lenders shall specify and any such assignment shall be on terms and conditions as are acceptable to DIP Lenders and subject to (i) higher and better offers to the extent required under Section 363 of the Bankruptcy Code and (ii) the affected lessor's rights under the applicable lease (to the extent such rights are enforceable or effective under Section 365 of the Bankruptcy Code) and the Bankruptcy Code. Debtors are authorized and directed to execute and deliver

such agreements, documents and instruments as DIP Lenders may request to effectuate the foregoing, but no such agreements, documents or instruments shall be required for such purpose.

17. Collateral Rights. Until all of the Obligations shall have been indefeasibly paid and satisfied in full in immediately available funds and without further order of the Court:

(a) In the event that any party who holds a lien or security interest in any of the Collateral that is junior and/or subordinate to the liens and claims of DIP Lenders in such Collateral receives or is paid proceeds of the Collateral prior to the indefeasible payment and satisfaction in full of all Obligations, such junior or subordinate lienholder shall be deemed to have received, and shall hold, such Collateral proceeds in trust for DIP Lenders and shall immediately turnover to DIP Lenders such proceeds for application to the Obligations in accordance with the Credit Documents and/or this Interim Order;

(b) Upon the acceleration of the Obligations following an Event of Default under the DIP Credit Agreement, and subject to DIP Lenders providing the notice required by paragraph 15 of this Interim Order and obtaining the consent of the "Requisite Lenders" under the Existing First Lien Loan Documents, in connection with a liquidation of any of the Collateral, such of DIP Lenders as are designated by the DIP Credit Agreement (or any of their employees, agents, consultants, contractors or other professionals) shall have the right, at the cost and expense of Debtors to be added to the Obligations, to: (i) enter upon, occupy and use any personal property, fixtures and equipment owned or leased by Debtors and (ii) use any and all trademarks, tradenames, copyrights, licenses, patents or any other similar assets of Debtors, which are owned by or subject to a lien of any third party and which are used by Debtors in their businesses. Such DIP Lenders will be responsible for the payment of any applicable fees, rentals, royalties or other amounts due such lessor, licensor or owner of such property for the

period of time that such DIP Lenders actually use the equipment or the intellectual property (but in no event for any accrued and unpaid fees, rentals or other amounts due for any period prior to the date that such DIP Lenders actually occupy or use such assets or properties); and

(c) Upon the acceleration of the Obligations following an Event of Default under the DIP Credit Agreement, and subject to DIP Lenders providing the notice required by paragraph 15 of this Interim Order and obtaining the consent of the "Requisite Lenders" under the Existing First Lien Loan Documents, as well as five (5) business days notice to any Debtor's real property lessor of DIP Lenders' intention to enter onto or into such lessor's leased premises to remove or otherwise dispose of any Collateral located at such leased premises in accordance with the terms of this paragraph, DIP Lenders shall have the right, following the expiration of such five (5) business days notice period described in this paragraph, to enter onto or into such leased premises for the purpose of removing the Collateral from the leased premises or selling such Collateral at the leased premises, in each case subject to the applicable terms of such Debtor's lease arrangements with such lessor to the extent enforceable or effective under the Bankruptcy Code and subject to the rights of DIP Lenders provided for herein. Subject to the following sentence, Debtors shall remain obligated to perform any obligation and to pay any rent and additional rent due under the terms of their leases at all times, including during the period commencing upon DIP Lenders obtaining the right to enter Debtors' leased premises in accordance with this paragraph through and including the date at which DIP Lenders vacate the leased premises and provide such lessor with written confirmation of such vacation and deliver in connection with such written confirmation any keys, access cards or other means of access to the leased premises to the extent such items are then available to DIP Lenders (the "*Collateral Access Period*"). In the event that such rental or other obligations incurred during the Collateral

Access Period are not otherwise fulfilled or performed by or on behalf of Debtors, then DIP Lenders will be responsible for the performance and payment of such rental charges (provided that any such rental charges for which DIP Lenders are responsible during the Collateral Access Period under this paragraph shall be calculated on a per diem basis) and such other obligations under such applicable lease (subject to the provisions of the Bankruptcy Code) and except as otherwise provided by an order of this Court. Nothing herein shall require DIP Lenders to assume any lease or cure any defaults as a condition to the rights afforded in this paragraph. Notwithstanding anything contained herein to the contrary or otherwise, in relation to Debtors' leased real property, DIP Lenders shall have the right, subject to the consent of the "Requisite Lenders" under the Existing First Lien Loan Documents, to seek approval from the Court to conduct "going-out-of-business sales" or other sales at any leased location outside the ordinary course of Debtors' businesses conducted at such location, subject to the terms and guidelines approved by the Court and the rights of any lessor of such leased location under their respective leases and Section 365 of the Bankruptcy Code, and nothing contained herein shall be deemed to prejudice the rights of any real property lessor of any Debtor to any affected leased location to object to such relief.

18. Amendment to Credit Documents. Subject to the amendment provisions of the Credit Documents, DIP Lenders, with the consent of Debtors, are authorized to amend and/or modify the Credit Documents without further order of the Court; provided that any such amendments or modifications must be in writing and served upon counsel for the Committee (if appointed at such time) and the U.S. Trustee; and provided further that any amendments or modifications that would have the effect of shortening the maturity date of the facilities or increasing the aggregate amount of borrowings permitted, or the aggregate fees payable, or the

rate or amount of interest payable, under the Credit Documents shall be done only pursuant to further order of the Court.

19. Reservation of Rights. Entry of this Interim Order shall not be deemed to prejudice any and all rights, remedies, claims and causes of action DIP Lenders or Existing Lenders may have against third parties, and shall not prejudice the rights of DIP Lenders or Existing Lenders from and after the entry of this Interim Order to seek any other relief in Debtors' Chapter 11 cases. Entry of this Interim Order shall not in any way constitute: (a) a preclusion or a waiver of any right of DIP Lenders or Existing Lenders to file, or to prosecute if already filed, a motion for relief from stay, a motion or request for other relief, including but not limited to any adversary proceeding; (b) agreement, consent, or acquiescence to the terms of any plan of reorganization by virtue of any term or provision of this Interim Order; (c) a preclusion or waiver to assert any other rights, remedies or defenses available to DIP Lenders or Existing Lenders, or to respond to any motion, application, proposal, or other action, all such rights, remedies, defenses and opportunities to respond being specifically reserved by DIP Lenders or Existing Lenders; or (d) a preclusion, waiver or modification of any rights or remedies that DIP Lenders or Existing Lenders have against any other person or entity. Notwithstanding the fact that certain of DIP Lenders are also among Existing First Lien Loan Parties, the rights and responsibilities of DIP Lenders and Existing First Lien Loan Parties are separate and distinct. No action or position taken or not taken by any of DIP Lenders (including by Goldman Sachs Credit Partners L.P. as lead arranger and syndication agent) in such party's capacity as a DIP Lender shall bind Existing First Lien Loan Parties in any respect, and no action or position taken or not taken by any of Existing First Lien Loan Parties (including by Goldman Sachs Credit

Partners L.P. as administrative agent) in such party's capacity as an Existing First Lien Loan Party shall bind DIP Lenders in any respect.

20. Release Upon Repayment of Obligations Upon the indefeasible payment in full of all Obligations owed to DIP Lenders and termination of the DIP Credit Agreement and the other Credit Documents, DIP Lenders shall be released by each Debtor and its bankruptcy estate from any and all obligations, liabilities or responsibilities arising in connection with or related to this Interim Order, the DIP Credit Agreement and/or the other Credit Documents in accordance with the terms and conditions contained in the Credit Documents; provided that in the event that DIP Lenders foreclose on any real property leasehold interest of any Debtor and, as a result, becomes a tenant or lessee under such lease, then the releases provided for in this paragraph in favor of DIP Lenders shall not extend to the lease obligations of DIP Lenders in their capacity as tenant or lessee under the applicable lease. Upon repayment in full of all Obligations owed to DIP Lenders, the releases granted in favor of DIP Lenders, and the termination of the DIP Credit Agreement and the other Credit Documents, all in accordance with this paragraph, Debtors shall file with this Court a notice evidencing the termination and release of all liens, security interests and claims of DIP Lenders against Debtors and all assets and properties of their estates.

21. Restrictions on Additional Use of Cash Collateral, Additional Financing. All post-petition advances and other financial accommodations under the DIP Credit Agreement and the other Credit Documents are made in reliance on this Interim Order and in the event that an order is entered at any time in Debtors' Chapter 11 cases or in any subsequently converted case under Chapter 7 of the Bankruptcy Code (other than the Final DIP Order) which (a) authorizes the use of cash collateral of Debtors in which DIP Lenders or Existing Lenders have

an interest or the sale, lease, or other disposition of property of Debtors' estates in which DIP Lenders or Existing Lenders have a lien or security interest, except as expressly permitted hereunder or in the Credit Documents or the Existing First Lien Loan Documents, or (b) authorizes under Section 364 of the Bankruptcy Code the obtaining of credit or the incurring of indebtedness secured by a lien or security interest which is equal or senior to a lien or security interest in property in which DIP Lenders or Existing Lenders hold a lien or security interest, or which is entitled to priority administrative claim status which is equal or superior to that granted to DIP Lenders herein; then, in each instance described in clauses (a) and (b) of this paragraph, (i) such of DIP Lenders as is required by the DIP Credit Agreement, such of Existing First Lien Loan Parties as is required by the Existing First Lien Loan Documents and such of Existing Second Lien Loan Parties, if any, as may be required by the Existing Second Lien Loan Documents after taking into account the terms and provisions of the Intercreditor Agreement, shall first have given their express prior written consent thereto, no such consent being implied from any other action, inaction or acquiescence by such DIP Lenders, Existing First Lien Loan Parties or the Existing Second Lien Loan Parties, or (ii) such other order shall require that all Obligations, together with all Existing First Lien Indebtedness, first shall be indefeasibly paid in full in immediately available funds. The liens and security interests granted to or for the benefit of DIP Lenders hereunder and the rights of DIP Lenders pursuant to this Interim Order and the Credit Documents with respect to the Obligations and the Collateral are cumulative and shall not be altered, modified, extended, impaired, or affected by any plan of reorganization of Debtors and, if such of DIP Lenders as is required by the DIP Credit Agreement shall expressly consent in writing that the Obligations shall not be repaid in full upon confirmation and effectiveness thereof, shall continue after confirmation and effectiveness of any such plan.

22. Binding Effect of Interim Order and Credit Documents.

(a) Debtors irrevocably waive any right to seek any modifications or extensions of this Interim Order without the prior written consent of such of DIP Lenders as are authorized under the DIP Credit Agreement to give such consent, and no such consent shall be implied by any other action, inaction or acquiescence by any of such DIP Lenders.

(b) The provisions of this Interim Order and any actions taken pursuant hereto shall survive entry of any order which may be entered converting Debtors' Chapter 11 cases to a Chapter 7 case, dismissing any of Debtors' bankruptcy cases (in the case of any such dismissal, to the maximum extent permitted under the Bankruptcy Code and other applicable law) or any order which may be entered confirming or consummating any plan of reorganization of Debtors; and the terms and provisions of this Interim Order as well as the priorities in payment, liens, and security interests granted pursuant to this Interim Order and the Credit Documents shall continue in this or any superseding case under the Bankruptcy Code, and such priorities in payment, liens and security interests shall maintain their priority as provided by this Interim Order until all Obligations are indefeasibly paid and satisfied in full; provided that all obligations and duties of DIP Lenders hereunder, under the Credit Documents or otherwise with respect to any future loans and advances or otherwise shall terminate immediately upon the earlier of the date of any Event of Default or the date that a plan of reorganization of Debtors becomes effective unless such of DIP Lenders as is required under the DIP Credit Agreement have given their express prior written consent thereto, no such consent being implied from any other action, inaction or acquiescence by such DIP Lenders.

(c) The provisions of this Interim Order and the Credit Documents shall be binding upon all parties-in-interest in these cases, including, without limitation, Debtors,

DIP Lenders, Existing Lenders and the Committee, and their respective successors and assigns (including, to the fullest extent permitted by applicable law, any Chapter 7 or Chapter 11 trustee hereinafter appointed or elected for any Debtor's estate, an examiner appointed pursuant to Section 1104 of the Bankruptcy Code or any other fiduciary hereafter appointed as a legal representative of Debtors or with respect to the property of Debtors' estates), and shall inure to the benefit of Debtors, DIP Lenders, Existing Lenders and the Committee, and their respective successors and assigns; provided, however, that DIP Lenders shall have no obligation to extend any financing to any Chapter 7 trustee or similar responsible person appointed for Debtors' estates.

23. Good Faith. The terms of the financing arrangements among Debtors and DIP Lenders have been negotiated in good faith and at arms' length among Debtors and DIP Lenders and any loans, advances or other financial accommodations which are made or caused to be made to Debtors by DIP Lenders pursuant to the Credit Documents are deemed to have been made and provided in good faith, as the term "good faith" is used in Section 364(e) of the Bankruptcy Code, and shall be entitled to the full protection of Section 364(e) of the Bankruptcy Code in the event that this Interim Order or any provision hereof is vacated, reversed or modified, on appeal or otherwise.

24. Interim Financing Term. The authorization of Debtors to obtain Loans from DIP Lenders in accordance with the Credit Documents and this Interim Order shall expire thirty (30) days from the date of entry of this Interim Order, unless (a) a Final DIP Order in form and substance satisfactory to DIP Lenders is entered on or before such date and (b) the other conditions to the Full Availability Closing Date have been satisfied on or before such date.

25. Use of Existing Lenders' Cash Collateral. Subject to the grant of adequate protection specifically set forth in paragraph 26 of this Interim Order, Debtors are authorized to use the cash collateral of Existing Lenders during the period from the Petition Date through the earlier of (a) the acceleration of the Obligations following an Event of Default under the DIP Credit Agreement, (b) the Maturity Date of the DIP Credit Agreement (as defined therein) and (c) the breach by Debtors of their obligations to provide adequate protection to Existing Lenders in accordance with paragraph 26 of this Interim Order (the "*Cash Collateral Usage Period*"), solely in accordance with the terms and conditions of the DIP Credit Agreement.

26. Adequate Protection for Existing Lenders.

(a) As adequate protection for, and solely to the extent of, any diminution in value of Existing Lenders' interest in the Existing Collateral resulting from (i) the priming of their liens upon and security interests in the Existing Collateral by the liens and security interests granted to DIP Lenders to secure the Obligations pursuant to Section 364(d) of the Bankruptcy Code, (ii) the use of cash collateral pursuant to Section 363(c) of the Bankruptcy Code, (iii) the use, sale, lease, depreciation or other diminution in value of the Existing Collateral pursuant to Section 363(c) of the Bankruptcy Code and (iv) the imposition of the automatic stay pursuant to Section 362(a) of the Bankruptcy Code, but subject in all cases to the Carve-Out:

(i) Upon entry of this Interim Order, or as soon as practicable thereafter, the Debtors are hereby authorized and directed to utilize a portion of the initial proceeds of Loans advanced by DIP Lenders pursuant to the DIP Credit Agreement and this Interim Order to repay and satisfy in full all outstanding Existing Revolver Indebtedness;

(ii) Existing First Lien Loan Parties are granted super-priority administrative claims that are subordinated in right to the super-priority administrative claim

granted to DIP Lenders with respect to the Obligations; and Existing Second Lien Loan Parties are granted super-priority administrative claims that are subordinated in right, respectively, to the super-priority administrative claim granted to DIP Lenders with respect to the Obligations and to Existing First Lien Loan Parties as provided herein;

(iii) (A) Existing First Lien Loan Parties are granted valid, perfected, enforceable and non-avoidable liens upon and security interests in the Collateral junior to the first priority liens and security interests in the Collateral granted to DIP Lenders under paragraphs 8(a) and 9 of this Interim Order, provided that such junior liens and security interests shall only be enforceable by Existing First Lien Loan Parties after the Obligations are satisfied in full; and (B) Existing Second Lien Loan Parties are granted valid, perfected, enforceable and non-avoidable liens upon and security interests in the Collateral junior to the first priority liens and security interests in the Collateral granted to DIP Lenders under paragraphs 8(a) and 9 of this Interim Order and further junior to the second priority liens and security interests granted to Existing First Lien Loan Parties under subparagraph (A) above, provided that such junior liens and security interests shall only be enforceable by Existing Second Lien Loan Parties after the Obligations and the Existing First Lien Indebtedness are satisfied in full;

(iv) (A) Existing First Lien Loan Parties are granted valid, perfected, enforceable and non-avoidable liens upon and security interests in the Collateral junior to the second priority liens and security interests in the Collateral granted to DIP Lenders under paragraphs 8(b) and 9 of this Interim Order, provided that such junior liens and security interests shall only be enforceable by Existing First Lien Loan Parties after the Obligations are satisfied in full; and (B) Existing Second Lien Loan Parties are granted valid, perfected, enforceable and non-avoidable liens upon and security interests in the Collateral junior to the second priority

liens and security interests in the Collateral granted to DIP Lenders under paragraphs 8(b) and 9 of this Interim Order and further junior to the third priority liens and security interests granted to Existing First Lien Loan Parties under subparagraph (B) above, provided that such junior liens and security interests shall only be enforceable by Existing Second Lien Loan Parties after the Obligations and the Existing First Lien Indebtedness are satisfied in full;

(v) Existing First Lien Loan Parties promptly shall receive from Debtors (i) payment of an amount equal to all accrued and unpaid fees and expenses relating to synthetic letters of credit and interest on the Existing First Lien Indebtedness as of the Petition Date and (ii) during the Cash Collateral Usage Period, (A) payment on a monthly basis of an amount equal to all accrued but unpaid interest on the Existing First Lien Indebtedness at the rate in effect on the Petition Date (as described in paragraph E(ii) above), and (B) payment of synthetic letter of credit fees and expenses, agency fees, administrative fees and other fees as and when due under the Existing First Lien Loan Documents, including the payment of any outstanding pre-petition amounts;

(vi) Existing Second Lien Loan Parties shall receive from Debtors during the Cash Collateral Usage Period, (i) interest paid-in-kind in accordance with the terms of the Existing Second Lien Agreement in an amount equal to the interest on the Existing Second Lien Indebtedness at the rate in effect as of the Petition Date (including any applicable PIK Margin Increase) and (ii) payment of agency, administrative and other fees as and when due under the Existing Second Lien Loan Documents, including the payment of any outstanding pre-petition amounts;

(vii) on behalf of Existing Lenders, Debtors shall pay, and are authorized and directed to pay, within 20 days after the submission of invoices thereof, all

reasonable fees, costs and charges incurred by Existing Lenders (including fees, costs and charges of Existing Lenders' lawyers, financial advisors and other advisors), it being understood that such amounts shall not be subject to review and approval by this Court (but the Court shall resolve any dispute as to reasonableness that is presented to it) and no recipient shall be required to file any interim or final statement or application with respect thereto;

(viii) all motions and orders (other than "first day" motions and orders) of Debtors providing for payment of or other means of satisfying (by setoff, return or otherwise) any pre-petition claim shall be in form and substance reasonably satisfactory to Goldman Sachs Credit Partners L.P. as administrative agent on behalf of Existing First Lien Loan Parties;

(ix) no costs or expenses of administration which already have been, or may hereafter be, incurred in Debtors' Chapter 11 cases or in any subsequently converted case under Chapter 7 of the Bankruptcy Code shall be charged or asserted by Debtors against Existing Lenders, their claims, the Existing Collateral or the additional collateral granted to them hereunder, pursuant to Sections 105 or 506(c) of the Bankruptcy Code or otherwise without the prior written consent of such of Existing First Lien Loan Parties as provided in the Existing First Lien Loan Documents (and no such consent shall be implied from any other action, inaction or acquiescence by such Existing First Lien Loan Parties) and, but subject to the terms and provisions of the Intercreditor Agreement, the Existing Second Lien Loan Parties as provided in the Existing Second Lien Loan Documents (and no such consent shall be implied from any other action, inaction or acquiescence by such Existing Second Lien Loan Parties);

(x) with respect to the adequate protection granted to them under this Interim Order, Existing Lenders shall have all rights and protections granted in this

Interim Order to DIP Lenders with respect to the Obligations (the "*DIP Lender Rights*"); provided that Existing First Lien Loan Parties shall be entitled to exercise and enforce the DIP Lender Rights only after the Obligations have been indefeasibly paid in full, and provided, further that Existing Second Lien Loan Parties shall be entitled to exercise and enforce the DIP Lender Rights only after the Obligations and the Existing First Lien Indebtedness have been indefeasibly paid in full; and

(xi) to the extent the automatic stay provisions of Section 362 of the Bankruptcy Code would otherwise apply, such provisions are vacated for the limited purposes of permitting the transfer and assignment of any liens, pledges or security interests upon Existing Collateral from CapitalSource Finance LLC to Wells Fargo Bank, N.A., as successor collateral agent under the Existing Second Lien Loan Documents.

(b) Under the circumstances (and consistent with the rights of Existing Lenders under Section 506(b) of the Bankruptcy Code), and based upon the consent of Existing Lenders, the adequate protection provided herein is reasonable and sufficient to protect the interests of Existing Lenders. Notwithstanding any other provision hereof, the grant of adequate protection to Existing Lenders is without prejudice to the right of Existing Lenders (but subject to the terms of the Intercreditor Agreement between Existing First Lien Loan Parties and Existing Second Lien Loan Parties) to seek modification of the grant of adequate protection provided hereby so as to provide different or additional adequate protection, and without prejudice to the right of Debtors or any other party-in-interest to contest any such modification.

27. Carve-Out.

(a) Subject to the terms and conditions contained in this paragraph 27, all liens on and security interests in Collateral granted pursuant to this Interim Order, including

to DIP Lenders to secure the Obligations and to Existing Lenders as adequate protection for priming of their interests in the Existing Collateral, and all super-priority administrative claims granted pursuant to this Interim Order, including to DIP Lenders with respect to the Obligations and to Existing Lenders as adequate protection for the use of cash collateral and other diminution in value of their interests in the Existing Collateral, shall be subordinate to the following (collectively, the "*Carve-Out*"): (i) fees pursuant to 28 U.S.C. § 1930(a)(6); (ii) fees payable to the clerk of the Bankruptcy Court and any agent thereof; (iii) in the event of a conversion of the Chapter 11 cases to cases under Chapter 7 of the Bankruptcy Code, fees and expenses incurred by a trustee and any professionals retained by such trustee, in an aggregate amount not exceeding $75,000; and (iv) professional fees and expenses incurred by Debtors and the Committee (collectively, the "*Professional Fees*") subsequent to the delivery of a Carve-Out Trigger Notice (as hereinafter defined) (regardless of when such Professional Fees become allowed by order of the Bankruptcy Court), in an aggregate amount under this subparagraph (a)(iv) not in excess of $7,000,000 plus all unpaid Professional Fees incurred prior to the delivery of Carve-Out Trigger Notice to the extent previously or subsequently allowed by the Bankruptcy Court, subject to the right of DIP Lenders and any other party-in-interest to object to the award of Professional Fees in accordance with any applicable Bankruptcy Rule or, if applicable, order of the Bankruptcy Court relating to the approval of Professional Fees and objections thereto (the provisions of this subparagraph (a)(iv) only, the "*Professional Fee Carve-Out*").

(b) As used herein, "*Carve-Out Trigger Notice*" means, upon the occurrence of an Event of Default, a written notice delivered by Administrative Agent to counsel for Debtors expressly stating that the Professional Fee Carve-Out has been invoked, thereby terminating the right of Debtors to pay Professional Fees outside of the Professional Fee Carve-

Out. Upon receipt of the Carve-Out Trigger Notice, Debtors shall provide immediate notice by facsimile to all professionals informing them that a Carve-Out Trigger Notice has been received and further advising them that Debtors' ability to pay Professional Fees is subject to the Professional Fee Carve-Out.

(c) Any payment or reimbursement made on or after delivery of the Carve-Out Trigger Notice in respect of any allowed Professional Fees shall permanently reduce the Professional Fee Carve-Out on a dollar-for-dollar basis. Any payments or reimbursements made in respect of allowed Professional Fees at any time prior to delivery of the Carve-Out Trigger Notice shall not reduce the Professional Fee Carve-Out. Any payments or reimbursements made at any time in respect of any Carve-Out other than the Professional Fee Carve-Out shall not reduce the Professional Fee Carve-Out.

(d) Payment of any obligations within the Carve-Out shall not and shall not be deemed to reduce the Obligations and shall not and shall not be deemed to subordinate DIP Lenders' liens and security interests in the Collateral or their Super-Priority Claim to any junior pre-petition or post-petition lien, interest, or claim in favor of any other party. Except as otherwise provided herein, DIP Lenders shall not be responsible for the direct payment or reimbursement of any fees or expenses within the Carve-Out, and nothing in this Interim Order or otherwise shall be construed to obligate DIP Lenders in any way to pay or reimburse any such fees or expenses, or to guarantee that Debtors have sufficient funds to pay such fees or reimburse such expenses.

(e) Notwithstanding anything to the contrary in this Interim Order, neither Professional Fees within the Professional Fee Carve-Out nor the proceeds of any Loans or Cash Collateral shall be used to pay Professional Fees to the extent incurred in connection

with any of the following: (i) an assertion or joinder in any claim, counter-claim, action, proceeding, application, motion, objection, defense, or other contested matter seeking any order, judgment, determination or similar relief: (A) challenging the legality, validity, priority, perfection, or enforceability of the Obligations, DIP Lenders' liens on and security interests in the Collateral, or the claims, liens and security interests of Existing Lenders, (B) invalidating, setting aside, avoiding, or subordinating, in whole or in part, the Obligations, DIP Lenders' liens on and security interests in the Collateral, or the claims, liens and security interests of Existing Lenders, or (C) preventing, hindering, or delaying DIP Lenders' assertion or enforcement of any lien, claim, right or security interest or realization upon any Collateral; (ii) a request to use cash collateral without the prior written consent of DIP Lenders and Existing First Lien Loan Parties; (iii) a request for authorization to obtain post-petition loans or other financial accommodations pursuant to Section 364(c) or (d) of the Bankruptcy Code other than from DIP Lenders without the prior written consent of DIP Lenders and Existing First Lien Loan Parties; (iv) the commencement or prosecution of any action or proceeding of any claims, causes of action, or defenses against DIP Lenders, Existing Lenders or any of their respective officers, directors, employees, agents, attorneys, affiliates, assigns, or successors; or (v) any act which has or could have the effect of materially and adversely modifying or compromising the rights and remedies of DIP Lenders or Existing First Lien Loan Parties, or which is contrary, in a manner that is material and adverse to DIP Lenders, to any term or condition set forth in or acknowledged by the Credit Documents or this Interim Order or which is contrary, in a manner that is material and adverse to Existing First Lien Loan Parties, to any term or condition set forth in or acknowledged in the Existing First Lien Loan Documents or this Interim Order.

28. Pre-Petition Lien/Claim Challenge. Subject to the terms of this paragraph, the grant of adequate protection to Existing Lenders pursuant to this Interim Order and the repayment of the Existing Revolver Indebtedness pursuant to this Interim Order shall be without prejudice to the rights of the Committee, or if no Committee is formed, any party-in-interest, to seek to disallow Existing Lenders' claims in respect of the Existing First Lien Indebtedness or the Existing Second Lien Indebtedness, pursue any claims against Existing Lenders in connection with the Existing Loan Documents or avoid any security interest or liens in the Existing Collateral or in any other asset or property of Debtors in which Existing Lenders claim an interest, including, without limitation, any claim, action or proceeding brought against Existing Lenders in accordance with this paragraph 28 that requires Existing Lenders to give up adequate protection liens and super-priority claims, to disgorge adequate protection interest payments received or accruals credited, or to disgorge if repaid pursuant to this Interim Order the Existing Revolver Indebtedness (or any portion thereof) as a result of any of Existing Lenders' claims against Debtors or liens upon and security interests in the assets and properties of Debtors (including the Existing Collateral) being invalidated, avoided, subordinated, impaired or compromised in any way, either by an order of this Court (or other court of competent jurisdiction) or by settlement. The Committee shall have seventy-five (75) calendar days from the date of appointment of counsel for the Committee (and if no Committee is formed, any party-in-interest shall have seventy-five (75) days from entry of this Interim Order), within which to commence an adversary proceeding (collectively, a "*Pre-Petition Lien/Claim Challenge*") with respect to Existing Lenders' claims in respect of the Existing First Lien Indebtedness or Existing Second Lien Indebtedness or liens upon and security interest in the Existing Collateral, or any other claims or causes of action against Existing Lenders relating to the Existing Loan

Documents. If such a Pre-Petition Lien/Claim Challenge is not timely commenced within such applicable period set forth above, (a) the Existing First Lien Indebtedness, the Existing Second Lien Indebtedness and Existing Lenders' liens upon and security interests in the Existing Collateral shall be recognized and allowed as valid, binding, in full force and effect, not subject to any claims, counterclaims, setoff or defenses and perfected, and (b) Existing Lenders and their respective agents, officers, directors and employees shall be deemed released and discharged from all claims and causes of action of any kind, nature or description arising at any time immediately prior to the Petition Date, and all of Debtors' acknowledgements, releases and waivers of claims granted to or in favor of Existing Lenders relating to the Existing Loan Documents in accordance with this Interim Order shall be binding upon all parties-in-interest in Debtors' Chapter 11 cases and/or in any subsequently converted case(s) under Chapter 7 of the Bankruptcy Code. Nothing in this Interim Order shall be deemed to confer or deny standing to commence an action on the Committee. The provisions of this Interim Order are without prejudice to the right of any party to assert or contest the value of Debtor's business as of the confirmation date, or to propose any treatment of the claims of any secured or unsecured creditor in connection with any plan of reorganization.

29. No Modification or Stay of Interim Order. If any or all of the provisions of this Interim Order are hereafter modified, vacated or stayed, such modification, vacation or stay shall not affect (a) the validity of any obligation, indebtedness or liability incurred by Debtors to DIP Lenders or Existing Lenders prior to the effective date of such modification, vacation or stay or (b) the validity or enforceability of any security interest, lien, or priority authorized or created hereunder or pursuant to the Credit Documents, as applicable. Notwithstanding any such modification, vacation or stay, any indebtedness, obligations or

liabilities incurred by Debtors to DIP Lenders or Existing Lenders prior to the effective date of such modification, vacation or stay shall be governed in all respects by the original provisions of this Interim Order; and DIP Lenders and Existing Lenders shall be entitled to all the rights, remedies, privileges and benefits granted herein with respect to all such indebtedness, obligations and/or liabilities. The indebtedness, obligations and/or liabilities of Debtors to DIP Lenders under this Interim Order and/or the Credit Documents shall not be discharged by the entry of an order confirming a plan of reorganization in Debtors' bankruptcy cases pursuant to Section 1141(d)(4) of the Bankruptcy Code or otherwise, unless and until all indebtedness, obligations and liabilities of Debtors to DIP Lenders are indefeasibly paid in full in accordance with the terms and conditions of the Credit Documents prior to or concurrently with the entry of such order. No indebtedness, obligation or liability owed by Debtors to DIP Lenders under this Interim Order or the Credit Documents or to Existing Lenders under this Interim Order, in each case, prior to the effective date of any modification, vacation or stay of this Interim Order can, as a result of any subsequent order in these Chapter 11 cases, or in any superseding case, be subordinated, lose its lien priority or super-priority administrative claim status, or be deprived of the benefit of the status of the liens and claims granted to DIP Lenders under this Interim Order and/or the Credit Documents or to Existing Lenders under this Interim Order.

30. Final Hearing. This matter is set for a Final Hearing at [_____]_.m. on [_____], 2007, in the United States Bankruptcy Court for the Eastern District of Virginia, Richmond Division, at which time any party-in-interest may appear and state its objections, if any, to the Motion. The following parties shall immediately, and in no event later than [_____], 2007, be served as described in the Motion: (a) the Interim Notice Parties (together with a copy of this Interim DIP Order); (b) Debtors' landlords; (c) the taxing authorities to which

Debtors pay taxes; (d) those other creditors known to Debtors who may have liens upon or perfected security interests in any of Debtors' assets and properties; and (e) all parties who have then filed a notice of appearance in these Chapter 11 cases. Objections shall be in writing and shall be filed with the Clerk of this Court, on or before [_____], 2007, at _____ _.m., with a copy served upon: (i) Kirkland & Ellis LLP, 153 East 53rd Street, New York, New York 10022, Attention: Richard M. Cieri, Esq., Fax; 212-446-4900, Email: rcieri@kirkland.com; and Anup Sathy, P.C., Fax: 312-861-2046, Email: asathy@kirkland.com; (ii) Kutak Rock LLP, Suite 800, Bank of America Center, 1111 East Main Street, Richmond, Virginia 23219, Attention: Michael A. Condyles, Esq., Fax: 804-783-6192, Email: Michael.Condyles@KutakRock.com; (iii) Skadden, Arps, Slate, Meagher & Flom LLP, Four Times Square, New York, New York 10036, Attention: Peter J. Neckles, Esq., Fax: 917-777-2466, Email: pneckles@skadden.com; and Jay M. Goffman, Esq., Fax: 917-777-2120, Email: jgoffman@skadden.com; (iv) McGuireWoods LLP, 9000 World Trade Center, 101 West Main Street, Norfolk, Virginia 23510, Attention: Douglas Foley, Esq., Fax: 757-640-3957, Email: dfoley@mcguirewoods.com; (v) Milbank, Tweed, Hadley & McCloy, LLP, 1 Chase Manhattan Plaza, New York, NY 10005, Attention: Matthew S. Barr, Esq., Fax: 212-822-5194, Email: mbarr@milbank.com; and Tom Kreller, Esq., Fax: 213-629-5063; Email: tkreller@milbank.com; (vi) Venable LLP, 8010 Towers Crescent Drive, Suite 300, Vienna, Virginia 22182, Attention: Lawrence A. Katz, Esq., Fax: 703-821-8949, Email: lakatz@venable.com; (vii) Sonnenschein Nath & Rosenthal LLP, 1221 Avenue of the Americas, New York, NY 10020, Attention: Peter Wolfson, Esq., Fax: 212-768-6800, Email: pwolfson@sonnenschein.com; and Richard Sadowsky, Esq., Fax: 212-768-6800, Email: rsadowsky@sonnenschein.com, and (viii) the U.S. Trustee, 11 South 12th Street, Richmond, Virginia 23219, Attention:Robert B. VanArsdale, Esq., Fax: 804-771-2330, Email:

Robert.B.Van.Arsdale@usdoj.gov; and (ix) counsel to be selected by the Committee upon its formation if selected by such date; so that such objections are received, along with a copy to Chambers, on or before 4:00 p.m. on [_____], 2007. Any objections by creditors or any other party-in-interest to the Motion or any of the provisions of the post-petition financing and cash collateral arrangements among Debtors, DIP Lenders and Existing Lenders shall be deemed waived unless filed and received in accordance with the foregoing on or before the close of business on such date. In the event this Court modifies any of the provisions of this Interim Order and the Credit Documents following such Final Hearing, such modifications shall not affect the rights and priorities of DIP Lenders pursuant to this Interim Order with respect to the Collateral and any portion of the Obligations which arises, or is incurred or is advanced prior to such modifications (or otherwise arising prior to such modifications), and this Interim Order shall remain in full force and effect except as specifically modified pursuant to such Final Hearing.

31. Conflicting Provisions. Unless otherwise provided in this Interim Order, to the extent the terms and conditions of the Credit Documents are in conflict with the terms and conditions of this Interim Order, the terms and conditions of this Interim Order shall control.

32. Effectiveness. Notwithstanding any Bankruptcy Rule to the contrary, the terms and conditions of this Interim Order shall (a) be immediately enforceable, and (b) not be stayed absent the grant of such stay under Bankruptcy Rule 8005 after a hearing upon notice to Debtors and DIP Lenders.

Dated: Richmond, Virginia
_____, 2007

_____
United States Bankruptcy Judge

EXHIBIT B

SECURED SUPER-PRIORITY DEBTOR IN POSSESSION CREDIT AND GUARANTY AGREEMENT

dated as of October 16, 2007

among

MOVIE GALLERY, INC.,

CERTAIN SUBSIDIARIES OF MOVIE GALLERY, INC. as Guarantors,

VARIOUS LENDERS,

GOLDMAN SACHS CREDIT PARTNERS L.P., as Lead Arranger and Syndication Agent,

THE BANK OF NEW YORK, as Administrative Agent and as Collateral Agent

and

GOLDMAN SACHS CREDIT PARTNERS L.P., as Documentation Agent

$150,000,000 Senior Secured First Priority Credit Facilities

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SECURED SUPER-PRIORITY DEBTOR IN POSSESSION CREDIT AND GUARANTY AGREEMENT

This **SECURED SUPER-PRIORITY DEBTOR IN POSSESSION CREDIT AND GUARANTY AGREEMENT**, dated as of October 16, 2007, is entered into by and among **MOVIE GALLERY, INC.**, a Delaware corporation and a debtor and debtor in possession under Chapter 11 of the Bankruptcy Code (as defined below) (**"Borrower"**), **CERTAIN SUBSIDIARIES OF BORROWER** as Guarantors, the Lenders party hereto from time to time, **GOLDMAN SACHS CREDIT PARTNERS L.P.** (**"GSCP"**), as Syndication Agent (in such capacity, **"Syndication Agent"**) and as Documentation Agent (in such capacity, **"Documentation Agent"**), and **THE BANK OF NEW YORK** (**"BNY"**), as Administrative Agent (together with its permitted successors in such capacity, **"Administrative Agent"**) and as Collateral Agent (together with its permitted successors in such capacity, **"Collateral Agent"**).

RECITALS:

WHEREAS, capitalized terms used in these Recitals shall have the respective meanings set forth for such terms in Section 1.1 hereof;

WHEREAS, on October 16, 2007 (the "**Petition Date**"), Borrower and each of the Guarantors filed voluntary petitions for relief commencing cases (collectively, the "**Cases**") under Chapter 11 of the Bankruptcy Code with the Bankruptcy Court;

WHEREAS, Lenders have agreed on the terms and conditions set forth herein to extend certain debtor in possession credit facilities to Borrower in an aggregate amount not to exceed $150,000,000, consisting of $100,000,000 aggregate principal amount of Term Loans and $50,000,000 aggregate principal amount of Revolving Commitments, to be used to (i) refinance the Existing Revolver Indebtedness, (ii) pay certain other fees and expenses relating to the Commitments established hereunder and (iii) support the working capital and general corporate purposes of Borrower and its Subsidiaries;

WHEREAS, Borrower has agreed to (a) obtain super-priority administrative expense status for all of its Obligations and (b) secure all of its Obligations by granting to Collateral Agent, for the benefit of Secured Parties, a First Priority Lien on substantially all of its assets, including a pledge of all of the Equity Interests of each of its Domestic Subsidiaries and 65% of all the Equity Interests of each of its Foreign Subsidiaries; and

WHEREAS, Guarantors have agreed to guarantee the obligations of Borrower hereunder and to (a) obtain super-priority administrative expense status for their respective Obligations and (b) to secure their respective Obligations by granting to Collateral Agent, for the benefit of Secured Parties, a First Priority Lien on substantially all of their respective assets, including a pledge of all of the Equity Interests of each of their respective Domestic Subsidiaries (including Borrower) and 65% of all the Equity Interests of each of their respective Foreign Subsidiaries.

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

SECTION 1. DEFINITIONS AND INTERPRETATION

1.1. Definitions. The following terms used herein, including in the preamble, recitals, exhibits and schedules hereto, shall have the following meanings:

"Adjusted Eurodollar Rate" means, for any Interest Rate Determination Date with respect to an Interest Period for a Eurodollar Rate Loan, the rate per annum obtained by dividing (and rounding upward to the next whole multiple of 1/16 of 1%) (i) (a) the rate per annum (rounded to the nearest 1/100 of 1%) equal to the rate determined by Administrative Agent to be the offered rate which appears on the page of the Telerate Screen which displays an average British Bankers Association Interest Settlement Rate (such page currently being page number 3740 or 3750, as applicable) for deposits (for delivery on the first day of such period) with a term equivalent to such period in Dollars, determined as of approximately 11:00 a.m. (London, England time) on such Interest Rate Determination Date, or (b) in the event the rate referenced in the preceding clause (a) does not appear on such page or service or if such page or service shall cease to be available, the rate per annum (rounded to the nearest 1/100 of 1%) equal to the rate determined by Administrative Agent to be the offered rate on such other page or other service which displays an average British Bankers Association Interest Settlement Rate for deposits (for delivery on the first day of such period) with a term equivalent to such period in Dollars, determined as of approximately 11:00 a.m. (London, England time) on such Interest Rate Determination Date, or (c) in the event the rates referenced in the preceding clauses (a) and (b) are not available, the rate per annum (rounded to the nearest 1/100 of 1%) equal to the offered quotation rate to first class banks in the London interbank market by JPMorgan Chase Bank for deposits (for delivery on the first day of the relevant period) in Dollars of amounts in same day funds comparable to the principal amount of the applicable Loan of Administrative Agent, in its capacity as a Lender, for which the Adjusted Eurodollar Rate is then being determined with maturities comparable to such period as of approximately 11:00 a.m. (London, England time) on such Interest Rate Determination Date, by (ii) an amount equal to (a) one minus (b) the Applicable Reserve Requirement.

"Administrative Agent" as defined in the preamble hereto.

"Adverse Proceeding" means any action, suit, proceeding, hearing (whether administrative, judicial or otherwise), governmental investigation or arbitration (whether or not purportedly on behalf of Borrower or any of its Subsidiaries) at law or in equity, or before or by any Governmental Authority, domestic or foreign (including any Environmental Claims), whether pending or, to the knowledge of Borrower or any of its Subsidiaries, threatened against or adversely affecting Borrower or any of its Subsidiaries or any property of Borrower or any of its Subsidiaries.

"Affected Lender" as defined in Section 2.17(b).

"Affected Loans" as defined in Section 2.17(b).

"Affiliate" means, as applied to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, that Person. For the purposes of this definition, "control" (including, with correlative meanings, the terms

"controlling", "controlled by" and "under common control with"), as applied to any Person, means the possession, directly or indirectly, of the power (i) to vote 5% or more of the Securities having ordinary voting power for the election of directors of such Person or (ii) to direct or cause the direction of the management and policies of that Person, whether through the ownership of voting securities or by contract or otherwise.

"Agent" means each of Administrative Agent, Syndication Agent, Collateral Agent and Documentation Agent.

"Agent Affiliates" as defined in Section 10.1(b).

"Aggregate Amounts Due" as defined in Section 2.16.

"Agreement" means this Secured Super-Priority Debtor in Possession Credit and Guaranty Agreement, dated as of October 16, 2007, as it may be amended, supplemented or otherwise modified from time to time.

"Applicable Case Milestone Margin" means: (i) 0.75%, in the event the Debtors fail to file a Chapter 11 plan of reorganization or liquidation and a related disclosure statement with the Bankruptcy Court on or prior to January 15, 2008, and/or in the event an order approving the Debtors' disclosure statement is not entered by the Bankruptcy Court in the Cases on or prior to March 1, 2008; (ii) 1.50%, in the event an order confirming the Debtors' Chapter 11 plan of reorganization or liquidation is not entered by the Bankruptcy Court in the Cases on or prior to April 30, 2008; and (iii) 2.25%, in the event the effective date of the Debtors' Chapter 11 plan of reorganization or liquidation has not occurred on or prior to May 31, 2008.

"Applicable Reserve Requirement" means, at any time, for any Eurodollar Rate Loan, the maximum rate, expressed as a decimal, at which reserves (including any basic marginal, special, supplemental, emergency or other reserves) are required to be maintained with respect thereto against "Eurocurrency liabilities" (as such term is defined in Regulation D) under regulations issued from time to time by the Board of Governors or other applicable banking regulator. Without limiting the effect of the foregoing, the Applicable Reserve Requirement shall reflect any other reserves required to be maintained by such member banks with respect to (i) any category of liabilities which includes deposits by reference to which the applicable Adjusted Eurodollar Rate or any other interest rate of a Loan is to be determined, or (ii) any category of extensions of credit or other assets which include Eurodollar Rate Loans. A Eurodollar Rate Loan shall be deemed to constitute Eurocurrency liabilities and as such shall be deemed subject to reserve requirements without benefits of credit for proration, exceptions or offsets that may be available from time to time to the applicable Lender. The rate of interest on Eurodollar Rate Loans shall be adjusted automatically on and as of the effective date of any change in the Applicable Reserve Requirement.

"**Approved Electronic Communications**" means any notice, demand, communication, information, document or other material that any Credit Party provides to Administrative Agent pursuant to any Credit Document or the transactions contemplated therein which is distributed to the Agents or to the lenders by means of electronic communications pursuant to Section 10.1(b).

"**Arranger**" means GSCP.

"Asset Sale" means a sale, lease or sub-lease (as lessor or sublessor), sale and leaseback, assignment, conveyance, exclusive license (as licensor or sublicensor), transfer or other disposition to, or any exchange of property with, any Person (other than Borrower or any Guarantor Subsidiary), in one transaction or a series of transactions, of all or any part of Borrower's or any of its Subsidiaries' businesses, assets or properties of any kind, whether real, personal, or mixed and whether tangible or intangible, whether now owned or hereafter acquired, leased or licensed, including the Equity Interests of any of Borrower's Subsidiaries, other than inventory (or other assets) sold, leased or licensed out in the ordinary course of business (excluding any such sales, leases or licenses out by operations or divisions discontinued or to be discontinued).

"Assignment Agreement" means an Assignment and Assumption Agreement substantially in the form of Exhibit D, with such amendments or modifications as may be approved by Administrative Agent.

"Assignment Effective Date" as defined in Section 10.6(b).

"Authorized Officer" means, as applied to any Person, any individual holding the position of chairman of the board (if an officer), chief executive officer, president or one of its vice presidents (or the equivalent thereof), and such Person's chief financial officer or treasurer.

"Avoidance Action" means all actions for preferences, fraudulent conveyances, and other avoidance power claims and any recoveries under Section 552(b), Section 506(c) and Sections 542, 544, 545, 547, 548, 549, 550 and 553 of the Bankruptcy Code.

"Bankruptcy Code" means Title 11 of the United States Code entitled "Bankruptcy," as now and hereafter in effect, or any successor statute; provided, however, that, with respect to the Cases, "**Bankruptcy Code**" means Title 11 of the United States Code, as in effect on the Petition Date and as thereafter amended, if such amendments are made applicable to the Cases.

"Bankruptcy Court" means the United States Bankruptcy Court for the Eastern District of Virginia, Richmond Division, or any other court having competent jurisdiction over the Cases.

"Base Rate" means, for any day, a rate per annum equal to the greater of (i) the Prime Rate in effect on such day and (ii) the Federal Funds Effective Rate in effect on such day plus ½ of 1%. Any change in the Base Rate due to a change in the Prime Rate or the Federal Funds Effective Rate shall be effective on the effective day of such change in the Prime Rate or the Federal Funds Effective Rate, respectively.

"Base Rate Loan" means a Loan bearing interest at a rate determined by reference to the Base Rate.

"Beneficiary" means each Agent, Issuing Bank and Lender.

"BNY" as defined in the preamble.

"Board of Governors" means the Board of Governors of the United States Federal Reserve System, or any successor thereto.

"Borrower" as defined in the preamble hereto.

"Budget" means the business plan and projected operating budget by the Credit Parties, delivered to Arranger on October 5, 2007 (which shall include income statements, balance sheets, cash flow statements, and a line item for "total available liquidity") through the Maturity Date on a monthly and quarterly basis and setting forth the anticipated uses of the Commitments, and which shall provide for the payment of the fees and expenses relating to the Commitments, ordinary course administrative expenses, and working capital and other general corporate needs (including the payment of certain prepetition obligations to the extent approved by the Bankruptcy Court), in form and substance satisfactory to Administrative Agent and Arranger (it being understood and agreed that the form of the Budget provided to Arranger on or prior to the Closing Date is acceptable to Administrative Agent and Arranger).

"Business Day" means (i) any day excluding Saturday, Sunday and any day which is a legal holiday under the laws of the State of New York or is a day on which banking institutions located in such state are authorized or required by law or other governmental action to close and (ii) with respect to all notices, determinations, fundings and payments in connection with the Adjusted Eurodollar Rate or any Eurodollar Rate Loans, the term **"Business Day"** shall mean any day which is a Business Day described in clause (i) and which is also a day for trading by and between banks in Dollar deposits in the London interbank market.

"Canadian Subsidiary" means any Subsidiary that is incorporated, organized or otherwise established under the laws of Canada or any political subdivision of Canada.

"Capital Lease" means, as applied to any Person, any lease of any property (whether real, personal or mixed) by that Person as lessee that, in conformity with GAAP, is or should be accounted for as a capital lease on the balance sheet of that Person.

"Carve-Out" means the following claims: (a) fees pursuant to 28 U.S.C. § 1930(a)(6); (b) fees payable to the clerk of the Bankruptcy Court and any agent thereof; (c) in the event of a conversion of the Cases to cases under Chapter 7 of the Bankruptcy Code, fees and expenses incurred by a trustee and any professionals retained by such trustee, in an aggregate amount not exceeding $75,000; and (d) professional fees and expenses incurred by the Debtors' professionals and the Committee's professionals (collectively, the "**Professionals**") subsequent to the delivery of a Carve-Out Trigger Notice (as defined below) (regardless of when such fees and expenses become allowed by order of the Bankruptcy Court), in an aggregate amount not in excess of $7,000,000 plus all unpaid fees and expenses of Professionals incurred prior to the delivery of Carve-Out Trigger Notice to the extent previously or subsequently allowed by the Bankruptcy Court, subject to the right of DIP Lenders and any other party-in-interest to object to the award of such fees and expenses in accordance with any applicable Bankruptcy Rule or, if applicable, order of the Bankruptcy Court relating to the approval of fees and expenses and objections thereto; provided, however, that the Carve-Out shall not include, apply to, or be

available for any fees or expenses incurred by any party, including the Credit Parties, any Committee or any Professional in connection with the investigation, initiation or prosecution of any claims, defenses or causes of action against the Agents or the Lenders; provided, further, prior to delivery of a Carve-Out Trigger Notice, the payment of compensation and reimbursement of expenses allowed and payable under the Bankruptcy Code or otherwise pursuant to an order of the Bankruptcy Court, as the same may be due and payable, shall not reduce the Carve-Out, subject to the right of Administrative Agent, the Lenders and any other party in interest to object to such payments in accordance with applicable Bankruptcy Rule or, if applicable, order of the Bankruptcy Court relating to the approval of fees and objections thereto; provided, further, that in the event of any inconsistency in the definition of "Carve-Out" between the provisions of this Agreement and the Interim DIP Order or Final DIP Order, the provisions of the Interim DIP Order or Final DIP Order shall govern.

"Carve-Out Trigger Notice" means a written notice delivered by Administrative Agent to counsel for Borrower following the occurrence of an Event of Default expressly stating that the Carve Out has been invoked.

"Cases" as defined in the recitals hereto.

"Cash" means money, currency or a credit balance in any demand or Deposit Account.

"Cash Equivalents" means, as at any date of determination, (i) marketable securities (a) issued or directly and unconditionally guaranteed as to interest and principal by the United States Government or (b) issued by any agency of the United States the obligations of which are backed by the full faith and credit of the United States, in each case maturing within one year after such date; (ii) marketable direct obligations issued by any state of the United States of America or any political subdivision of any such state or any public instrumentality thereof, in each case maturing within one year after such date and having, at the time of the acquisition thereof, a rating of at least A-1 from S&P or at least P-1 from Moody's; (iii) commercial paper maturing no more than one year from the date of creation thereof and having, at the time of the acquisition thereof, a rating of at least A-1 from S&P or at least P-1 from Moody's; (iv) certificates of deposit or bankers' acceptances maturing within one year after such date and issued or accepted by any Lender or by any commercial bank organized under the laws of the United States of America or any state thereof or the District of Columbia that (a) is at least "adequately capitalized" (as defined in the regulations of its primary Federal banking regulator) and (b) has Tier 1 capital (as defined in such regulations) of not less than $100,000,000; (v) shares of any money market mutual fund that (a) has substantially all of its assets invested continuously in the types of investments referred to in clauses (i) and (ii) above, (b) has net assets of not less than $500,000,000, and (c) has the highest rating obtainable from either S&P or Moody's and (vi) solely in respect of the cash management activities of Subsidiaries of Borrower organized under the laws of Canada or any province or territory thereof, equivalents to the investments described in clause (i) above to the extent guaranteed by the full faith and credit of the government of Canada and equivalents of investments described in clauses (iii) and (iv) above issued, accepted or offered by the local office of any commercial bank organized under the laws of Canada, or any province or territory thereof of such Canadian Subsidiary, which bank has combined capital and surplus of not less than $1,000,000,000.

"Cash Flow Forecast" means a forecast of sources and uses of cash by the Credit Parties on a weekly basis for the succeeding thirteen (13) calendar weeks, which (together with updates thereto pursuant to Section 5.1(d)) shall be in form and substance reasonably satisfactory to Administrative Agent and Syndication Agent (it being understood and agreed that the form of the Cash Flow Forecast provided to Arranger on or prior to the Closing Date is acceptable to Administrative Agent and Syndication Agent).

"Certificate re Non-Bank Status" means a certificate substantially in the form of Exhibit E.

"**Change of Control**" means, at any time, the majority of the seats (other than vacant seats) on the board of directors (or similar governing body) of Borrower cease to be occupied by Persons who either (a) were members of the board of directors of Borrower on the Closing Date or (b) were nominated for election by the board of directors of Borrower, a majority of whom were directors on the Closing Date or whose election or nomination for election was previously approved by a majority of such directors.

"Class" means with respect to Lenders, each of the following classes of Lenders: (i) Lenders having Term Loan Exposure and (ii) Lenders having Revolving Exposure.

"Closing Date" means the first date on which the initial Revolving Loans are made, which date shall not be later than ten (10) days after the Interim DIP Order Entry Date.

"Closing Date Certificate" means, in respect of both the Closing Date and the Full Availability Closing Date, a Closing Date Certificate substantially in the form of Exhibit F.

"Collateral" means, collectively, all of the real, personal and mixed property (including Equity Interests (but limited to 65% of such interests in Foreign Subsidiaries as and to the extent set forth in the Pledge and Security Agreement) and all monies and other property of any kind received on account thereof, and, upon and following the approval of the Bankruptcy Court, Avoidance Actions) in which Liens are purported to be granted pursuant to the DIP Orders and the Collateral Documents as security for the Obligations.

"Collateral Agent" as defined in the preamble hereto.

"Collateral Documents" means the Pledge and Security Agreement, the Mortgages, if any, the Intellectual Property Security Agreements, if any, the Landlord Personal Property Collateral Access Agreements, if any, and all other instruments, documents and agreements delivered by any Credit Party pursuant to this Agreement or any of the other Credit Documents in order to grant to Collateral Agent, for the benefit of Secured Parties, or perfect, a Lien on any real, personal or mixed property of that Credit Party as security for the Obligations.

"Commitment" means any Revolving Commitment or Term Loan Commitment.

"Committee" means the Official Committee of Unsecured Creditors appointed in the Cases pursuant to Section 1102 of the Bankruptcy Code, as reconstituted from time to time.

"Compliance Certificate" means a Compliance Certificate substantially in the form of Exhibit C.

"Consolidated Adjusted EBITDA" means, for any period, an amount determined for Borrower and its Subsidiaries on a consolidated basis equal to (x) Consolidated Net Income, plus, to the extent reducing Consolidated Net Income, the sum, without duplication, of amounts for (a) consolidated interest expense (determined in accordance with GAAP), (b) provisions for taxes based on income, (c) total depreciation expense, (d) total amortization expense (excluding Rental Items amortization, except for one time and incremental charges resulting from changes in accounting principals), (e) losses from Hedge Agreements, (f) losses from discontinued operations, (g) losses from changes in accounting principles, (h) fees and costs associated with the early extinguishment of debt, (i) fees and other expenses made or incurred in connection with the transactions contemplated hereby that are paid or accounted for (without duplication) on or before the Full Availability Closing Date, (j) reasonable fees or expenses relating to any permitted Investments or Indebtedness, whether or not such transaction is consummated, to the extent deducted in computing Consolidated Net Income, (k) costs and expenses resulting from administrative expenses paid with respect to the Cases for professional fees and expenses; (l) costs and expenses with respect to employee retention plans approved by the Bankruptcy Court; (m) costs and expenses with respect to bonus plans designed to encourage retention of employees and approved by the Bankruptcy Court not to exceed $1,600,000 in the aggregate from and after the Closing Date; (n) with respect to any period (including any fiscal month or Fiscal Quarter) during Fiscal Year 2007 or 2008, amounts paid as cure payments or similar costs in connection with assumptions of unexpired leases or executory contracts assumed during the Cases; (o) with respect to any period (including any fiscal month or Fiscal Quarter) during Fiscal Year 2007 or 2008, losses resulting directly from store closures, lease terminations and liquidations of inventory associated, in each case, with the Store Rationalization Program; (p) with respect to any period (including any fiscal month or Fiscal Quarter) during Fiscal Year 2007 or 2008, expenses related to severance for personnel; and (q) other non-Cash charges reducing Consolidated Net Income (excluding any such non-Cash charge to the extent that it represents an accrual or reserve for potential Cash charge in any future period or amortization of a prepaid Cash charge that was paid in a prior period), minus (y) to the extent increasing Consolidated Net Income, the sum, without duplication, of amounts for (a) gains from Hedge Agreements, (b) income from discontinued operations, (c) income from changes in accounting principals, (d) gains from liquidations of inventory associated with the Store Rationalization Program and (e) other non-Cash gains increasing Consolidated Net Income for such period (excluding any such non-Cash gain to the extent it represents the reversal of an accrual or reserve for potential Cash gain in any prior period). For all purposes of this Agreement, Consolidated Adjusted EBITDA for each fiscal month ending as identified below shall equal the correlative amount indicated below:

Fiscal Month ending	**Consolidated Adjusted EBITDA**
October 1, 2006	($988,055)
November 5, 2006	$15,986,638
December 3, 2006	$12,907,491
December 31, 2006	$22,715,474

Fiscal Month ending	Consolidated Adjusted EBITDA
February 4, 2007	$35,819,101
March 4, 2007	$19,605,188
April 1, 2007	$3,775,115
May 6, 2007	$7,745,010
June 3, 2007	($11,146,217)
July 1, 2007	$5,966,047
August 5, 2007	$17,978,823
September 2, 2007	$6,666,549

"Consolidated Capital Expenditures" means, for any period, the aggregate of all expenditures of Borrower and its Subsidiaries during such period determined on a consolidated basis that, in accordance with GAAP, are or should be included in "purchase of property and equipment" or similar items reflected in the consolidated statement of cash flows of Borrower and its Subsidiaries.

"Consolidated Net Income" means, for any period, (i) the net income (or loss) of Borrower and its Subsidiaries on a consolidated basis for such period taken as a single accounting period determined in conformity with GAAP, but excluding the effects of any of the following, (ii) (a) the income (or loss) of any Person (other than a Subsidiary of Borrower) in which any other Person (other than Borrower or any of its Subsidiaries) has a joint interest, except to the extent of the amount of dividends or other distributions actually paid to Borrower or any of its Subsidiaries by such Person during such period, (b) the income (or loss) of any Person accrued prior to the date it becomes a Subsidiary of Borrower or is merged into or consolidated with Borrower or any of its Subsidiaries or that Person's assets are acquired by Borrower or any of its Subsidiaries, (c) the income of any Subsidiary of Borrower to the extent that the declaration or payment of dividends or similar distributions by that Subsidiary of that income is not at the time permitted by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Subsidiary, (d) any after-tax gains or losses attributable to Asset Sales or returned surplus assets of any Pension Plan, and (e) (to the extent not included in clauses (a) through (d) above) any (A) net extraordinary gains, (B) non-recurring gains not to exceed $5,000,000 in the aggregate from and after the Closing Date, (C) net extraordinary losses, (D) non-recurring losses not to exceed $5,000,000 in the aggregate from and after the Closing Date or (E) non-recurring costs, losses and restructuring charges, in each case associated with general and administrative costs (but in no event including costs associated with store openings, closings and relocations) in connection with consolidating the operations of the Movie Gallery division and the Hollywood division not to exceed $8,000,000 in the aggregate from and after the Closing Date.

"Contractual Obligation" means, as applied to any Person, any provision of any Security issued by that Person or of any indenture, mortgage, deed of trust, contract, undertaking, agreement or other instrument to which that Person is a party or by which it or any of its properties is bound or to which it or any of its properties is subject.

"Conversion/Continuation Date" means the effective date of a continuation or conversion, as the case may be, as set forth in the applicable Conversion/Continuation Notice.

"Conversion/Continuation Notice" means a Conversion/Continuation Notice substantially in the form of Exhibit A-2.

"Counterpart Agreement" means a Counterpart Agreement substantially in the form of Exhibit G delivered by a Credit Party pursuant to Section 5.10.

"Credit Date" means the date of a Credit Extension.

"Credit Document" means any of this Agreement, the Notes, if any, the Collateral Documents, any documents or certificates executed by Borrower in favor of Issuing Bank relating to Letters of Credit, and all other documents, instruments or agreements executed and delivered by a Credit Party for the benefit of any Agent, Issuing Bank, or any Lender in connection herewith.

"Credit Extension" means the making of a Loan or the issuing of a Letter of Credit.

"Credit Party" means Borrower and each Guarantor.

"Currency Agreement" means any foreign exchange contract, currency swap agreement, futures contract, option contract, synthetic cap or other similar agreement or arrangement, each of which is for the purpose of hedging the foreign currency risk associated with Borrower's and its Subsidiaries' operations and not for speculative purposes.

"Debtors" means Borrower and each Guarantor that is a debtor in the Cases under Chapter 11 of the Bankruptcy Code.

"Default" means a condition or event that, after notice or lapse of time or both, would constitute an Event of Default.

"Default Excess" means, with respect to any Defaulting Lender, the excess, if any, of such Defaulting Lender's Pro Rata Share of the aggregate outstanding principal amount of Loans of all Lenders (calculated as if all Defaulting Lenders (including such Defaulting Lender) had funded all of their respective Defaulted Loans) over the aggregate outstanding principal amount of all Loans of such Defaulting Lender.

"Default Period" means, with respect to any Defaulting Lender, the period commencing on the date of the applicable Funding Default and ending on the earliest of the following dates: (i) the date on which all Commitments are cancelled or terminated and/or the Obligations are declared or become immediately due and payable, (ii) the date on which (a) the Default Excess with respect to such Defaulting Lender shall have been reduced to zero (whether by the funding by such Defaulting Lender of any Defaulted Loans of such Defaulting Lender or by the non-pro rata application of any voluntary or mandatory prepayments of the Loans in accordance with the terms of Section 2.12 or Section 2.13 or by a combination thereof) and (b) such Defaulting Lender shall have delivered to Borrower and Administrative Agent a written

reaffirmation of its intention to honor its obligations hereunder with respect to its Commitments, and (iii) the date on which Borrower, Administrative Agent and Requisite Lenders waive all Funding Defaults of such Defaulting Lender in writing.

"Defaulted Loan" as defined in Section 2.21.

"Defaulting Lender" as defined in Section 2.21.

"Deposit Account" means a demand, time, savings, passbook or like account with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a negotiable certificate of deposit.

"DIP Order" or **"DIP Orders"** means the Interim DIP Order and/or the Final DIP Order, as applicable.

"Disclosed Matter" means the existence or occurrence of any matter which has been disclosed by Borrower in any filing made by Borrower with the Securities and Exchange Commission prior to the Closing Date and after December 31, 2006 (including disclosures regarding financial performance or condition as set forth in any Form 10-K or Form 10-Q during such period); provided, that no matter shall constitute a "Disclosed Matter" to the extent it shall prove to be, or shall become, materially more adverse to Borrower and its Subsidiaries taken as a whole or to the Lenders than it would have reasonably appeared to be on the basis of the disclosure contained in any of the documents referred to above in this definition.

"**Disqualified Equity Interests**" means any Equity Interest which, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (i) matures or is mandatorily redeemable (other than solely for Equity Interests which are not otherwise Disqualified Equity Interests), pursuant to a sinking fund obligation or otherwise, (ii) is redeemable at the option of the holder thereof (other than solely for Equity Interests which are not otherwise Disqualified Equity Interests), in whole or in part, (iii) provides for the scheduled payments or dividends in cash, or (iv) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the Term Loan Maturity Date.

"Documentation Agent" as defined in the preamble hereto.

"Dollars" and the sign **"$"** mean the lawful money of the United States of America.

"Domestic Subsidiary" means any Subsidiary organized under the laws of the United States of America, any State thereof or the District of Columbia.

"Eligible Assignee" means (i) any Lender, any Affiliate of any Lender and any Related Fund (any two or more Related Funds being treated as a single Eligible Assignee for all purposes hereof), and (ii) any commercial bank, insurance company, investment or mutual fund or other entity that is an "accredited investor" (as defined in Regulation D under the Securities

Act) and which extends credit or buys loans; provided, no Affiliate of Borrower shall be an Eligible Assignee.

"Employee Benefit Plan" means any "employee benefit plan" as defined in Section 3(3) of ERISA which is or was sponsored, maintained or contributed to by, or required to be contributed by, Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates.

"Environmental Claim" means any investigation, notice, notice of violation, claim, action, suit, proceeding, demand, abatement order or other order or directive (conditional or otherwise), by any Governmental Authority or any other Person, arising (i) pursuant to or in connection with any actual or alleged violation of any Environmental Law; (ii) in connection with any Hazardous Material or any actual or alleged Hazardous Materials Activity; or (iii) in connection with any actual or alleged damage, injury, threat or harm to health, safety, natural resources or the environment.

"Environmental Laws" means any and all current or future foreign or domestic, federal or state (or any subdivision of either of them), statutes, ordinances, orders, rules, regulations, judgments, Governmental Authorizations, or any other requirements of Governmental Authorities relating to (i) environmental matters, including those relating to any Hazardous Materials Activity; (ii) the generation, use, storage, transportation or disposal of Hazardous Materials; or (iii) occupational safety and health, industrial hygiene, land use or the protection of human, plant or animal health or welfare, in any manner applicable to Borrower or any of its Subsidiaries or any Facility.

"Equity Interests" means any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation), including partnership interests and membership interests, and any and all warrants, rights or options to purchase or other arrangements or rights to acquire any of the foregoing.

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

"ERISA Affiliate" means, as applied to any Person, (i) any corporation which is a member of a controlled group of corporations within the meaning of Section 414(b) of the Internal Revenue Code of which that Person is a member; (ii) any trade or business (whether or not incorporated) which is a member of a group of trades or businesses under common control within the meaning of Section 414(c) of the Internal Revenue Code of which that Person is a member; and (iii) any member of an affiliated service group within the meaning of Section 414(m) or (o) of the Internal Revenue Code of which that Person, any corporation described in clause (i) above or any trade or business described in clause (ii) above is a member. Any former ERISA Affiliate of Borrower or any of its Subsidiaries shall continue to be considered an ERISA Affiliate of Borrower or any such Subsidiary within the meaning of this definition with respect to the period such entity was an ERISA Affiliate of Borrower or such Subsidiary and with respect to liabilities arising after such period for which Borrower or such Subsidiary could be liable under the Internal Revenue Code or ERISA.

"ERISA Event" means (i) a "reportable event" within the meaning of Section 4043 of ERISA and the regulations issued thereunder with respect to any Pension Plan (excluding those for which the provision for 30-day notice to the PBGC has been waived by regulation); (ii) the failure to meet the minimum funding standard of Section 412 of the Internal Revenue Code with respect to any Pension Plan (whether or not waived in accordance with Section 412(d) of the Internal Revenue Code) or the failure to make by its due date a required installment under Section 412(m) of the Internal Revenue Code with respect to any Pension Plan or the failure to make any required contribution to a Multiemployer Plan; (iii) the provision by the administrator of any Pension Plan pursuant to Section 4041(a)(2) of ERISA of a notice of intent to terminate such plan in a distress termination described in Section 4041(c) of ERISA; (iv) the withdrawal by Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates from any Pension Plan with two or more contributing sponsors or the termination of any such Pension Plan resulting in liability to Borrower, any of its Subsidiaries or any of their respective Affiliates pursuant to Section 4063 or 4064 of ERISA; (v) the institution by the PBGC of proceedings to terminate any Pension Plan, or the occurrence of any event or condition which might constitute grounds under ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (vi) the imposition of liability on Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates pursuant to Section 4062(e) or 4069 of ERISA or by reason of the application of Section 4212(c) of ERISA; (vii) the withdrawal of Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates in a complete or partial withdrawal (within the meaning of Sections 4203 and 4205 of ERISA) from any Multiemployer Plan if there is any potential liability therefore, or the receipt by Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates of notice from any Multiemployer Plan that it is in reorganization or insolvency pursuant to Section 4241 or 4245 of ERISA, or that it intends to terminate or has terminated under Section 4041A or 4042 of ERISA; (viii) the occurrence of an act or omission which could give rise to the imposition on Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates of fines, penalties, taxes or related charges under Chapter 43 of the Internal Revenue Code or under Section 409, Section 502(c), (i) or (l), or Section 4071 of ERISA in respect of any Employee Benefit Plan; (ix) the assertion of a material claim (other than routine claims for benefits) against any Employee Benefit Plan other than a Multiemployer Plan or the assets thereof, or against Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates in connection with any Employee Benefit Plan; (x) receipt from the Internal Revenue Service of notice of the failure of any Pension Plan (or any other Employee Benefit Plan intended to be qualified under Section 401(a) of the Internal Revenue Code) to qualify under Section 401(a) of the Internal Revenue Code, or the failure of any trust forming part of any Pension Plan to qualify for exemption from taxation under Section 501(a) of the Internal Revenue Code; or (xi) the imposition of a Lien pursuant to Section 401(a)(29) or 412(n) of the Internal Revenue Code or pursuant to ERISA with respect to any Pension Plan.

"Eurodollar Rate Loan" means a Loan bearing interest at a rate determined by reference to the Adjusted Eurodollar Rate.

"Event of Default" means each of the conditions or events set forth in Section 8.1.

"Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time, and any successor statute.

"Existing Collateral" means the "Collateral" that secures the Existing Revolver Indebtedness, the Existing First Lien Indebtedness and the Existing Second Lien Indebtedness.

"Existing Credit Agreements" means the Existing First Lien Credit Agreement and the Existing Second Lien Credit Agreement.

"Existing First Lien Credit Agreement" means the First Lien Credit and Guaranty Agreement, dated as of March 8, 2007 (as amended, supplemented or otherwise modified), among Borrower, certain subsidiaries of Borrower as guarantors, the banks, financial institutions and other lenders named therein, Goldman Sachs Credit Partners L.P. as lead arranger, syndication agent and administrative agent, and Wachovia Bank, National Association as collateral agent and documentation agent.

"Existing First Lien Indebtedness" means the "Obligations" as defined in the Existing First Credit Agreement. Such "Obligations" exclude the Existing Revolver Indebtedness unless otherwise stated.

"Existing Second Lien Credit Agreement" means the Second Lien Credit and Guaranty Agreement, dated as of March 8, 2007 (as amended, supplemented or otherwise modified), among Borrower, certain subsidiaries of Borrower as guarantors, the banks, financial institutions and other lenders named therein, Goldman Sachs Credit Partners L.P. as lead arranger and syndication agent, and Wells Fargo Bank, National Association (as successor to CapitalSource Finance LLC) as administrative agent and collateral agent.

"Existing Second Lien Indebtedness" means the "Obligations" as defined in the Existing Second Lien Credit Agreement.

"Existing Revolver Indebtedness" means the outstanding "Obligations" in respect of "Revolving Loans", "Swing Line Loans" and "Letters of Credit", as each such term is defined in the Existing First Lien Credit Agreement as of the Closing Date.

"Facility" means any real property (including all buildings, fixtures or other improvements located thereon) now, hereafter or heretofore owned, leased, operated or used by Borrower or any of its Subsidiaries or any of their respective predecessors or Affiliates.

"Federal Funds Effective Rate" means for any day, the rate per annum (expressed, as a decimal, rounded upwards, if necessary, to the next higher 1/100 of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided, (i) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (ii) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate charged to Administrative Agent, in its capacity as a Lender, on such day on such transactions as determined by Administrative Agent.

"Final DIP Order" means an order, in form and substance substantially similar to the Interim DIP Order and otherwise satisfactory to Administrative Agent and Arranger, entered by the Bankruptcy Court approving this Agreement and the other Credit Documents.

"Final DIP Order Entry Date" means the date on which the Bankruptcy Court enters the Final DIP Order.

"Financial Officer Certification" means, with respect to the financial statements for which such certification is required, the certification of the chief financial officer or (if such officer has been duly appointed in accordance with the Organizational Documents of Borrower) the chief accounting officer of Borrower that such financial statements fairly present, in all material respects, the financial condition of Borrower and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated, subject to changes resulting from audit and normal year-end adjustments.

"First Priority" means, with respect to any Lien purported to be created in any Collateral pursuant to any Collateral Document, that such Lien is the only Lien to which such Collateral is subject, other than any Permitted Lien.

"Fiscal Quarter" means each 13 week period after the end of the Fiscal Year except the last period in Fiscal Year 2007 and in Fiscal Year 2012, which shall be a 14 week period.

"Fiscal Year" means any 52 week period ending on the first Sunday following December 30, except for 2007 and 2012, respectively, which shall be a 53 week period ending January 6, 2008 and January 6, 2013, respectively (as set forth in Schedule 1 hereto); references to a Fiscal Year with a number corresponding to any calendar year (e.g., the "2007 Fiscal Year") refer to the Fiscal Year ending on the first Sunday following December 30 of such calendar year.

"Flood Hazard Property" means any Real Estate Asset subject to a mortgage in favor of Collateral Agent, for the benefit of the Secured Parties, and located in an area designated by the Federal Emergency Management Agency as having special flood or mud slide hazards.

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

"Full Availability" means up to $100,000,000 of the Term Loan Commitment (including the portion thereof constituting the Initial Term Loan Availability) and up to $50,000,000 of the Revolving Commitment (including the portion thereof constituting the Initial Revolver Availability) that shall be available on and following the Full Availability Closing Date.

"Full Availability Closing Date" means the date the conditions to Full Availability set forth in Section 3.2 are satisfied or waived.

"Funding Default" as defined in Section 2.21.

"Funding Notice" means a notice substantially in the form of Exhibit A-1.

"GAAP" means, subject to the limitations on the application thereof set forth in Section 1.2, United States generally accepted accounting principles in effect as of the date of determination thereof.

"Governmental Acts" means any act or omission, whether rightful or wrongful, of any present or future de jure or de facto government or Governmental Authority.

"Governmental Authority" means any federal, state, municipal, national or other government, governmental department, commission, board, bureau, court, agency or instrumentality or political subdivision thereof or any entity, officer or examiner exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government or any court, in each case whether associated with a state of the United States, the United States, or a foreign entity or government.

"Governmental Authorization" means any permit, license, authorization, plan, directive, consent order or consent decree of or from any Governmental Authority.

"Grantor" as defined in the Pledge and Security Agreement.

"GSCP" as defined in the preamble.

"Guaranteed Obligations" as defined in Section 7.1.

"Guarantor" means each of Borrower and each Domestic Subsidiary of Borrower.

"Guarantor Subsidiary" means each Guarantor other than Borrower.

"Guaranty" means the guaranty of each Guarantor set forth in Section 7.

"Hazardous Materials" means any chemical, material or substance, exposure to which is prohibited, limited or regulated by any Governmental Authority or which may or could pose a hazard to the health and safety of the owners, occupants or any Persons in the vicinity of any Facility or to the indoor or outdoor environment.

"Hazardous Materials Activity" means any past, current, proposed or threatened activity, event or occurrence involving any Hazardous Materials, including the use, manufacture, possession, storage, holding, presence, existence, location, Release, threatened Release, discharge, placement, generation, transportation, processing, construction, treatment, abatement, removal, remediation, disposal, disposition or handling of any Hazardous Materials, and any corrective action or response action with respect to any of the foregoing.

"Hedge Agreement" means an Interest Rate Agreement or a Currency Agreement.

"Highest Lawful Rate" means the maximum lawful interest rate, if any, that at any time or from time to time may be contracted for, charged, or received under the laws applicable to any Lender which are presently in effect or, to the extent allowed by law, under

such applicable laws which may hereafter be in effect and which allow a higher maximum nonusurious interest rate than applicable laws now allow.

"Historical Financial Statements" means as of the Closing Date, (i) the audited financial statements of Borrower and its Subsidiaries, for the Fiscal Years ended January 2, 2005, January 1, 2006 and December 31, 2006, consisting of balance sheets and the related consolidated statements of operations, stockholders' equity and cash flows for such Fiscal Years, (ii) the unaudited financial statements of Borrower and its Subsidiaries as at the most recent Fiscal Quarter ending 45 days or more prior to the Closing Date, consisting of a balance sheet and the related consolidated statements of operations, stockholders' equity and cash flows for the three-, six-or nine-fiscal month period, as applicable, ending on such date, and (iii) the unaudited financial statements of Borrower and its Subsidiaries as of the most recent fiscal month ending 30 days or more prior to the Closing Date, consisting of a balance sheet and related consolidated statements of operations, stockholders' equity and cash flows for such month; and, in the case of clauses (i), (ii) and (iii), certified by the chief financial officer of Borrower that they fairly present, in all material respects, the financial condition of Borrower and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated, subject to changes resulting from audit and normal year-end adjustments.

"Inactive Entities" means (a) the following entities in which Movie Gallery US, LLC, a Guarantor, has an ownership interest as of the Closing Date: CINEvents, Inc., DVDStation, Inc. and Echo, LLC; and (b) the following entity in which Borrower and Movie Gallery US, LLC, a Guarantor, have an ownership interest as of the Closing Date: Movie Gallery Mexico Inc., S. de R.L. de C.V.

"Increased-Cost Lenders" as defined in Section 2.22.

"Indebtedness", as applied to any Person, means, without duplication, (i) all indebtedness for borrowed money; (ii) that portion of obligations with respect to Capital Leases that is properly classified as a liability on a balance sheet in conformity with GAAP; (iii) notes payable and drafts accepted representing extensions of credit whether or not representing obligations for borrowed money; (iv) any obligation owed for all or any part of the deferred purchase price of property or services (excluding any such obligations incurred under ERISA), which purchase price is (a) due more than six months from the date of incurrence of the obligation in respect thereof or (b) evidenced by a note or similar written instrument; (v) all indebtedness secured by any Lien on any property or asset owned or held by that Person regardless of whether the indebtedness secured thereby shall have been assumed by that Person or is nonrecourse to the credit of that Person; (vi) the face amount of any letter of credit issued for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings; (vii) Disqualified Equity Interests, (viii) the direct or indirect guaranty, endorsement (otherwise than for collection or deposit in the ordinary course of business), co-making, discounting with recourse or sale with recourse by such Person of the obligation of another; (ix) any obligation of such Person the primary purpose or intent of which is to provide assurance to an obligee that the obligation of the obligor thereof will be paid or discharged, or any agreement relating thereto will be complied with, or the holders thereof will be protected (in whole or in part) against loss in respect thereof; (x) any liability of such Person for an obligation of another through any agreement (contingent or otherwise) (a) to purchase, repurchase or otherwise

acquire such obligation or any security therefor, or to provide funds for the payment or discharge of such obligation (whether in the form of loans, advances, stock purchases, capital contributions or otherwise) or (b) to maintain the solvency or any balance sheet item, level of income or financial condition of another if, in the case of any agreement described under subclauses (a) or (b) of this clause (x), the primary purpose or intent thereof is as described in clause (ix) above; and (xi) all obligations of such Person in respect of any exchange traded or over the counter derivative transaction, including any Interest Rate Agreement and Currency Agreement, whether entered into for hedging or speculative purposes; provided, in no event shall obligations under any Interest Rate Agreement and any Currency Agreement be deemed "Indebtedness" for any purpose under Section 6.7.

"Indemnified Liabilities" means, collectively, any and all liabilities, obligations, losses, damages (including natural resource damages), penalties, claims (including Environmental Claims), actions, judgments, suits, costs (including the costs of any investigation, study, sampling, testing, abatement, cleanup, removal, remediation or other response action necessary to remove, remediate, clean up or abate any Hazardous Materials Activity), expenses and disbursements of any kind or nature whatsoever (including the reasonable fees and disbursements of counsel for Indemnitees in connection with any investigative, administrative or judicial proceeding or hearing commenced or threatened by any Person, whether or not any such Indemnitee shall be designated as a party or a potential party thereto (it being agreed that, such counsel fees and expenses shall be limited to one primary counsel, and any additional special and local counsel in each appropriate jurisdiction, for the Indemnitees, except in the case of actual or potential conflicts of interest between or among the Indemnitees), and any fees or expenses incurred by Indemnitees in enforcing this indemnity), whether direct, indirect or consequential and whether based on any federal, state or foreign laws, statutes, rules or regulations (including securities and commercial laws, statutes, rules or regulations and Environmental Laws), on common law or equitable cause or on contract or otherwise, that may be imposed on, incurred by, or asserted against any such Indemnitee, in any manner relating to or arising out of (i) this Agreement or the other Credit Documents or the transactions contemplated hereby or thereby (including the Lenders' agreement to make Credit Extensions and Issuing Bank's agreement to issue Letters of Credit, or the use or intended use of the proceeds thereof, or any enforcement of any of the Credit Documents (including any sale of, collection from, or other realization upon any of the Collateral or the enforcement of the Guaranty)); (ii) the statements contained in the commitment letter delivered by any Lender to Borrower with respect to the transactions contemplated by this Agreement; or (iii) any Environmental Claim or any Hazardous Materials Activity relating to or arising from, directly or indirectly, any past or present activity, operation, land ownership, or practice of Borrower or any of its Subsidiaries.

"Indemnitee" as defined in Section 10.3.

"Initial Revolver Availability" means the lesser of $40,000,000 or such amount that shall be approved pursuant to the Interim DIP Order of the Revolving Commitment that shall be available during the period between the Closing Date and the Full Availability Closing Date.

"Initial Term Loan Availability" means the lesser of $100,000,000 or such amount that shall be approved pursuant to the Interim DIP Order of the Term Loan Commitment

that shall be available during the period between the Closing Date and the Full Availability Closing Date.

"Intellectual Property" as defined in the Pledge and Security Agreement.

"Intellectual Property Asset" means, at the time of determination, any interest (fee, license or otherwise) then owned by any Credit Party in any Intellectual Property.

"Intellectual Property Security Agreements" has the meaning assigned to that term in the Pledge and Security Agreement.

"Intercompany Note" means a promissory note substantially in the form of Exhibit K evidencing Indebtedness owed among the Credit Parties and their Subsidiaries.

"Interest Payment Date" means with respect to (i) any Loan that is a Base Rate Loan, each March 31, June 30, September 30 and December 31 of each year, commencing on the first such date to occur after the Closing Date and the final Maturity Date of such Loan; and (ii) any Loan that is a Eurodollar Rate Loan, the last day of each Interest Period applicable to such Loan; provided, in the case of each Interest Period of longer than three months "Interest Payment Date" shall also include each date that is three months, or an integral multiple thereof, after the commencement of such Interest Period.

"Interest Period" means, in connection with a Eurodollar Rate Loan, an interest period of one-, two-, three- or six-months, as selected by Borrower in the applicable Funding Notice or Conversion/Continuation Notice, (i) initially, commencing on the Credit Date or Conversion/Continuation Date thereof, as the case may be; and (ii) thereafter, commencing on the day on which the immediately preceding Interest Period expires; provided, (a) if an Interest Period would otherwise expire on a day that is not a Business Day, such Interest Period shall expire on the next succeeding Business Day unless no further Business Day occurs in such month, in which case such Interest Period shall expire on the immediately preceding Business Day; (b) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall, subject to clauses (c) and (d), of this definition, end on the last Business Day of a calendar month; (c) no Interest Period with respect to any portion of the Term Loans shall extend beyond the Term Loan Maturity Date; and (d) no Interest Period with respect to any portion of the Revolving Loans shall extend beyond the Revolving Commitment Termination Date.

"Interest Rate Agreement" means any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedging agreement or other similar agreement or arrangement, each of which is for the purpose of hedging the interest rate exposure associated with Borrower's and its Subsidiaries' operations and not for speculative purposes.

"Interest Rate Determination Date" means, with respect to any Interest Period, the date that is two Business Days prior to the first day of such Interest Period.

"Interim DIP Order" means an order, in substantially the form of Exhibit L and otherwise in form and substance satisfactory to Arranger, entered by the Bankruptcy Court approving this Agreement and the other Credit Documents.

"Interim DIP Order Entry Date" means the date on which the Bankruptcy Court enters the Interim Date Order.

"Internal Revenue Code" means the Internal Revenue Code of 1986, as amended to the date hereof and from time to time hereafter, and any successor statute.

"Investment" means (i) any direct or indirect purchase or other acquisition by Borrower or any of its Subsidiaries of, or of a beneficial interest in, any of the Securities of any other Person (other than a Guarantor Subsidiary); (ii) any direct or indirect redemption, retirement, purchase or other acquisition for value, by any Subsidiary of Borrower from any Person (other than Borrower or any Guarantor Subsidiary), of any Equity Interests of such Person; and (iii) any direct or indirect loan, advance (other than advances to employees for moving, entertainment and travel expenses, drawing accounts and similar expenditures in the ordinary course of business) or capital contributions by Borrower or any of its Subsidiaries to any other Person (other than Borrower or any Guarantor Subsidiary), including all indebtedness and accounts receivable from that other Person that are not current assets or did not arise from sales to that other Person in the ordinary course of business. The amount of any Investment shall be the original cost of such Investment plus the cost of all additions thereto, without any adjustments for increases or decreases in value, or write-ups, write-downs or write-offs with respect to such Investment.

"Issuance Notice" means an Issuance Notice substantially in the form of Exhibit A-3.

"Issuing Bank" means Wachovia Bank, National Association as Issuing Bank hereunder with respect to Letters of Credit, together with its permitted successors and assigns in such capacity.

"Joint Venture" means a joint venture, partnership or other similar arrangement, whether in corporate, partnership or other legal form; provided, in no event shall any corporate Subsidiary of any Person be considered to be a Joint Venture to which such Person is a party.

"Kiosk Program" means the installation of movie rental kiosks in various retail and other locations.

"Landlord Personal Property Collateral Access Agreement" means a Landlord Waiver and Consent Agreement substantially in the form of Exhibit J with such amendments or modifications as may be approved by Syndication Agent and Collateral Agent.

"Leasehold Property" means any leasehold interest of any Credit Party as lessee under any lease of real property, other than any such leasehold interest designated from time to time by Syndication Agent and Collateral Agent in their sole discretion as not being required to be included in the Collateral.

"Lender" means each financial institution listed on the signature pages hereto as a Lender, and any other Person that becomes a party hereto pursuant to an Assignment Agreement.

"Letter of Credit" means a commercial or standby letter of credit issued or to be issued by Issuing Bank under the Revolving Commitment pursuant to this Agreement.

"Letter of Credit Sublimit" means the lesser of (i) $7,500,000 and (ii) the aggregate unused amount of the Revolving Commitments then in effect.

"Letter of Credit Usage" means, as at any date of determination, the sum of (i) the maximum aggregate amount which is, or at any time thereafter may become, available for drawing under all Letters of Credit then outstanding, and (ii) the aggregate amount of all drawings under Letters of Credit honored by Issuing Bank and not theretofore reimbursed by or on behalf of Borrower.

"Lien" means (i) any lien, mortgage, pledge, assignment, security interest, charge or encumbrance of any kind (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, and any lease or license in the nature thereof) and any option, trust or other preferential arrangement having the practical effect of any of the foregoing and (ii) in the case of Securities, any purchase option, call or similar right of a third party with respect to such Securities.

"Loan" means a Term Loan and a Revolving Loan.

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

"Material Adverse Effect" means a material adverse effect on and/or material adverse developments with respect to (i) the business, operations, properties, assets or condition (financial or otherwise) or prospects of Borrower and its Subsidiaries taken as a whole; (ii) the ability of any Credit Party to fully and timely perform its Obligations; (iii) the legality, validity, binding effect or enforceability against a Credit Party of a Credit Document to which it is a party; or (iv) the rights, remedies and benefits available to, or conferred upon, any Agent and any Lender or any Secured Party under any Credit Document; provided, that (A) no Disclosed Matter shall constitute a Material Adverse Effect, (B) the commencement of the Cases, and any defaults under agreements as a result of the commencement thereof so long as the exercise of remedies as a result of such defaults are stayed under the Bankruptcy Code, shall not be the basis of a Material Adverse Effect, (C) the occurrence of any matters described on Schedule 4.7 hereto shall not constitute a Material Adverse Effect and (D) the Store Rationalization Program (as at any time amended in accordance with this Agreement) shall not be the basis of a Material Adverse Effect (it being understood that, to the extent consequences or developments resulting from the Store Rationalization Program (as at any time amended in accordance with this Agreement) prove to be, or shall become, materially more adverse to Borrower and its Subsidiaries taken as a whole or to the Lenders than would have reasonably appeared on the basis of the disclosure contained in the Store Rationalization Program (as at any time amended in

accordance with this Agreement), such consequences or developments may be the basis of a Material Adverse Effect).

"Material Contract" means any contract or other arrangement to which Borrower or any of its Subsidiaries is a party (other than the Credit Documents) for which breach, nonperformance, cancellation or failure to renew could reasonably be expected to have a Material Adverse Effect.

"Maturity Date" means the earlier of (i) September 30, 2008, (ii) the effective date of a Chapter 11 plan of reorganization or liquidation confirmed in the Cases by the Bankruptcy Court and (iii) the date that all Loans shall become due and payable in full hereunder, whether by acceleration or otherwise.

"Moody's" means Moody's Investor Services, Inc.

"Mortgage" means a Mortgage substantially in the form of Exhibit I, as it may be amended, supplemented or otherwise modified from time to time.

"Movie Gallery Canada" means Movie Gallery Canada, Inc., a wholly-owned Subsidiary of Borrower organized under the laws of the Province of New Brunswick.

"Multiemployer Plan" means any Employee Benefit Plan which is a "multiemployer plan" as defined in Section 3(37) of ERISA.

"NAIC" means The National Association of Insurance Commissioners, and any successor thereto.

"Narrative Report" means, (a) with respect to the financial statements delivered pursuant to Section 5.1(b) and Section 5.1(c), a narrative report describing the operations of Borrower and its Subsidiaries which report meets the requirements of Item 303 of Regulation S-K promulgated under the Securities Act for the applicable Fiscal Quarter or Fiscal Year and for the period from the beginning of the then current Fiscal Year to the end of such period to which such financial statements relate, and (b) with respect to the financial statements delivered pursuant to Section 5.1(a), a narrative report prepared on a basis consistent with, and setting forth the same types of information as set forth in, the monthly financial statement reporting package delivered to Administrative Agent and Arranger prior to the Closing Date.

"Net Asset Sale Proceeds" means, with respect to any Asset Sale, an amount equal to: (i) Cash payments (including any Cash received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received) received by Borrower or any of its Subsidiaries from such Asset Sale, minus (ii) any bona fide direct costs incurred in connection with such Asset Sale, including (a) income or gains taxes payable by the seller as a result of any gain recognized in connection with such Asset Sale, (b) payment of the outstanding principal amount of, premium or penalty, if any, and interest on any Indebtedness (other than the Loans) that is secured by a perfected and nonavoidable Lien on the stock or assets in question that is senior to the Liens on such stock or assets held by the Collateral Agent and the Secured Parties and that is required to be repaid under the terms thereof and by the Bankruptcy Court as a result of such Asset Sale and (c) a reasonable reserve

acceptable to Syndication Agent for any indemnification payments (fixed or contingent) attributable to seller's indemnities and representations and warranties to purchaser in respect of such Asset Sale undertaken by Borrower or any of its Subsidiaries in connection with such Asset Sale.

"Net Insurance/Condemnation Proceeds" means an amount equal to: (i) any Cash payments or proceeds received by Borrower or any of its Subsidiaries (a) under any casualty insurance policy in respect of a covered loss thereunder or (b) as a result of the taking of any assets of Borrower or any of its Subsidiaries by any Person pursuant to the power of eminent domain, condemnation or otherwise, or pursuant to a sale of any such assets to a purchaser with such power under threat of such a taking, minus (ii) (a) any actual and reasonable costs incurred by Borrower or any of its Subsidiaries in connection with the adjustment or settlement of any claims of Borrower or such Subsidiary in respect thereof, and (b) any bona fide reasonable direct costs incurred in connection with any sale of such assets as referred to in clause (i)(b) of this definition, including income taxes payable as a result of any gain recognized in connection therewith.

"Nonpublic Information" means information which has not been disseminated in a manner making it available to investors generally, within the meaning of Regulation FD.

"Non-Core Assets" means the following assets of the Borrower and its Subsidiaries which are not essential or material to the conduct of the businesses of the Borrower and its Subsidiaries: (i) the corporate aircraft of the Borrower and its Subsidiaries, (ii) the "Reel.com" assets, (iii) the "Rack Division" assets, (iv) the iBlast division assets, (v) the assets and/or Equity Interests of MG Automation, Inc. and MG Digital, Inc. and (vi) other assets which are not essential or material to the conduct of the businesses of the Borrower and its Subsidiaries to the extent that the value of each such asset, individually, does not exceed $100,000, and the value of all such assets, in the aggregate, does not exceed $2,500,000.

"Non-US Lender" as defined in Section 2.19(c).

"Note" means a Term Loan Note, a Revolving Loan Note or a Swing Line Note.

"Notice" means a Funding Notice, an Issuance Notice, or a Conversion/ Continuation Notice.

"Obligations" means all obligations of every nature of each Credit Party, including obligations from time to time owed to the Agents (including former Agents), Arranger and the Lenders or any of them, under any Credit Document, whether for principal, interest, reimbursement of amounts drawn under Letters of Credit, fees, expenses, indemnification or otherwise.

"Obligee Guarantor" as defined in Section 7.6.

"Organizational Documents" means (i) with respect to any corporation, its certificate or articles of incorporation or organization, as amended, and its by-laws, as amended, (ii) with respect to any limited partnership, its certificate of limited partnership, as amended, and its partnership agreement, as amended, (iii) with respect to any general partnership, its

partnership agreement, as amended, and (iv) with respect to any limited liability company, its articles of organization, as amended, and its operating agreement, as amended. In the event any term or condition of this Agreement or any other Credit Document requires any Organizational Document to be certified by a secretary of state or similar governmental official, the reference to any such "Organizational Document" shall only be to a document of a type customarily certified by such governmental official.

"Patriot Act" as defined in Section 3.1(o).

"PBGC" means the Pension Benefit Guaranty Corporation or any successor thereto.

"Pension Plan" means any Employee Benefit Plan, other than a Multiemployer Plan, which is subject to Section 412 of the Internal Revenue Code or Section 302 of ERISA.

"Permitted Liens" means each of the Liens permitted pursuant to Section 6.2.

"Person" means and includes natural persons, corporations, limited partnerships, general partnerships, limited liability companies, limited liability partnerships, joint stock companies, Joint Ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts or other organizations, whether or not legal entities, and Governmental Authorities.

"Petition Date" has the meaning specified in the recitals to this Agreement.

"Platform" as defined in Section 5.1(q).

"Pledge and Security Agreement" means the Pledge and Security Agreement to be executed by Borrower and each Guarantor substantially in the form of Exhibit H, as it may be amended, supplemented or otherwise modified from time to time.

"Prepetition Indebtedness" means all Indebtedness and any other obligations of any of Credit Parties outstanding on the Petition Date immediately prior to the filing of the Cases.

"Prime Rate" means the rate of interest quoted in *The Wall Street Journal*, Money Rates Section as the Prime Rate (currently defined as the base rate on corporate loans posted by at least 75% of the nation's thirty (30) largest banks), as in effect from time to time. The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to any customer. Agent or any other Lender may make commercial loans or other loans at rates of interest at, above or below the Prime Rate.

"Principal Office" means, for each of Administrative Agent, Swing Line Lender and Issuing Bank, such Person's "Principal Office" as set forth on Appendix B, or such other office or office of a third party or sub-agent, as appropriate, as such Person may from time to time designate in writing to Borrower, Administrative Agent and each Lender.

"Pro Rata Share" means (i) with respect to all payments, computations and other matters relating to the Term Loan of any Lender, the percentage obtained by dividing (a) the Term Loan Exposure of that Lender by (b) the aggregate Term Loan Exposure of all Lenders; and (ii) with respect to all payments, computations and other matters relating to the Revolving Commitment or Revolving Loans of any Lender or any Letters of Credit issued or participations purchased therein by any Lender or any participations in Swing Line Loans purchased therein by any Lender, the percentage obtained by dividing (a) the Revolving Exposure of that Lender by (b) the aggregate Revolving Exposure of all Lenders. For all other purposes with respect to each Lender, "Pro Rata Share" means the percentage obtained by dividing (A) an amount equal to the sum of the Term Loan Exposure and the Revolving Exposure of that Lender, by (B) an amount equal to the sum of the aggregate Term Loan Exposure and the aggregate Revolving Exposure of all Lenders.

"Professionals" as defined in the definition of "Carve-Out" in this Section 1.1.

"Real Estate Asset" means, at any time of determination, any interest (fee, leasehold or otherwise) then owned by any Credit Party in any real property.

"Refunded Swing Line Loans" as defined in Section 2.3(b)(iv).

"Register" as defined in Section 2.7(b).

"Regulation D" means Regulation D of the Board of Governors, as in effect from time to time.

"Regulation FD" means Regulation FD as promulgated by the US Securities and Exchange Commission under the Securities Act and Exchange Act as in effect from time to time.

"Reimbursement Date" as defined in Section 2.4(d).

"Related Fund" means, with respect to any Lender that is an investment fund, any other investment fund that invests in commercial loans and that is managed or advised by the same investment advisor as such Lender or by an Affiliate of such investment advisor.

"Release" means any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal, dumping, leaching or migration of any Hazardous Material into the indoor or outdoor environment (including the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Material), including the movement of any Hazardous Material through the air, soil, surface water or groundwater.

"Rental Items" means video cassette tapes, digital versatile disc (DVD) or video discs (regardless of format), video games, audiotapes and related equipment to the extent that such items were acquired by Borrower or any of its Subsidiaries for sale or rental to their customers or are held by Borrower or such Subsidiary for sale or rental to their customers.

"Replacement Lender" as defined in Section 2.22.

"Requisite Lenders" means one or more Lenders having or holding Term Loan Exposure and/or Revolving Exposure and representing more than 50% of the sum of (i) the aggregate Term Loan Exposure of all Lenders and (ii) the aggregate Revolving Exposure of all Lenders.

"Restricted Junior Payment" means (i) any dividend or other distribution, direct or indirect, on account of any shares of any class of stock of Borrower now or hereafter outstanding, except a dividend payable solely in shares of that class of stock to the holders of that class; (ii) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any shares of any class of stock of Borrower now or hereafter outstanding; (iii) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any class of stock of Borrower now or hereafter outstanding; and (iv) any payment or prepayment of principal of, premium, if any, or interest on, or redemption, purchase, retirement, defeasance (including in-substance or legal defeasance), sinking fund or similar payment, or any other payment (other than principal or interest), with respect to any Indebtedness which is subordinated in right of payment to the Obligations.

"Revolving Commitment" means the commitment of a Lender to make or otherwise fund any Revolving Loan and to acquire participations in Letters of Credit and Swing Line Loans hereunder and "Revolving Commitments" means such commitments of all Lenders in the aggregate. The amount of each Lender's Revolving Commitment, if any, is set forth on Appendix A-2 or in the applicable Assignment Agreement, subject to any adjustment or reduction pursuant to the terms and conditions hereof. The aggregate amount of the Revolving Commitments as of the Closing Date is $50,000,000.

"Revolving Commitment Period" means the period from the Closing Date to but excluding the Revolving Commitment Termination Date.

"Revolving Commitment Termination Date" means the earliest to occur of (i) the date the Revolving Commitments are permanently reduced to zero pursuant to Section 2.12(b) or 2.13, (ii) the date of the termination of the Revolving Commitments pursuant to Section 8.1, and (iii) the Maturity Date.

"Revolving Exposure" means, with respect to any Lender as of any date of determination, (i) prior to the termination of the Revolving Commitments, that Lender's Revolving Commitment; and (ii) after the termination of the Revolving Commitments, the sum of (a) the aggregate outstanding principal amount of the Revolving Loans of that Lender, (b) in the case of Issuing Bank, the aggregate Letter of Credit Usage in respect of all Letters of Credit issued by that Lender (net of any participations by Lenders in such Letters of Credit), (c) the aggregate amount of all participations by that Lender in any outstanding Letters of Credit or any unreimbursed drawing under any Letter of Credit, (d) in the case of Swing Line Lender, the aggregate outstanding principal amount of all Swing Line Loans (net of any participations therein by other Lenders), and (e) the aggregate amount of all participations therein by that Lender in any outstanding Swing Line Loans.

"Revolving Loan" means a Loan made by a Lender to Borrower pursuant to Section 2.2(a).

"Revolving Loan Note" means a promissory note in the form of Exhibit B-2, as it may be amended, supplemented or otherwise modified from time to time.

"S&P" means Standard & Poor's Ratings Group, a division of The McGraw Hill Corporation.

"Secured Leverage Ratio" means the ratio as of the last day of any fiscal month of (i) Total Secured Debt as of such day to (ii) Consolidated Adjusted EBITDA for the immediately preceding twelve-fiscal month period ending on such date.

"Secured Parties" has the meaning assigned to that term in the Pledge and Security Agreement.

"Securities" means any stock, shares, partnership interests, voting trust certificates, certificates of interest or participation in any profit-sharing agreement or arrangement, options, warrants, bonds, debentures, notes, or other evidences of indebtedness, secured or unsecured, convertible, subordinated or otherwise, or in general any instruments commonly known as "securities" or any certificates of interest, shares or participations in temporary or interim certificates for the purchase or acquisition of, or any right to subscribe to, purchase or acquire, any of the foregoing.

"Securities Act" means the Securities Act of 1933, as amended from time to time, and any successor statute.

"Senior Notes" means Borrower's 11% Senior Notes due 2012 and Hollywood Entertainment Corporation's 9.625% Senior Subordinated Notes due 2011.

"Store Rationalization Program" means the store rationalization plans submitted by Borrower to Arranger on October 4, 2007, as such plans may be amended, supplemented or otherwise modified from time to time (x) to the extent such amendments, supplements or other modifications do not, in the aggregate, result in a plan or plans that contemplate the closure of 110% of the stores originally contemplated to be closed pursuant to the store rationalization plans submitted by Borrower to Arranger on October 4, 2007 or (y) with the consent of the Requisite Lenders.

"Subject Transaction" as defined in Section 6.7(e).

"Subsidiary" means, with respect to any Person, any corporation, partnership, limited liability company, association, joint venture or other business entity of which more than 50% of the total voting power of shares of stock or other ownership interests entitled (without regard to the occurrence of any contingency) to vote in the election of the Person or Persons (whether directors, managers, trustees or other Persons performing similar functions) having the power to direct or cause the direction of the management and policies thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof; provided, in determining the percentage of

ownership interests of any Person controlled by another Person, no ownership interest in the nature of a "qualifying share" of the former Person shall be deemed to be outstanding.

"Swing Line Lender" means GSCP in its capacity as Swing Line Lender hereunder, together with its permitted successors and assigns in such capacity, which assignee or replacement Swing Line Lender shall be reasonably acceptable to Issuing Bank if Wachovia Bank, National Association is then the Issuing Bank.

"Swing Line Loan" means a Loan made by Swing Line Lender to Borrower pursuant to Section 2.3.

"Swing Line Note" means a promissory note in the form of Exhibit B-3, as it may be amended, supplemented or otherwise modified from time to time.

"Swing Line Sublimit" means (i) the lesser of (A) $20,000,000 and (B) the aggregate unused amount of Revolving Commitments then in effect, minus (ii) the amount of the Letter of Credit Usage (except that (A) Revolving Loans made for the purpose of reimbursing Issuing Bank for any amount drawn under any Letter of Credit, but not yet so applied, and (B) Swing Line Loans made for the purpose of reimbursing Issuing Bank for any amount drawn under any Letter of Credit, but not yet so applied, shall, in each case, be deemed to reduce the amount Letter of Credit Usage solely for purposes of calculating the amount of the Swing Line Sublimit in order to ensure that such Revolving Loans or Swing Line Loans are available within the Swing Line Sublimit to be made to so reimburse Issuing Bank) plus the unpaid amount of interest, fees and costs related to the outstanding Letters of Credit.

"Syndication Agent" as defined in the preamble hereto.

"Tax" means any present or future tax, levy, impost, duty, assessment, charge, fee, deduction or withholding of any nature and whatever called, by whomsoever, on whomsoever and wherever imposed, levied, collected, withheld or assessed; provided, "Tax on the overall net income" of a Person shall be construed as a reference to a tax imposed by the jurisdiction in which that Person is organized or in which that Person's applicable principal office (and/or, in the case of a Lender, its lending office) is located or in which that Person (and/or, in the case of a Lender, its lending office) is deemed to be doing business on all or part of the net income, profits or gains (whether worldwide, or only insofar as such income, profits or gains are considered to arise in or to relate to a particular jurisdiction, or otherwise) of that Person (and/or, in the case of a Lender, its applicable lending office).

"Term Loan" means a Term Loan made by a Lender to Borrower pursuant to Section 2.1(a).

"Term Loan Commitment" means the commitment of a Lender to make or otherwise fund a Term Loan and "Term Loan Commitments" means such commitments of all Lenders in the aggregate. The amount of each Lender's Term Loan Commitment, if any, is set forth on Appendix A-1 or in the applicable Assignment Agreement, subject to any adjustment or reduction pursuant to the terms and conditions hereof. The aggregate amount of the Term Loan Commitments as of the Closing Date is $100,000,000.

"Term Loan Exposure" means, with respect to any Lender, as of any date of determination, the outstanding principal amount of the Term Loans of such Lender; provided, at any time prior to the making of the Term Loans, the Term Loan Exposure of any Lender shall be equal to such Lender's Term Loan Commitment.

"Term Loan Maturity Date" means the Maturity Date.

"Term Loan Note" means a promissory note in the form of Exhibit B-1, as it may be amended, supplemented or otherwise modified from time to time.

"Terminated Lender" as defined in Section 2.22.

"Total Secured Debt" means, as at any date of determination, Indebtedness with respect to Loans plus Letter of Credit Usage (only to the extent drawn and not reimbursed) plus the Existing First Lien Indebtedness plus the Existing Second Lien Indebtedness plus any other Indebtedness of Borrower and any of its Subsidiaries secured by a Lien.

"Total Utilization of Revolving Commitments" means, as at any date of determination, the sum of (i) the aggregate principal amount of all outstanding Revolving Loans (other than (A) Revolving Loans made for the purpose of repaying any Refunded Swing Line Loans or reimbursing Issuing Bank for any amount drawn under any Letter of Credit, but not yet so applied and (B) Swing Line Loans made for the purpose of reimbursing Issuing Bank for any amount drawn under any Letter of Credit, but not yet so applied), (ii) the aggregate principal amount of all outstanding Swing Line Loans and (iii) the Letter of Credit Usage.

"Transaction Costs" means the fees, costs and expenses incurred by Borrower or any Subsidiaries of Borrower on or before the Closing Date in connection with the transactions contemplated by the Credit Documents.

"Type of Loan" means (i) with respect to either Term Loans or Revolving Loans, a Base Rate Loan or a Eurodollar Rate Loan, and (ii) with respect to Swing Line Loans, a Base Rate Loan.

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

"**U.S. Lender**" as defined in Section 2.19(c).

1.2. Accounting Terms Except as otherwise expressly provided herein, all accounting terms not otherwise defined herein shall have the meanings assigned to them in conformity with GAAP. Financial statements and other information required to be delivered by Borrower to Lenders pursuant to Section 5.1(b) and 5.1(c) shall be prepared in accordance with GAAP as in effect at the time of such preparation (and delivered together with the reconciliation statements provided for in Section 5.1(f), if applicable). Subject to the foregoing, calculations in connection with the definitions, covenants and other provisions hereof shall utilize accounting principles and policies in conformity with those used to prepare the Historical Financial Statements. If at any time any change in GAAP (or a change in the application of the policies thereof) would affect the computation of any financial ratio or requirement set forth in any Credit

Document, and Borrower or Requisite Lenders shall so request, Syndication Agent, Requisite Lenders and Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of Requisite Lenders), provided that, until so amended, such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and Borrower shall provide to Administrative Agent, Syndication Agent and Lenders reconciliation statements provided for in Section 5.1(f).

1.3. Interpretation, etc. Any of the terms defined herein may, unless the context otherwise requires, be used in the singular or the plural, depending on the reference. References herein to any Section, Appendix, Schedule or Exhibit shall be to a Section, an Appendix, a Schedule or an Exhibit, as the case may be, hereof unless otherwise specifically provided. The use herein of the word "include" or "including", when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter. The terms lease and license shall include sub-lease and sub-license, as applicable.

SECTION 2. LOANS AND LETTERS OF CREDIT

2.1. Term Loans.

(a) Loan Commitments. Subject to the terms and conditions hereof, each Lender severally agrees to make Loans to Borrower in an amount equal to such Lender's Term Loan Commitment. Borrower may make only one borrowing under the Term Loan Commitment on the Closing Date in the amount of the Initial Term Loan Availability and one borrowing for the balance of the Term Loan Commitment (if any) on the Full Availability Closing Date. Any amount borrowed under this Section 2.1(a) and subsequently repaid or prepaid may not be reborrowed. Subject to Sections 2.12(a) and 2.13, all amounts owed hereunder with respect to the Term Loans shall be paid in full no later than the Term Loan Maturity Date. Each Lender's Term Loan Commitment shall terminate immediately and without further action on the Full Availability Closing Date after giving effect to the funding of such Lender's Term Loan Commitment.

(b) Borrowing Mechanics for Term Loans.

(i) Borrower shall deliver to Administrative Agent a fully executed Funding Notice no later than (i) one day prior to the Full Availability Closing Date for Base Rate Loans, and (ii) three days prior to the Full Availability Closing Date for Eurodollar Rate Loans. Promptly upon receipt by Administrative Agent of such Funding Notice, Administrative Agent shall notify each Lender of the proposed borrowing.

(ii) Each Lender shall make its Term Loan available to Administrative Agent not later than 12:00 p.m. (New York City time) on the Full Availability Closing

Date, by wire transfer of same day funds in Dollars, at the Principal Office designated by Administrative Agent. Upon satisfaction or waiver of the conditions precedent specified herein, Administrative Agent shall make the proceeds of the Term Loans available to Borrower on the Full Availability Closing Date by causing an amount of same day funds in Dollars equal to the proceeds of all such Loans received by Administrative Agent from Lenders to be credited to the account of Borrower at the Principal Office designated by Administrative Agent or to such other account as may be designated in writing to Administrative Agent by Borrower.

2.2. Revolving Loans.

(a) Revolving Commitments. During the Revolving Commitment Period, subject to the terms and conditions hereof, each Lender severally agrees to make Revolving Loans to Borrower in an aggregate amount up to but not exceeding such Lender's Revolving Commitment; provided, that after giving effect to the making of any Revolving Loans in no event shall the Total Utilization of Revolving Commitments exceed (i) the Revolving Commitments then in effect and (ii) on or prior to the Full Availability Closing Date, the Initial Revolver Availability. Amounts borrowed pursuant to this Section 2.2(a) may be repaid and reborrowed during the Revolving Commitment Period. Each Lender's Revolving Commitment shall expire on the Revolving Commitment Termination Date and all Revolving Loans and all other amounts owed hereunder with respect to the Revolving Loans and the Revolving Commitments shall be paid in full no later than such date.

(b) Borrowing Mechanics for Revolving Loans.

(i) Except pursuant to Section 2.4(d), Revolving Loans that are Base Rate Loans shall be made in an aggregate minimum amount of $1,000,000 and integral multiples of $1,000,000 in excess of that amount, and Revolving Loans that are Eurodollar Rate Loans shall be in an aggregate minimum amount of $1,000,000 and integral multiples of $1,000,000 in excess of that amount.

(ii) Whenever Borrower desires that Lenders make Revolving Loans, Borrower shall deliver to Administrative Agent a fully executed and delivered Funding Notice no later than 10:00 a.m. (New York City time) at least three Business Days in advance of the proposed Credit Date in the case of a Eurodollar Rate Loan, and at least one Business Day in advance of the proposed Credit Date in the case of a Revolving Loan that is a Base Rate Loan. Except as otherwise provided herein, a Funding Notice for a Revolving Loan that is a Eurodollar Rate Loan shall be irrevocable on and after the related Interest Rate Determination Date, and Borrower shall be bound to make a borrowing in accordance therewith.

(iii) Notice of receipt of each Funding Notice in respect of Revolving Loans, together with the amount of each Lender's Pro Rata Share thereof, if any, together with the applicable interest rate, shall be provided by Administrative Agent to each applicable Lender by telefacsimile with reasonable promptness, but (provided Administrative Agent shall have received such notice by 10:00 a.m. (New York City

time)) not later than 2:00 p.m. (New York City time) on the same day as Administrative Agent's receipt of such Notice from Borrower.

(iv) Each Lender shall make the amount of its Revolving Loan available to Administrative Agent not later than 12:00 p.m. (New York City time) on the applicable Credit Date by wire transfer of same day funds in Dollars, at the Principal Office designated by Administrative Agent. Except as provided herein, upon satisfaction or waiver of the conditions precedent specified herein, Administrative Agent shall make the proceeds of such Revolving Loans available to Borrower on the applicable Credit Date by causing an amount of same day funds in Dollars equal to the proceeds of all such Revolving Loans received by Administrative Agent from Lenders to be credited to the account of Borrower at the Principal Office designated by Administrative Agent or such other account as may be designated in writing to Administrative Agent by Borrower.

2.3. Swing Line Loans.

(a) Swing Line Loans Commitments. During the Revolving Commitment Period, subject to the terms and conditions hereof, Swing Line Lender hereby agrees to make Swing Line Loans to Borrower in the aggregate amount up to but not exceeding the Swing Line Sublimit; provided, that after giving effect to the making of any Swing Line Loan, in no event shall the Total Utilization of Revolving Commitments exceed (i) the Revolving Commitments then in effect and (ii) on or prior to the Full Availability Closing Date, the Initial Revolver Availability. Amounts borrowed pursuant to this Section 2.3 may be repaid and reborrowed during the Revolving Commitment Period. Swing Line Lender's Revolving Commitment shall expire on the Revolving Commitment Termination Date and all Swing Line Loans and all other amounts owed hereunder with respect to the Swing Line Loans and the Revolving Commitments shall be paid in full no later than such date.

(b) Borrowing Mechanics for Swing Line Loans.

(i) Swing Line Loans shall be made in an aggregate minimum amount of $500,000 and integral multiples of $100,000 in excess of that amount.

(ii) Whenever Borrower desires that Swing Line Lender make a Swing Line Loan, Borrower shall deliver to Administrative Agent a Funding Notice no later than 1:00 p.m. (New York City time) on the proposed Credit Date.

(iii) Swing Line Lender shall make the amount of its Swing Line Loan available to Administrative Agent not later than 2:00 p.m.(New York City time) on the applicable Credit Date by wire transfer of same day funds in Dollars, at Administrative Agent's Principal Office. Except as provided herein, upon satisfaction or waiver of the conditions precedent specified herein, Administrative Agent shall make the proceeds of such Swing Line Loans available to Borrower on the applicable Credit Date by causing an amount of same day funds in Dollars equal to the proceeds of all such Swing Line Loans received by Administrative Agent from Swing Line Lender to be credited to the account of Borrower at Administrative Agent's Principal Office, or to such other account as may be designated in writing to Administrative Agent by Borrower.

(iv) With respect to any Swing Line Loans which have not been voluntarily prepaid by Borrower pursuant to Section 2.12, Swing Line Lender may at any time in its sole and absolute discretion, deliver to Administrative Agent (with a copy to Borrower), no later than 11:00 a.m. (New York City time) at least one Business Day in advance of the proposed Credit Date, a notice (which shall be deemed to be a Funding Notice given by Borrower, but Borrower shall not be deemed to have made any representations and warranties in connection with such deemed Funding Notice) requesting that each Lender holding a Revolving Commitment make Revolving Loans that are Base Rate Loans to Borrower on such Credit Date in an amount equal to the amount of such Swing Line Loans (the **"Refunded Swing Line Loans"**) outstanding on the date such notice is given which Swing Line Lender requests Lenders to prepay. Anything contained in this Agreement to the contrary notwithstanding, (1) the proceeds of such Revolving Loans made by the Lenders other than Swing Line Lender shall be immediately delivered by Administrative Agent to Swing Line Lender (and not to Borrower) and applied to repay a corresponding portion of the Refunded Swing Line Loans and (2) on the day such Revolving Loans are made, Swing Line Lender's Pro Rata Share of the Refunded Swing Line Loans shall be deemed to be paid with the proceeds of a Revolving Loan made by Swing Line Lender to Borrower, and such portion of the Swing Line Loans deemed to be so paid shall no longer be outstanding as Swing Line Loans and shall no longer be due under the Swing Line Note of Swing Line Lender but shall instead constitute part of Swing Line Lender's outstanding Revolving Loans to Borrower and shall be due under the Revolving Loan Note issued by Borrower to Swing Line Lender. Borrower hereby authorizes Administrative Agent and Swing Line Lender to charge Borrower's accounts with Administrative Agent and Swing Line Lender (up to the amount available in each such account) in order to immediately pay Swing Line Lender the amount of the Refunded Swing Line Loans to the extent the proceeds of such Revolving Loans made by Lenders, including the Revolving Loans deemed to be made by Swing Line Lender, are not sufficient to repay in full the Refunded Swing Line Loans. If any portion of any such amount paid (or deemed to be paid) to Swing Line Lender should be recovered by or on behalf of Borrower from Swing Line Lender in bankruptcy, by assignment for the benefit of creditors or otherwise, the loss of the amount so recovered shall be ratably shared among all Lenders in the manner contemplated by Section 2.16.

(v) If for any reason Revolving Loans are not made pursuant to Section 2.3(b)(iv) in an amount sufficient to repay any amounts owed to Swing Line Lender in respect of any outstanding Swing Line Loans on or before the third Business Day after demand for payment thereof by Swing Line Lender, each Lender holding a Revolving Commitment shall be deemed to, and hereby agrees to, have purchased a participation in such outstanding Swing Line Loans, and in an amount equal to its Pro Rata Share of the applicable unpaid amount together with accrued interest thereon. Upon one Business Day's notice from Swing Line Lender, each Lender holding a Revolving Commitment shall deliver to Swing Line Lender an amount equal to its respective participation in the applicable unpaid amount in same day funds at the Principal Office of Swing Line Lender. In order to evidence such participation each Lender holding a Revolving Commitment agrees to enter into a participation agreement at the request of Swing Line Lender in form and substance reasonably satisfactory to Swing Line Lender. In the event

any Lender holding a Revolving Commitment fails to make available to Swing Line Lender the amount of such Lender's participation as provided in this paragraph, Swing Line Lender shall be entitled to recover such amount on demand from such Lender together with interest thereon for three Business Days at the rate customarily used by Swing Line Lender for the correction of errors among banks and thereafter at the Base Rate, as applicable.

(vi) Notwithstanding anything contained herein to the contrary, (1) each Lender's obligation to make Revolving Loans for the purpose of repaying any Refunded Swing Line Loans pursuant to the second preceding paragraph and each Lender's obligation to purchase a participation in any unpaid Swing Line Loans pursuant to the immediately preceding paragraph shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any set off, counterclaim, recoupment, defense or other right which such Lender may have against Swing Line Lender, any Credit Party or any other Person for any reason whatsoever; (B) the occurrence or continuation of a Default or Event of Default; (C) any adverse change in the business, operations, properties, assets, condition (financial or otherwise) or prospects of any Credit Party; (D) any breach of this Agreement or any other Credit Document by any party thereto; or (E) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing; provided that such obligations of each Lender are subject to the condition that Swing Line Lender believed in good faith that all conditions under Sections 3.2 and 3.3 to the making of the applicable Refunded Swing Line Loans or other unpaid Swing Line Loans, were satisfied at the time such Refunded Swing Line Loans or unpaid Swing Line Loans were made, or the satisfaction of any such condition not satisfied had been waived by the Requisite Lenders prior to or at the time such Refunded Swing Line Loans or other unpaid Swing Line Loans were made; and (2) Swing Line Lender shall not be obligated to make any Swing Line Loans (A) if it has elected not to do so after the occurrence and during the continuation of a Default or Event of Default or (B) at a time when a Funding Default exists unless Swing Line Lender has entered into arrangements satisfactory to it and Borrower to eliminate Swing Line Lender's risk with respect to the Defaulting Lender's participation in such Swing Ling Loan, including by cash collateralizing such Defaulting Lender's Pro Rata Share of the outstanding Swing Line Loans.

2.4. Issuance of Letters of Credit and Purchase of Participations Therein.

(a) Letters of Credit. During the Revolving Commitment Period, subject to the terms and conditions hereof, Issuing Bank agrees to issue Letters of Credit for the account of Borrower in the aggregate amount up to but not exceeding the Letter of Credit Sublimit; provided, (i) each Letter of Credit shall be denominated in Dollars; (ii) the stated amount of each Letter of Credit shall not be less than $50,000 or such lesser amount as is acceptable to Issuing Bank; (iii) after giving effect to such issuance, in no event shall the Total Utilization of Revolving Commitments exceed (x) the Revolving Commitments then in effect and (y) on or prior to the Full Availability Closing Date, the Initial Revolver Availability; (iv) after giving effect to such issuance, in no event shall the Letter of Credit Usage exceed the Letter of Credit Sublimit then in effect or the Swing Line Sublimit then in effect; (v) in no event shall any standby Letter of Credit have an expiration date later than the earlier of (1) the Revolving

Commitment Termination Date and (2) the date which is one year from the date of issuance of such standby Letter of Credit; and (vi) in no event shall any commercial Letter of Credit (x) have an expiration date later than the earlier of (1) the Revolving Loan Commitment Termination Date and (2) the date which is 180 days from the date of issuance of such commercial Letter of Credit or (b) be issued if such commercial Letter of Credit is otherwise in a form that is unacceptable to Issuing Bank in its reasonable discretion. Subject to the foregoing, Issuing Bank may agree that a standby Letter of Credit will automatically be extended for one or more successive periods not to exceed one year each, unless Issuing Bank elects not to extend for any such additional period; provided, Issuing Bank shall not extend any such Letter of Credit if it has received written notice that an Event of Default has occurred and is continuing at the time Issuing Bank must elect to allow such extension; provided, further, in the event a Funding Default exists, Issuing Bank shall not be required to issue any Letter of Credit unless Issuing Bank has entered into arrangements satisfactory to it and Borrower to eliminate Issuing Bank's risk with respect to the participation in Letters of Credit of the Defaulting Lender, including by cash collateralizing such Defaulting Lender's Pro Rata Share of the Letter of Credit Usage. If any interest, fees or other costs related to the Letters of Credit are not paid when due, Issuing Bank may request, and Swing Line Lender shall make, a Swing Line Loan, the proceeds of which shall be remitted to the Issuing Bank in payment thereof.

(b) Notice of Issuance. Whenever Borrower desires the issuance of a Letter of Credit, it shall deliver to Administrative Agent an Issuance Notice no later than 12:00 p.m. (New York City time) at least three Business Days (in the case of standby letters of credit) or five Business Days (in the case of commercial letters of credit), or in each case such shorter period as may be agreed to by Issuing Bank in any particular instance, in advance of the proposed date of issuance. Upon satisfaction or waiver of the conditions set forth in Sections 3.1 and 3.3 prior to the Full Availability Closing Date and Sections 3.2 and 3.3 on and after the Full Availability Closing Date, Issuing Bank shall issue the requested Letter of Credit only in accordance with Issuing Bank's standard operating procedures. Upon the issuance of any Letter of Credit or amendment or modification to a Letter of Credit, Issuing Bank shall promptly notify each Lender with a Revolving Commitment of such issuance, which notice shall be accompanied by a copy of such Letter of Credit or amendment or modification to a Letter of Credit and the amount of such Lender's respective participation in such Letter of Credit pursuant to Section 2.4(e). Unless Issuing Bank has received notice from Administrative Agent to the contrary, Issuing Bank shall be entitled to rely on any certification from Borrower contained in any Issuance Notice to the effect that the conditions precedent to the issuance of any requested Letter of Credit have been satisfied in full, including, without limitation, that after giving effect to such issuance, the amount of such Letter of Credit requested would not exceed the Swing Line Sublimit.

(c) Responsibility of Issuing Bank With Respect to Requests for Drawings and Payments. In determining whether to honor any drawing under any Letter of Credit by the beneficiary thereof, Issuing Bank shall be responsible only to examine the documents delivered under such Letter of Credit with reasonable care so as to ascertain whether they appear on their face to be in accordance with the terms and conditions of such Letter of Credit. As between Borrower and Issuing Bank, Borrower assumes all risks of the acts and omissions of, or misuse of the Letters of Credit issued by Issuing Bank, by the respective beneficiaries of such Letters of Credit. In furtherance and not in limitation of the foregoing, Issuing Bank shall not be responsible for: (i) the form, validity, sufficiency, accuracy, genuineness or legal effect of any

document submitted by any party in connection with the application for and issuance of any such Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged; (ii) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any such Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason; (iii) failure of the beneficiary of any such Letter of Credit to comply fully with any conditions required in order to draw upon such Letter of Credit; (iv) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex or otherwise, whether or not they be in cipher; (v) errors in interpretation of technical terms; (vi) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any such Letter of Credit or of the proceeds thereof; (vii) the misapplication by the beneficiary of any such Letter of Credit of the proceeds of any drawing under such Letter of Credit; or (viii) any consequences arising from causes beyond the control of Issuing Bank, including any Governmental Acts; none of the above shall affect or impair, or prevent the vesting of, any of Issuing Bank's rights or powers hereunder. Without limiting the foregoing and in furtherance thereof, any action taken or omitted by Issuing Bank under or in connection with the Letters of Credit or any documents and certificates delivered thereunder, if taken or omitted in good faith, shall not give rise to any liability on the part of Issuing Bank to Borrower. Notwithstanding anything to the contrary contained in this Section 2.4(c), Borrower shall retain any and all rights it may have against Issuing Bank for any liability arising solely out of the gross negligence or willful misconduct of Issuing Bank.

(d) Reimbursement by Borrower of Amounts Drawn or Paid Under Letters of Credit. In the event Issuing Bank has determined to honor a drawing under a Letter of Credit, it shall immediately notify Borrower and Administrative Agent, and Borrower shall reimburse Issuing Bank on or before the Business Day immediately following the date on which such drawing is honored (the **"Reimbursement Date"**) in an amount in Dollars and in same day funds equal to the amount of such honored drawing; provided, anything contained herein to the contrary notwithstanding, (i) unless Borrower shall have notified Administrative Agent and Issuing Bank prior to 10:00 a.m. (New York City time) on the date such drawing is honored that Borrower intends to reimburse Issuing Bank for the amount of such honored drawing with funds other than the proceeds of Revolving Loans, Borrower shall be deemed to have given a timely Funding Notice to Administrative Agent requesting Lenders with Revolving Commitments to make Revolving Loans that are Base Rate Loans on the Reimbursement Date in an amount in Dollars equal to the amount of such honored drawing, and (ii) subject to satisfaction or waiver of the conditions specified in Sections 3.1 and 3.3 prior to the Full Availability Closing Date and Sections 3.2 and 3.3 on and after the Full Availability Closing Date, Lenders with Revolving Commitments shall, on the Reimbursement Date, make Revolving Loans that are Base Rate Loans in the amount of such honored drawing, the proceeds of which shall be applied directly by Administrative Agent to reimburse Issuing Bank for the amount of such honored drawing; and provided further, if for any reason proceeds of Revolving Loans are not received by Issuing Bank on the Reimbursement Date in an amount equal to the amount of such honored drawing, (i) Borrower shall reimburse Issuing Bank, on demand, in an amount in same day funds equal to the excess of the amount of such honored drawing over the aggregate amount of such Revolving Loans, if any, which are so received or (ii) Swing Line Lender shall make at the request of Issuing Bank, and Borrower hereby authorizes Swing Line Lender to make, a Swing Line Loan, in an amount equal to the amount of such honored drawing, and notwithstanding anything to the

contrary contained in this Agreement or any other Credit Documents or the applicable DIP Order, Swing Line Lender shall make such Swing Line Loan notwithstanding that the conditions precedent in Sections 3.1, 3.2 and 3.3 have not been satisfied or waived. Nothing in this Section 2.4(d) shall be deemed to relieve any Lender with a Revolving Commitment from its obligation to make Revolving Loans on the terms and conditions set forth herein, and Borrower shall retain any and all rights it may have against any such Lender resulting from the failure of such Lender to make such Revolving Loans under this Section 2.4(d).

(e) Lenders' Purchase of Participations in Letters of Credit. Immediately upon the issuance of each Letter of Credit, each Lender having a Revolving Commitment shall be deemed to have purchased, and hereby agrees to irrevocably purchase, from Issuing Bank a participation in such Letter of Credit and any drawings honored thereunder in an amount equal to such Lender's Pro Rata Share (with respect to the Revolving Commitments) of the maximum amount which is or at any time may become available to be drawn thereunder. In the event that Borrower shall fail for any reason to reimburse Issuing Bank as provided in Section 2.4(d), Issuing Bank shall promptly notify each Lender with a Revolving Commitment of the unreimbursed amount of such honored drawing (including any interest payable in connection therewith) and of such Lender's respective participation therein based on such Lender's Pro Rata Share of the Revolving Commitments. Each Lender with a Revolving Commitment shall make available to Issuing Bank an amount equal to its respective participation, in Dollars and in same day funds, at the office of Issuing Bank specified in such notice, not later than 12:00 p.m. (New York City time) on the first business day (under the laws of the jurisdiction in which such office of Issuing Bank is located) after the date notified by Issuing Bank. In the event that any Lender with a Revolving Commitment fails to make available to Issuing Bank on such business day the amount of such Lender's participation in such Letter of Credit as provided in this Section 2.4(e), Issuing Bank shall be entitled to recover such amount on demand from such Lender together with interest thereon for three Business Days at the rate customarily used by Issuing Bank for the correction of errors among banks and thereafter at the Base Rate. Nothing in this Section 2.4(e) shall be deemed to prejudice the right of any Lender with a Revolving Commitment to recover from Issuing Bank any amounts made available by such Lender to Issuing Bank pursuant to this Section in the event that it is determined that the payment with respect to a Letter of Credit in respect of which payment was made by such Lender constituted gross negligence or willful misconduct on the part of Issuing Bank. In the event Issuing Bank shall have been reimbursed by other Lenders pursuant to this Section 2.4(e) for all or any portion of any drawing honored by Issuing Bank under a Letter of Credit, such Issuing Bank shall distribute to each Lender which has paid all amounts payable by it under this Section 2.4(e) with respect to such honored drawing such Lender's Pro Rata Share of all payments subsequently received by Issuing Bank from Borrower in reimbursement of such honored drawing when such payments are received. Any such distribution shall be made to a Lender at its primary address set forth below its name on Appendix B or at such other address as such Lender may request.

(f) Obligations Absolute. The obligation of Borrower to reimburse Issuing Bank for drawings honored under the Letters of Credit issued by it and to repay any Revolving Loans made by Lenders pursuant to Section 2.4(d) and the obligations of Lenders under Section 2.4(e) shall be unconditional and irrevocable and shall be paid strictly in accordance with the terms hereof under all circumstances including any of the following circumstances: (i) any lack of validity or enforceability of any Letter of Credit; (ii) the existence of any claim, set-off, defense

or other right which Borrower or any Lender may have at any time against a beneficiary or any transferee of any Letter of Credit (or any Persons for whom any such transferee may be acting), Issuing Bank, Lender or any other Person or, in the case of a Lender, against Borrower, whether in connection herewith, the transactions contemplated herein or any unrelated transaction (including any underlying transaction between Borrower or one of its Subsidiaries and the beneficiary for which any Letter of Credit was procured); (iii) any draft or other document presented under any Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; (iv) payment by Issuing Bank under any Letter of Credit against presentation of a draft or other document which does not substantially comply with the terms of such Letter of Credit; (v) any adverse change in the business, operations, properties, assets, condition (financial or otherwise) or prospects of Borrower or any of its Subsidiaries; (vi) any breach hereof or any other Credit Document by any party thereto; (vii) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing; or (viii) the fact that an Event of Default or a Default shall have occurred and be continuing; provided, in each case, that payment by Issuing Bank under the applicable Letter of Credit shall not have constituted gross negligence or willful misconduct of Issuing Bank under the circumstances in question.

(g) Indemnification. Without duplication of any obligation of Borrower under Section 10.2 or 10.3, in addition to amounts payable as provided herein, Borrower hereby agrees to protect, indemnify, pay and save harmless Issuing Bank from and against any and all claims, demands, liabilities, damages, losses, costs, charges and expenses (including reasonable fees, expenses and disbursements of counsel and allocated costs of internal counsel) which Issuing Bank may incur or be subject to as a consequence, direct or indirect, of (i) the issuance of any Letter of Credit by Issuing Bank, other than as a result of (1) the gross negligence or willful misconduct of Issuing Bank or (2) the wrongful dishonor by Issuing Bank of a proper demand for payment made under any Letter of Credit issued by it, or (ii) the failure of Issuing Bank to honor a drawing under any such Letter of Credit as a result of any Governmental Act.

2.5. Pro Rata Shares; Availability of Funds.

(a) Pro Rata Shares. All Loans shall be made, and all participations purchased, by Lenders simultaneously and proportionately to their respective Pro Rata Shares, it being understood that no Lender shall be responsible for any default by any other Lender in such other Lender's obligation to make a Loan requested hereunder or purchase a participation required hereby nor shall any Term Loan Commitment or any Revolving Commitment of any Lender be increased or decreased as a result of a default by any other Lender in such other Lender's obligation to make a Loan requested hereunder or purchase a participation required hereby.

(b) Availability of Funds. Unless Administrative Agent shall have been notified by any Lender prior to the applicable Credit Date that such Lender does not intend to make available to Administrative Agent the amount of such Lender's Loan requested on such Credit Date, Administrative Agent may assume that such Lender has made such amount available to Administrative Agent on such Credit Date and Administrative Agent may, in its sole discretion, but shall not be obligated to, make available to Borrower a corresponding amount on such Credit Date. If such corresponding amount is not in fact made available to Administrative Agent by such Lender, Administrative Agent shall be entitled to recover such corresponding amount on

demand from such Lender together with interest thereon, for each day from such Credit Date until the date such amount is paid to Administrative Agent, at the customary rate set by Administrative Agent for the correction of errors among banks for three Business Days and thereafter at the Base Rate. If such Lender does not pay such corresponding amount forthwith upon Administrative Agent's demand therefor, Administrative Agent shall promptly notify Borrower and Borrower shall immediately pay such corresponding amount to Administrative Agent together with interest thereon, for each day from such Credit Date until the date such amount is paid to Administrative Agent, at the rate payable hereunder for the applicable Loans. Nothing in this Section 2.5(b) shall be deemed to relieve any Lender from its obligation to fulfill its Term Loan Commitments and Revolving Commitments hereunder or to prejudice any rights that Borrower may have against any Lender as a result of any default by such Lender hereunder.

2.6. Use of Proceeds. The proceeds of the Term Loans, Revolving Loans, Swing Line Loans and Letters of Credit made on and after the Closing Date shall be applied by Borrower to (i) refinance the Existing Revolver Indebtedness on the Closing Date, (ii) pay certain other fees and expenses relating to the credit facilities established hereunder, (iii) support the working capital and general corporate purposes of Borrower and its Subsidiaries and (iv) make any other payments permitted to be made by the Bankruptcy Code or in the DIP Orders or any other Order of the Bankruptcy Court to the extent not prohibited by this Agreement or otherwise consented to by the Requisite Lenders. No portion of the proceeds of any Credit Extension shall be used in any manner that causes or might cause such Credit Extension or the application of such proceeds to violate Regulation T, Regulation U or Regulation X of the Board of Governors or any other regulation thereof or to violate the Exchange Act. Nothing herein shall in any way prejudice or prevent any Agent or the Lenders from objecting, for any reason, to any requests, motions, or applications made in the Bankruptcy Court, including any application of final allowances of compensation for services rendered or reimbursement of expenses incurred under Sections 105(a), 330 or 331 of the Bankruptcy Code, by any party in interest. Borrower and its Subsidiaries shall not use the proceeds of the Loans or the Letters of Credit (i) for any purpose that is prohibited under the Bankruptcy Code or (ii) to commence or prosecute or join in any action against any Agent, Lender or Issuing Bank seeking (x) to avoid, subordinate or recharacterize the Obligations or any of Collateral Agent's Liens, (y) any monetary, injunctive or other affirmative relief against any Agent, Lender or Issuing Bank or their Collateral in connection with the Credit Documents, or (z) to prevent or restrict the exercise by any Agent, Lender or Issuing Bank of any of their respective rights or remedies under the Credit Documents.

2.7. Evidence of Debt; Register; Lenders' Books and Records; Notes.

(a) Lenders' Evidence of Debt. Each Lender shall maintain on its internal records an account or accounts evidencing the Obligations of Borrower to such Lender, including the amounts of the Loans made by it and each repayment and prepayment in respect thereof. Any such recordation shall be conclusive and binding on Borrower, absent manifest error; provided, that the failure to make any such recordation, or any error in such recordation, shall not affect any Lender's Revolving Commitments or Borrower's Obligations in respect of any applicable Loans; and provided further, in the event of any inconsistency between the Register and any Lender's records, the recordations in the Register shall govern.

(b) Register. Administrative Agent (or its agent or sub-agent appointed by it) shall maintain at the Principal Office a register for the recordation of the names and addresses of Lenders and the Revolving Commitments and Loans of each Lender from time to time (the **"Register"**). The Register shall be available for inspection by Borrower, any Lender (with respect to any entry relating to such Lender's Loans) or any Issuing Bank (with respect to any entry relating to Letters of Credit), at any reasonable time and from time to time upon reasonable prior notice. Administrative Agent shall record, or shall cause to be recorded, in the Register the Revolving Commitments and the Loans of each Lender, each in accordance with the provisions of Section 10.6, and each repayment or prepayment in respect of the principal amount of the Loans, and any such recordation shall be conclusive and binding on Borrower and each Lender, absent manifest error; provided, failure to make any such recordation, or any error in such recordation, shall not affect any Lender's Revolving Commitments or Borrower's Obligations in respect of any Loan. Borrower hereby designates BNY to serve as Borrower's agent solely for purposes of maintaining the Register as provided in this Section 2.7, and Borrower hereby agrees that, to the extent BNY serves in such capacity, BNY and its officers, directors, employees, agents, sub-agents and affiliates shall constitute "Indemnitees."

(c) Notes. If so requested by any Lender by written notice to Borrower (with a copy to Administrative Agent) at least two Business Days prior to the Closing Date, or at any time thereafter, Borrower shall execute and deliver to such Lender (and/or, if applicable and if so specified in such notice, to any Person who is an assignee of such Lender pursuant to Section 10.6) on the Closing Date (or, if such notice is delivered after the Closing Date, promptly after Borrower's receipt of such notice) a Note or Notes to evidence such Lender's Term Loan, Revolving Loan or Swing Line Loan, as the case may be.

2.8. Interest on Loans.

(a) Except as otherwise set forth herein, each Loan shall bear interest on the unpaid principal amount thereof from the date made through repayment (whether by acceleration or otherwise) thereof as follows:

(i) in the case of Revolving Loans:

(1) if a Base Rate Loan, at the Base Rate plus 2.50% per annum plus the Applicable Case Milestone Margin then in effect (if any); or

(2) if a Eurodollar Rate Loan, at the Adjusted Eurodollar Rate plus 3.50% per annum plus the Applicable Case Milestone Margin then in effect (if any);

(ii) in the case of Swing Line Loans, at the Base Rate plus 2.50% per annum plus the Applicable Case Milestone Margin then in effect (if any); and

(iii) in the case of Term Loans:

(1) if a Base Rate Loan, at the Base Rate plus 2.50% per annum plus the Applicable Case Milestone Margin then in effect (if any); or

(2) if a Eurodollar Rate Loan, at the Adjusted Eurodollar Rate plus 3.50% per annum plus the Applicable Case Milestone Margin then in effect (if any).

(b) The basis for determining the rate of interest with respect to any Loan (except a Swing Line Loan which can be made and maintained as Base Rate Loans only), and the Interest Period with respect to any Eurodollar Rate Loan, shall be selected by Borrower and notified to Administrative Agent and Lenders pursuant to the applicable Funding Notice or Conversion/Continuation Notice, as the case may be; provided, until the date that Syndication Agent notifies Borrower that the primary syndication of the Loans and Revolving Commitments has been completed, as determined by Syndication Agent, the Term Loans shall be maintained as either (1) Eurodollar Rate Loans having an Interest Period of no longer than one month or (2) Base Rate Loans. If on any day a Loan is outstanding with respect to which a Funding Notice or Conversion/Continuation Notice has not been delivered to Administrative Agent in accordance with the terms hereof specifying the applicable basis for determining the rate of interest, then for that day such Loan shall be a Base Rate Loan.

(c) In connection with Eurodollar Rate Loans there shall be no more than five (5) Interest Periods outstanding at any time. In the event Borrower fails to specify between a Base Rate Loan or a Eurodollar Rate Loan in the applicable Funding Notice or Conversion/Continuation Notice, such Loan (if outstanding as a Eurodollar Rate Loan) will be automatically converted into a Base Rate Loan on the last day of the then-current Interest Period for such Loan (or if outstanding as a Base Rate Loan will remain as, or (if not then outstanding) will be made as, a Base Rate Loan). In the event Borrower fails to specify an Interest Period for any Eurodollar Rate Loan in the applicable Funding Notice or Conversion/Continuation Notice, Borrower shall be deemed to have selected an Interest Period of one month. As soon as practicable after 10:00 a.m. (New York City time) on each Interest Rate Determination Date, Administrative Agent shall determine (which determination shall, absent manifest error, be final, conclusive and binding upon all parties) the interest rate that shall apply to the Eurodollar Rate Loans for which an interest rate is then being determined for the applicable Interest Period and shall promptly give notice thereof (in writing or by telephone confirmed in writing) to Borrower and each Lender.

(d) Interest payable pursuant to Section 2.8(a) shall be computed (i) in the case of Base Rate Loans on the basis of a 365-day or 366-day year, as the case may be, and (ii) in the case of Eurodollar Rate Loans, on the basis of a 360-day year, in each case for the actual number of days elapsed in the period during which it accrues. In computing interest on any Loan, the date of the making of such Loan or the first day of an Interest Period applicable to such Loan or, with respect to a Term Loan, the last Interest Payment Date with respect to such Term Loan or, with respect to a Base Rate Loan being converted from a Eurodollar Rate Loan, the date of conversion of such Eurodollar Rate Loan to such Base Rate Loan, as the case may be, shall be included, and the date of payment of such Loan or the expiration date of an Interest Period applicable to such Loan or, with respect to a Base Rate Loan being converted to a Eurodollar

Rate Loan, the date of conversion of such Base Rate Loan to such Eurodollar Rate Loan, as the case may be, shall be excluded; provided, if a Loan is repaid on the same day on which it is made, one day's interest shall be paid on that Loan.

(e) Except as otherwise set forth herein, interest on each Loan (i) shall accrue on a daily basis and shall be payable in arrears on each Interest Payment Date with respect to interest accrued on and to each such payment date; (ii) shall accrue on a daily basis and shall be payable in arrears upon any prepayment of that Loan, whether voluntary or mandatory, to the extent accrued on the amount being prepaid; and (iii) shall accrue on a daily basis and shall be payable in arrears at maturity of the Loans, including final maturity of the Loans; provided, however, with respect to any voluntary prepayment of a Base Rate Loan, accrued interest shall instead be payable on the applicable Interest Payment Date.

(f) Borrower agrees to pay to Issuing Bank as described in paragraph (g) below, with respect to drawings honored under any Letter of Credit, interest on the amount paid by Issuing Bank in respect of each such honored drawing from the date such drawing is honored to but excluding the date such amount is reimbursed by or on behalf of Borrower at a rate equal to (i) for the period from the date such drawing is honored to but excluding the applicable Reimbursement Date, the rate of interest otherwise payable hereunder with respect to Revolving Loans that are Base Rate Loans, and (ii) thereafter, a rate which is 2% per annum in excess of the rate of interest otherwise payable hereunder with respect to Revolving Loans that are Base Rate Loans.

(g) Interest payable pursuant to Section 2.8(f) shall be computed on the basis of a 365/366-day year for the actual number of days elapsed in the period during which it accrues, and shall be payable on demand or, if no demand is made, on the date on which the related drawing under a Letter of Credit is reimbursed in full by or on behalf of Borrower. Promptly upon receipt by Issuing Bank of any payment of interest in respect of drawings under Letters of Credit pursuant to Section 2.8(f), Issuing Bank shall distribute to each Lender, out of the interest received by Issuing Bank in respect of the period from the date such drawing is honored to but excluding the date on which Issuing Bank is reimbursed for the amount of such drawing (including any such reimbursement out of the proceeds of any Revolving Loans), the amount that such Lender would have been entitled to receive in respect of the letter of credit fee that would have been payable in respect of such Letter of Credit for such period if no drawing had been honored under such Letter of Credit; in the event Issuing Bank shall have been reimbursed by Lenders for all or any portion of such honored drawing, Issuing Bank shall distribute to each Lender which has paid all amounts payable by it under Section 2.4(e) with respect to such honored drawing such Lender's Pro Rata Share of any interest received by Issuing Bank in respect of that portion of such honored drawing so reimbursed by Lenders for the period from the date on which Issuing Bank was so reimbursed by Lenders to but excluding the date on which such portion of such honored drawing is reimbursed by Borrower. All interest payable pursuant to Section 2.8(f) that is not distributed to Lenders as described in the preceding sentence shall be for the account of the Issuing Bank.

2.9. Conversion/Continuation.

(a) Subject to Section 2.17 and so long as no Default or Event of Default shall have occurred and then be continuing, Borrower shall have the option:

(i) to convert at any time all or any part of any Term Loan or Revolving Loan equal to $1,000,000 and integral multiples of $750,000 in excess of that amount from one Type of Loan to another Type of Loan; provided, a Eurodollar Rate Loan may only be converted on the expiration of the Interest Period applicable to such Eurodollar Rate Loan unless Borrower shall pay all amounts due under Section 2.17 in connection with any such conversion; or

(ii) upon the expiration of any Interest Period applicable to any Eurodollar Rate Loan, to continue all or any portion of such Loan equal to $1,000,000 and integral multiples of $750,000 in excess of that amount as a Eurodollar Rate Loan.

Borrower shall deliver a Conversion/Continuation Notice to Administrative Agent no later than 10:00 a.m. (New York City time) at least one Business Day in advance of the proposed conversion date (in the case of a conversion to a Base Rate Loan) and at least three Business Days in advance of the proposed conversion/continuation date (in the case of a conversion to, or a continuation of, a Eurodollar Rate Loan). Except as otherwise provided herein, a Conversion/Continuation Notice for conversion to, or continuation of, any Eurodollar Rate Loans (or telephonic notice in lieu thereof) shall be irrevocable on and after the related Interest Rate Determination Date, and Borrower shall be bound to effect a conversion or continuation in accordance therewith.

2.10. Default Interest The principal amount of all Loans outstanding and not paid when due and, to the extent permitted by applicable law, any interest payments on the Loans or any fees or other amounts owed hereunder and not paid when due, shall thereafter bear interest (including post-petition interest in any proceeding under the Bankruptcy Code or other applicable bankruptcy laws) payable on demand at a rate that is 2% per annum in excess of the interest rate otherwise payable hereunder with respect to the applicable Loans (or, in the case of any such fees and other amounts, at a rate which is 2% per annum in excess of the interest rate otherwise payable hereunder for Base Rate Loans that are Revolving Loans); provided, in the case of Eurodollar Rate Loans, upon the expiration of the Interest Period in effect at the time any such increase in interest rate is effective such Eurodollar Rate Loans shall thereupon become Base Rate Loans and shall thereafter bear interest payable upon demand at a rate which is 2% per annum in excess of the interest rate otherwise payable hereunder for Base Rate Loans. Payment or acceptance of the increased rates of interest provided for in this Section 2.10 is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of Collateral Agent, Administrative Agent or any Lender.

2.11. Fees.

(a) Borrower agrees to pay to Lenders having Revolving Exposure:

(i) commitment fees equal to (1) the average of the daily difference between (a) the Revolving Commitments and (b) the aggregate principal amount of (x) all outstanding Revolving Loans plus (y) the Letter of Credit Usage times (2) 0.50% per annum, and

(ii) letter of credit fees equal to (1) 3.50% per annum plus the Applicable Case Milestone Margin then in effect (if any) times (2) the average aggregate daily maximum amount available to be drawn under all such Letters of Credit (regardless of whether any conditions for drawing could then be met and determined as of the close of business on any date of determination).

(b) All fees referred to in Section 2.11(a) shall be paid to Administrative Agent at its Principal Office and upon receipt, Administrative Agent shall promptly distribute to each Lender its Pro Rata Share thereof.

(c) Borrower agrees to pay the following fees:

(i) directly to Issuing Bank, for its own account, a fronting fee equal to 0.25% per annum, times the average aggregate daily maximum amount available to be drawn under all Letters of Credit (determined as of the close of business on any date of determination); and

(ii) directly to Issuing Bank, for its own account, such documentary and processing charges for any issuance, amendment, transfer or payment of a Letter of Credit as are in accordance with Issuing Bank's standard schedule for such charges and as in effect at the time of such issuance, amendment, transfer or payment, as the case may be.

(d) All fees referred to in Section 2.11(a) or 2.11(b) shall be calculated on the basis of a 360-day year and the actual number of days elapsed and shall be payable quarterly in arrears on March 31, June 30, September 30 and December 31 of each year during the Revolving Commitment Period, commencing on the first such date to occur after the Closing Date, and on the Revolving Commitment Termination Date. All fees referred to in Section 2.11(c)(i) or 2.11(c)(ii) shall be calculated on the basis of a 360-day year and the actual number of days elapsed and shall be payable quarterly in arrears on March 31, June 30, September 30 and December 31 of each year during the Revolving Commitment Period, commencing on the first such date to occur after the Closing Date, and on the Revolving Commitment Termination Date; provided, that, Issuing Bank shall calculate the estimated amount of such fees prior to the issuance of any such Letter of Credit, which amounts shall be payable upon the issuance of such Letter of Credit, but the payment of such fees at such time shall not limit the right of Issuing Bank to request and be paid any other fees owed to Issuing Bank in accordance with the terms of this Agreement.

(e) In addition to any of the foregoing fees, Borrower agrees to pay to Agents and Arranger such other fees in the amounts and at the times separately agreed upon.

2.12. Voluntary Prepayments/Commitment Reductions.

(a) Voluntary Prepayments.

(i) Any time and from time to time:

(1) with respect to Base Rate Loans, Borrower may prepay any such Loans on any Business Day in whole or in part, in an aggregate minimum amount of $1,000,000 and integral multiples of $1,000,000 in excess of that amount (or with respect to Revolving Loans, $1,000,000 or, if less, the then remaining outstanding balance thereof);

(2) with respect to Eurodollar Rate Loans, Borrower may prepay any such Loans on any Business Day in whole or in part in an aggregate minimum amount of $1,000,000 and integral multiples of $1,000,000 in excess of that amount (or, with respect to Revolving Loans, $1,000,000 or, if less, the then remaining outstanding balance thereof); and

(3) with respect to Swing Line Loans, Borrower may prepay any such Loans on any Business Day in whole or in part in an aggregate minimum amount of $500,000, and in integral multiples of $100,000 in excess of that amount (or, if less than $500,000, the then remaining outstanding balance thereof).

(ii) All such prepayments shall be made:

(1) upon not less than one Business Day's prior written or telephonic notice in the case of Base Rate Loans;

(2) upon not less than three Business Days' prior written or telephonic notice in the case of Eurodollar Rate Loans; and

(3) upon written or telephonic notice on the date of prepayment, in the case of Swing Line Loans;

in each case given to Administrative Agent or Swing Line Lender, as the case may be, by 12:00 p.m. (New York City time) on the date required and, if given by telephone, promptly confirmed in writing to Administrative Agent (and Administrative Agent will promptly transmit such telephonic or original notice for Term Loans or Revolving Loans, as the case may be, by telefacsimile or telephone to each Lender) or Swing Line Lender, as the case may be. Upon the giving of any such notice, the principal amount of the Loans specified in such notice shall become due and payable on the prepayment date specified therein. Any such voluntary prepayment shall be applied as specified in Section 2.14(a), and shall be without penalty or premium of any kind, except to the extent of breakage and other costs specifically provided for under this Agreement.

(b) Voluntary Commitment Reductions.

(i) Borrower may, upon not less than three Business Days' prior written or telephonic notice confirmed in writing to Administrative Agent (which original written or telephonic notice Administrative Agent will promptly transmit by telefacsimile or telephone to each applicable Lender), at any time and from time to time terminate in whole or permanently reduce in part, without premium or penalty, the Revolving Commitments in an amount up to the amount by which the Revolving Commitments exceed the Total Utilization of Revolving Commitments at the time of such proposed termination or reduction; provided, any such partial reduction of the Revolving Commitments shall be in an aggregate minimum amount of $1,000,000 and integral multiples of $1,000,000 in excess of that amount.

(c) Borrower's notice to Administrative Agent shall designate the date (which shall be a Business Day) of such termination or reduction and the amount of any partial reduction, and such termination or reduction of the Revolving Commitments shall be effective on the date specified in Borrower's notice and shall reduce the Revolving Commitment of each Lender proportionately to its Pro Rata Share thereof.

2.13. Mandatory Prepayments.

(a) Asset Sales. Subject to the provision at the end of Section 2.14(b), no later than the first Business Day following the date of receipt by Borrower or any of its Subsidiaries of any Net Asset Sale Proceeds, Borrower shall prepay the Loans as set forth in Section 2.14(b) in an aggregate amount equal to such Net Asset Sale Proceeds.

(b) Insurance/Condemnation Proceeds. No later than the first Business Day following the date of receipt by Borrower or any of its Subsidiaries, or Collateral Agent as loss payee, of any Net Insurance/Condemnation Proceeds, Borrower shall prepay the Loans as set forth in Section 2.14(b) in an aggregate amount equal to such Net Insurance/Condemnation Proceeds; provided, (i) so long as no Default or Event of Default shall have occurred and be continuing, and (ii) to the extent that aggregate Net Insurance/Condemnation Proceeds from the Closing Date through the applicable date of determination do not exceed $5,000,000, Borrower shall have the option, directly or through one or more of its Subsidiaries to invest such Net Insurance/Condemnation Proceeds within one hundred eighty (180) days of receipt thereof in long term productive assets of the general type used in the business of Borrower and its Subsidiaries, which investment may include the repair, restoration or replacement of the applicable assets thereof; provided further, pending any such investment all such Net Insurance/Condemnation Proceeds, as the case may be, shall be applied to prepay Revolving Loans to the extent outstanding (without a reduction in Revolving Commitments).

(c) Issuance of Debt. On the date of receipt by Borrower or any of its Subsidiaries of any Cash proceeds from the incurrence of any Indebtedness of Borrower or any of its Subsidiaries (other than with respect to any Indebtedness permitted to be incurred pursuant to Section 6.1), Borrower shall prepay the Loans as set forth in Section 2.14(b) in an aggregate amount equal to 100% of such proceeds, net of underwriting discounts and commissions and other reasonable costs and expenses associated therewith, including reasonable legal fees and expenses.

(d) Revolving Loans and Swing Line Loans. In the event that at any time the Total Utilization of Revolving Commitments shall exceed (i) the Revolving Commitments then in effect or (ii) on or prior to the Full Availability Closing Date, the Initial Revolver Availability, in either case Borrower shall immediately make a payment to Administrative Agent in the amount of such excess, for application first, to the Swing Line Loans and second, to the Revolving Loans.

(e) Prepayment Certificate. Concurrently with any prepayment of the Loans and/or reduction of the Revolving Commitments pursuant to Sections 2.13(a) through 2.13(c), Borrower shall deliver to Administrative Agent a certificate of an Authorized Officer demonstrating in reasonable detail the calculation of the amounts and sources of the applicable net proceeds. In the event that Borrower shall subsequently determine that the actual amount received exceeded the amount set forth in such certificate, Borrower shall promptly make an additional prepayment of the Loans and/or the Revolving Commitments shall be permanently reduced (to the extent that Section 2.14 would have required such reduction) in an amount equal to such excess, and Borrower shall concurrently therewith deliver to Administrative Agent a certificate of an Authorized Officer demonstrating the derivation of such excess.

2.14. Application of Prepayments.

(a) Application of Voluntary Prepayments by Type of Loans. Any prepayment of any Loan pursuant to Section 2.12(a) shall be applied as specified by Borrower in the applicable notice of prepayment; provided, in the event Borrower fails to specify the Loans to which any such prepayment shall be applied, such prepayment shall be applied as follows:

first, to repay outstanding Swing Line Loans to the full extent thereof;

second, to repay outstanding Revolving Loans to the full extent thereof (without any reduction in the Revolving Commitments); and

third, to prepay the Term Loans to the full extent thereof.

(b) Application of Mandatory Prepayments. Subject to Section 2.15(h), any amount required to be paid pursuant to Sections 2.13(a) through 2.13(c) shall be applied as follows:

first, to prepay the Term Loans to the full extent thereof;

second, to prepay the Swing Line Loans to the full extent thereof;

third, to prepay the Revolving Loans and pay any outstanding reimbursement obligations with respect to Letters of Credit, in each case to the full extent thereof, on a pro rata basis (in accordance with the outstanding principal amount of the Revolving Loans and amount of outstanding reimbursement obligations with respect to Letters of Credit); and

fourth, to cash collateralize, on a pro rata basis, outstanding Letters of Credit (without a reduction in the Revolving Commitments);

provided, that (except with respect to Net Asset Sale Proceeds in connection with a transaction permitted pursuant to (x) Section 6.8(c) in respect of Non-Core Assets described in clause (vi) of the definition thereof, (y) Section 6.8(d) or (z) Section 6.8(f), which, in each case, shall be applied to the repayment of the Obligations as set forth above in this Section 2.14(b)) all or a portion of the prepayments pursuant to Section 2.13(a) otherwise required to be applied under this Section 2.14(b) prior to February 1, 2008, in Borrower's sole discretion, may be retained or utilized by the Credit Parties in accordance with Section 2.6; provided, further, notwithstanding the foregoing proviso, on February 1, 2008 the full amount of such proceeds (not previously applied in accordance with this Section 2.14(b)) shall be applied in accordance with this Section 2.14(b).

(c) Application of Prepayments of Loans to Base Rate Loans and Eurodollar Rate Loans. Considering each Class of Loans being prepaid separately, any prepayment shall be applied first to Base Rate Loans to the full extent thereof before application to Eurodollar Rate Loans, in each case in a manner which minimizes the amount of any payments required to be made by Borrower pursuant to Section 2.17(c).

2.15. General Provisions Regarding Payments.

(a) All payments by Borrower of principal, interest, fees and other Obligations shall be made in Dollars in same day funds, without defense, setoff or counterclaim, free of any restriction or condition, and delivered to Administrative Agent not later than 12:00 p.m. (New York City time) on the date due at the Principal Office designated by Administrative Agent for the account of Lenders; for purposes of computing interest and fees, funds received by Administrative Agent after that time on such due date shall be deemed to have been paid by Borrower on the next succeeding Business Day.

(b) All payments in respect of the principal amount of any Loan (other than voluntary prepayments of Revolving Loans) shall be accompanied by payment of accrued interest on the principal amount being repaid or prepaid, and all such payments (and, in any event, any payments in respect of any Loan on a date when interest is due and payable with respect to such Loan) shall be applied to the payment of interest then due and payable before application to principal.

(c) Administrative Agent (or its agent or sub-agent appointed by it) shall promptly distribute to each Lender at such address as such Lender shall indicate in writing, such Lender’s applicable Pro Rata Share of all payments and prepayments of principal and interest due hereunder, together with all other amounts due thereto, including all fees payable with respect thereto, to the extent received by Administrative Agent.

(d) Notwithstanding the foregoing provisions hereof, if any Conversion/ Continuation Notice is withdrawn as to any Affected Lender or if any Affected Lender makes Base Rate Loans in lieu of its Pro Rata Share of any Eurodollar Rate Loans, Administrative Agent shall give effect thereto in apportioning payments received thereafter.

(e) Subject to the provisos set forth in the definition of “Interest Period” as they may apply to Revolving Loans, whenever any payment to be made hereunder with respect to any

Loan shall be stated to be due on a day that is not a Business Day, such payment shall be made on the next succeeding Business Day and, with respect to Revolving Loans only, such extension of time shall be included in the computation of the payment of interest hereunder or of the Revolving Commitment fees hereunder.

(f) Borrower hereby authorizes Administrative Agent and Collateral Agent to charge Borrower's accounts with Administrative Agent and Collateral Agent in order to cause timely payment to be made to Administrative Agent and Collateral Agent of all principal, interest, fees and expenses due hereunder (subject to sufficient funds being available in its accounts for that purpose).

(g) Administrative Agent shall deem any payment by or on behalf of Borrower hereunder that is not made in same day funds prior to 12:00 p.m. (New York City time) to be a non-conforming payment. Any such payment shall not be deemed to have been received by Administrative Agent until the later of (i) the time such funds become available funds, and (ii) the applicable next Business Day. Administrative Agent shall give prompt notice to Borrower and each applicable Lender (confirmed in writing) if any payment is non-conforming. Any non-conforming payment may constitute or become a Default or Event of Default in accordance with the terms of Section 8.1(a). Interest shall continue to accrue on any principal as to which a non-conforming payment is made until such funds become available funds (but in no event less than the period from the date of such payment to the next succeeding applicable Business Day) at the rate determined pursuant to Section 2.10 from the date such amount was due and payable until the date such amount is paid in full.

(h) If an Event of Default shall have occurred and not otherwise been waived and the maturity of the Obligations shall have been accelerated pursuant to Section 8.1, all payments or proceeds received by Agents hereunder in respect of any of the Obligations, shall be applied in accordance with the application arrangements described in Section 7.2 of the Pledge and Security Agreement.

2.16. Ratable Sharing. Lenders hereby agree among themselves that if any of them shall, whether by voluntary payment (other than a voluntary prepayment of Loans made and applied in accordance with the terms hereof), through the exercise of any right of set-off or banker's lien, by counterclaim or cross action or by the enforcement of any right under the Credit Documents or otherwise, or as adequate protection of a deposit treated as cash collateral under the Bankruptcy Code, receive payment or reduction of a proportion of the aggregate amount of principal, interest, amounts payable in respect of Letters of Credit, fees and other amounts then due and owing to such Lender hereunder or under the other Credit Documents (collectively, the **"Aggregate Amounts Due"** to such Lender) which is greater than the proportion received by any other Lender in respect of the Aggregate Amounts Due to such other Lender, then the Lender receiving such proportionately greater payment shall (a) notify Administrative Agent and each other Lender of the receipt of such payment and (b) apply a portion of such payment to purchase participations (which it shall be deemed to have purchased from each seller of a participation simultaneously upon the receipt by such seller of its portion of such payment) in the Aggregate Amounts Due to the other Lenders so that all such recoveries of Aggregate Amounts Due shall be shared by all Lenders in proportion to the Aggregate Amounts Due to them; provided, if all or part of such proportionately greater payment received by such purchasing

Lender is thereafter recovered from such Lender upon the bankruptcy or reorganization of Borrower or otherwise, those purchases shall be rescinded and the purchase prices paid for such participations shall be returned to such purchasing Lender ratably to the extent of such recovery, but without interest. Borrower expressly consents to the foregoing arrangement and agrees that any holder of a participation so purchased may exercise any and all rights of banker's lien, set-off or counterclaim with respect to any and all monies owing by Borrower to that holder with respect thereto as fully as if that holder were owed the amount of the participation held by that holder.

2.17. Making or Maintaining Eurodollar Rate Loans.

(a) Inability to Determine Applicable Interest Rate. In the event that Administrative Agent shall have determined (which determination shall be final and conclusive and binding upon all parties hereto), on any Interest Rate Determination Date with respect to any Eurodollar Rate Loans, that by reason of circumstances affecting the London interbank market adequate and fair means do not exist for ascertaining the interest rate applicable to such Loans on the basis provided for in the definition of Adjusted Eurodollar Rate, Administrative Agent shall on such date give notice (by telefacsimile or by telephone confirmed in writing) to Borrower and each Lender of such determination, whereupon (i) no Loans may be made as, or converted to, Eurodollar Rate Loans until such time as Administrative Agent notifies Borrower and Lenders that the circumstances giving rise to such notice no longer exist, and (ii) any Funding Notice or Conversion/Continuation Notice given by Borrower with respect to the Loans in respect of which such determination was made shall be deemed to be a Funding Notice for or Conversion/Continuation Notice into Base Rate Loans.

(b) Illegality or Impracticability of Eurodollar Rate Loans. In the event that on any date any Lender shall have determined (which determination shall be final and conclusive and binding upon all parties hereto but shall be made only after consultation with Borrower and Administrative Agent) that the making, maintaining or continuation of its Eurodollar Rate Loans (i) has become unlawful as a result of compliance by such Lender in good faith with any law, treaty, governmental rule, regulation, guideline or order (or would conflict with any such treaty, governmental rule, regulation, guideline or order not having the force of law even though the failure to comply therewith would not be unlawful), or (ii) has become impracticable, as a result of contingencies occurring after the date hereof which materially and adversely affect the London interbank market or the position of such Lender in that market, then, and in any such event, such Lender shall be an **"Affected Lender"** and it shall on that day give notice (by telefacsimile or by telephone confirmed in writing) to Borrower and Administrative Agent of such determination (which notice Administrative Agent shall promptly transmit to each other Lender). Thereafter (1) the obligation of the Affected Lender to make Loans as, or to convert Loans to, Eurodollar Rate Loans shall be suspended until such notice shall be withdrawn by the Affected Lender, (2) to the extent such determination by the Affected Lender relates to a Eurodollar Rate Loan then being requested by Borrower pursuant to a Funding Notice or a Conversion/Continuation Notice, the Affected Lender shall make such Loan as (or continue such Loan as or convert such Loan to, as the case may be) a Base Rate Loan, (3) the Affected Lender's obligation to maintain its outstanding Eurodollar Rate Loans (the **"Affected Loans"**) shall be terminated at the earlier to occur of the expiration of the Interest Period then in effect with respect to the Affected Loans or when required by law, and (4) the Affected Loans shall

automatically convert into Base Rate Loans on the date of such termination. Notwithstanding the foregoing, to the extent a determination by an Affected Lender as described above relates to a Eurodollar Rate Loan then being requested by Borrower pursuant to a Funding Notice or a Conversion/Continuation Notice, Borrower shall have the option, subject to the provisions of Section 2.17(c), to rescind such Funding Notice or Conversion/Continuation Notice as to all Lenders by giving notice (by telefacsimile or by telephone confirmed in writing) to Administrative Agent of such rescission on the date on which the Affected Lender gives notice of its determination as described above (which notice of rescission Administrative Agent shall promptly transmit to each other Lender). Except as provided in the immediately preceding sentence, nothing in this Section 2.17(b) shall affect the obligation of any Lender other than an Affected Lender to make or maintain Loans as, or to convert Loans to, Eurodollar Rate Loans in accordance with the terms hereof.

(c) Compensation for Breakage or Non-Commencement of Interest Periods. Borrower shall compensate each Lender, upon written request by such Lender (which request shall set forth the basis for requesting such amounts), for all reasonable losses, expenses and liabilities (including any interest paid by such Lender to Lenders of funds borrowed by it to make or carry its Eurodollar Rate Loans and any loss, expense or liability sustained by such Lender in connection with the liquidation or re-employment of such funds but excluding loss of anticipated profits) which such Lender may sustain: (i) if for any reason (other than a default by such Lender or a rescission pursuant to Section 2.17(b)) a borrowing of any Eurodollar Rate Loan does not occur on a date specified therefor in a Funding Notice or a telephonic request for borrowing, or a conversion to or continuation of any Eurodollar Rate Loan does not occur on a date specified therefor in a Conversion/Continuation Notice or a telephonic request for conversion or continuation; (ii) if any prepayment or other principal payment of, or any conversion of, any of its Eurodollar Rate Loans occurs on a date prior to the last day of an Interest Period applicable to that Loan; or (iii) if any prepayment of any of its Eurodollar Rate Loans is not made on any date specified in a notice of prepayment given by Borrower.

(d) Booking of Eurodollar Rate Loans. Any Lender may make, carry or transfer Eurodollar Rate Loans at, to, or for the account of any of its branch offices or the office of an Affiliate of such Lender.

(e) Assumptions Concerning Funding of Eurodollar Rate Loans. Calculation of all amounts payable to a Lender under this Section 2.17 and under Section 2.18 shall be made as though such Lender had actually funded each of its relevant Eurodollar Rate Loans through the purchase of a Eurodollar deposit bearing interest at the rate obtained pursuant to clause (i) of the definition of Adjusted Eurodollar Rate in an amount equal to the amount of such Eurodollar Rate Loan and having a maturity comparable to the relevant Interest Period and through the transfer of such Eurodollar deposit from an offshore office of such Lender to a domestic office of such Lender in the United States of America; provided, however, each Lender may fund each of its Eurodollar Rate Loans in any manner it sees fit and the foregoing assumptions shall be utilized only for the purposes of calculating amounts payable under this Section 2.17 and under Section 2.18.

2.18. Increased Costs; Capital Adequacy.

(a) Compensation For Increased Costs and Taxes. Subject to the provisions of Section 2.19 (which shall be controlling with respect to the matters covered thereby), in the event that any Lender (which term shall include Issuing Bank for purposes of this Section 2.18(a)) shall determine (which determination shall, absent manifest error, be final and conclusive and binding upon all parties hereto) that any law, treaty or governmental rule, regulation or order, or any change therein or in the interpretation, administration or application thereof (including the introduction of any new law, treaty or governmental rule, regulation or order), or any determination of a court or Governmental Authority, in each case that becomes effective after the date hereof, or compliance by such Lender with any guideline, request or directive issued or made after the date hereof by any central bank or other governmental or quasi-governmental authority (whether or not having the force of law): (i) subjects such Lender (or its applicable lending office) to any additional Tax (other than any Tax on the overall net income of such Lender) with respect to this Agreement or any of the other Credit Documents or any of its obligations hereunder or thereunder or any payments to such Lender (or its applicable lending office) of principal, interest, fees or any other amount payable hereunder; (ii) imposes, modifies or holds applicable any reserve (including any marginal, emergency, supplemental, special or other reserve), special deposit, compulsory loan, FDIC insurance or similar requirement against assets held by, or deposits or other liabilities in or for the account of, or advances or loans by, or other credit extended by, or any other acquisition of funds by, any office of such Lender (other than any such reserve or other requirements with respect to Eurodollar Rate Loans that are reflected in the definition of Adjusted Eurodollar Rate); or (iii) imposes any other condition (other than with respect to a Tax matter) on or affecting such Lender (or its applicable lending office) or its obligations hereunder or the London interbank market; and the result of any of the foregoing is to increase the cost to such Lender of agreeing to make, making or maintaining Loans hereunder or to reduce any amount received or receivable by such Lender (or its applicable lending office) with respect thereto; then, in any such case, Borrower shall promptly pay to such Lender, upon receipt of the statement referred to in the next sentence, such additional amount or amounts (in the form of an increased rate of, or a different method of calculating, interest or otherwise as such Lender in its sole discretion shall determine) as may be necessary to compensate such Lender for any such increased cost or reduction in amounts received or receivable hereunder. Such Lender shall deliver to Borrower (with a copy to Administrative Agent) a written statement, setting forth in reasonable detail the basis for calculating the additional amounts owed to such Lender under this Section 2.18(a), which statement shall be conclusive and binding upon all parties hereto absent manifest error.

(b) Capital Adequacy Adjustment. In the event that any Lender (which term shall include Issuing Bank for purposes of this Section 2.18(b)) shall have determined that the adoption, effectiveness, phase-in or applicability after the Closing Date of any law, rule or regulation (or any provision thereof) regarding capital adequacy, or any change therein or in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by any Lender (or its applicable lending office) with any guideline, request or directive regarding capital adequacy (whether or not having the force of law) of any such Governmental Authority, central bank or comparable agency, has or would have the effect of reducing the rate of return on the capital of such Lender or any corporation controlling such Lender as a consequence of, or with reference to, such Lender's Loans, Revolving Commitments or Letters of Credit, or participations therein or other obligations hereunder with respect to the Loans or the Letters of

Credit to a level below that which such Lender or such controlling corporation could have achieved but for such adoption, effectiveness, phase-in, applicability, change or compliance (taking into consideration the policies of such Lender or such controlling corporation with regard to capital adequacy), then from time to time, within five Business Days after receipt by Borrower from such Lender of the statement referred to in the next sentence, Borrower shall pay to such Lender such additional amount or amounts as will compensate such Lender or such controlling corporation on an after-tax basis for such reduction. Such Lender shall deliver to Borrower (with a copy to Administrative Agent) a written statement, setting forth in reasonable detail the basis for calculating the additional amounts owed to Lender under this Section 2.18(b), which statement shall be conclusive and binding upon all parties hereto absent manifest error.

(c) Notice. Failure or delay on the part of any Lender or the Issuing Bank to demand compensation for any increased costs or reduction in amounts received or receivable or reduction in return on capital shall not constitute a waiver of such Lender's or the Issuing Bank's right to demand such compensation; provided that Borrower shall not be under any obligation to compensate any Lender or the Issuing Bank under paragraph (a) or (b) of this Section 2.18 with respect to increased costs or reductions with respect to any period prior to the date that is 180 days prior to the date of the delivery of the statement required pursuant to paragraph (a) or (b); provided further that the foregoing limitation shall not apply to any increased costs or reductions arising out of the retroactive application of any change in any law, treaty, governmental rule, regulation or order within such 180-day period.

2.19. Taxes; Withholding, etc.

(a) Payments to Be Free and Clear. All sums payable by any Credit Party hereunder and under the other Credit Documents shall (except to the extent required by law) be paid free and clear of, and without any deduction or withholding on account of, any Tax (other than a Tax on the overall net income of any Lender) imposed, levied, collected, withheld or assessed by or within the United States of America or any political subdivision in or of the United States of America or any other jurisdiction from or to which a payment is made by or on behalf of any Credit Party or by any federation or organization of which the United States of America or any such jurisdiction is a member at the time of payment.

(b) Withholding of Taxes. If any Credit Party or any other Person is required by law to make any deduction or withholding on account of any such Tax from any sum paid or payable by any Credit Party to Administrative Agent or any Lender (which term shall include Issuing Bank for purposes of this Section 2.19(b)) under any of the Credit Documents: (i) Borrower shall notify Administrative Agent of any such requirement or any change in any such requirement as soon as Borrower becomes aware of it; (ii) Borrower shall pay any such Tax before the date on which penalties attach thereto, such payment to be made (if the liability to pay is imposed on any Credit Party) for its own account or (if that liability is imposed on Administrative Agent or such Lender, as the case may be) on behalf of and in the name of Administrative Agent or such Lender; (iii) the sum payable by such Credit Party in respect of which the relevant deduction, withholding or payment is required shall be increased to the extent necessary to ensure that, after the making of that deduction, withholding or payment, Administrative Agent or such Lender, as the case may be, receives on the due date a net sum equal to what it would have received had no such deduction, withholding or payment been

required or made; and (iv) within thirty days after paying any sum from which it is required by law to make any deduction or withholding, and within thirty days after the due date of payment of any Tax which it is required by clause (ii) above to pay, Borrower shall deliver to Administrative Agent evidence satisfactory to the other affected parties of such deduction, withholding or payment and of the remittance thereof to the relevant taxing or other authority; provided, no such additional amount shall be required to be paid to any Lender under clause (iii) above except to the extent that any change after the date hereof (in the case of each Lender listed on the signature pages hereof on the Closing Date) or after the effective date of the Assignment Agreement pursuant to which such Lender became a Lender (in the case of each other Lender) in any such requirement for a deduction, withholding or payment as is mentioned therein shall result in an increase in the rate of such deduction, withholding or payment from that in effect at the date hereof or at the date of such Assignment Agreement, as the case may be, in respect of payments to such Lender.

(c) Evidence of Exemption From U.S. Withholding Tax. Each Lender that is not a United States Person (as such term is defined in Section 7701(a)(30) of the Internal Revenue Code) for U.S. federal income tax purposes (a **"Non-US Lender"**) shall deliver to Administrative Agent for transmission to Borrower, on or prior to the Closing Date (in the case of each Lender listed on the signature pages hereof on the Closing Date) or on or prior to the date of the Assignment Agreement pursuant to which it becomes a Lender (in the case of each other Lender), and at such other times as may be necessary in the determination of Borrower or Administrative Agent (each in the reasonable exercise of its discretion), (i) two original copies of Internal Revenue Service Form W-8BEN or W-8ECI (or any successor forms), properly completed and duly executed by such Lender, and such other documentation required under the Internal Revenue Code and reasonably requested by Borrower to establish that such Lender is not subject to deduction or withholding of United States federal income tax with respect to any payments to such Lender of principal, interest, fees or other amounts payable under any of the Credit Documents, or (ii) if such Lender is not a "bank" or other Person described in Section 881(c)(3) of the Internal Revenue Code and cannot deliver either Internal Revenue Service Form W-8ECI pursuant to clause (i) above, a Certificate re Non-Bank Status together with two original copies of Internal Revenue Service Form W-8BEN (or any successor form), properly completed and duly executed by such Lender, and such other documentation required under the Internal Revenue Code and reasonably requested by Borrower to establish that such Lender is not subject to deduction or withholding of United States federal income tax with respect to any payments to such Lender of interest payable under any of the Credit Documents. Each Lender that is a United States person (as such term is defined in Section 7701(a)(30) of the Internal Revenue Code) for United States federal income tax purposes (a "**U.S. Lender**") shall deliver to Administrative Agent and Borrower on or prior to the Closing Date (or, if later, on or prior to the date on which such Lender becomes a party to this Agreement) two original copies of Internal Revenue Service Form W-9 (or any successor form), properly completed and duly executed by such Lender, certifying that such U.S. Lender is entitled to an exemption from United States backup withholding tax, or otherwise prove that it is entitled to such an exemption. Each Lender required to deliver any forms, certificates or other evidence with respect to United States federal income tax withholding matters pursuant to this Section 2.19(c) hereby agrees, from time to time after the initial delivery by such Lender of such forms, certificates or other evidence, whenever a lapse in time or change in circumstances renders such forms, certificates or other evidence obsolete or inaccurate in any material respect, that such Lender shall promptly

deliver to Administrative Agent for transmission to Borrower two new original copies of Internal Revenue Service Form W-8BEN or W-8ECI , or a Certificate re Non-Bank Status and two original copies of Internal Revenue Service Form W-8BEN (or any successor form), as the case may be, properly completed and duly executed by such Lender, and such other documentation required under the Internal Revenue Code and reasonably requested by Borrower to confirm or establish that such Lender is not subject to deduction or withholding of United States federal income tax with respect to payments to such Lender under the Credit Documents, or notify Administrative Agent and Borrower of its inability to deliver any such forms, certificates or other evidence. Borrower shall not be required to pay any additional amount to any Non-US Lender under Section 2.19(b)(iii) if such Lender shall have failed (1) to deliver the forms, certificates or other evidence referred to in the second sentence of this Section 2.19(c), or (2) to notify Administrative Agent and Borrower of its inability to deliver any such forms, certificates or other evidence, as the case may be; provided, if such Lender shall have satisfied the requirements of the first sentence of this Section 2.19(c) on the Closing Date or on the date of the Assignment Agreement pursuant to which it became a Lender, as applicable, nothing in this last sentence of Section 2.19(c) shall relieve Borrower of its obligation to pay any additional amounts pursuant this Section 2.19 in the event that, as a result of any change in any applicable law, treaty or governmental rule, regulation or order, or any change in the interpretation, administration or application thereof, such Lender is no longer properly entitled to deliver forms, certificates or other evidence at a subsequent date establishing the fact that such Lender is not subject to withholding as described herein.

2.20. Obligation to Mitigate. Each Lender (which term shall include Issuing Bank for purposes of this Section 2.20) agrees that, as promptly as practicable after the officer of such Lender responsible for administering its Loans or Letters of Credit, as the case may be, becomes aware of the occurrence of an event or the existence of a condition that would cause such Lender to become an Affected Lender or that would entitle such Lender to receive payments under Section 2.17, 2.18 or 2.19, it will, to the extent not inconsistent with the internal policies of such Lender and any applicable legal or regulatory restrictions, use reasonable efforts to (a) make, issue, fund or maintain its Credit Extensions, including any Affected Loans, through another office of such Lender, or (b) take such other measures as such Lender may deem reasonable, if as a result thereof the circumstances which would cause such Lender to be an Affected Lender would cease to exist or the additional amounts which would otherwise be required to be paid to such Lender pursuant to Section 2.17, 2.18 or 2.19 would be materially reduced and if, as determined by such Lender in its sole discretion, the making, issuing, funding or maintaining of such Revolving Commitments, Loans or Letters of Credit through such other office or in accordance with such other measures, as the case may be, would not otherwise adversely affect such Revolving Commitments, Loans or Letters of Credit or the interests of such Lender; provided, such Lender will not be obligated to utilize such other office pursuant to this Section 2.20 unless Borrower agrees to pay all incremental expenses incurred by such Lender as a result of utilizing such other office as described above. A certificate as to the amount of any such expenses payable by Borrower pursuant to this Section 2.20 (setting forth in reasonable detail the basis for requesting such amount) submitted by such Lender to Borrower (with a copy to Administrative Agent) shall be conclusive absent manifest error.

2.21. Defaulting Lenders. Anything contained herein to the contrary notwithstanding, in the event that any Lender, other than at the direction or request of any

regulatory agency or authority, defaults (a **"Defaulting Lender**") in its obligation to fund (a **"Funding Default"**) any Revolving Loan or its portion of any unreimbursed payment, including under Section 2.3(b)(iv) or 2.4 (in each case, a **"Defaulted Loan"**), then (a) during any Default Period with respect to such Defaulting Lender, such Defaulting Lender shall be deemed not to be a "Lender" for purposes of voting on any matters (including the granting of any consents or waivers) with respect to any of the Credit Documents; (b) to the extent permitted by applicable law, until such time as the Default Excess with respect to such Defaulting Lender shall have been reduced to zero, (i) any voluntary prepayment of the Revolving Loans shall, if Borrower so directs at the time of making such voluntary prepayment, be applied to the Revolving Loans of other Lenders as if such Defaulting Lender had no Revolving Loans outstanding and the Revolving Exposure of such Defaulting Lender were zero, and (ii) any mandatory prepayment of the Revolving Loans shall, if Borrower so directs at the time of making such mandatory prepayment, be applied to the Revolving Loans of other Lenders (but not to the Revolving Loans of such Defaulting Lender) as if such Defaulting Lender had funded all Defaulted Loans of such Defaulting Lender, it being understood and agreed that Borrower shall be entitled to retain any portion of any mandatory prepayment of the Revolving Loans that is not paid to such Defaulting Lender solely as a result of the operation of the provisions of this clause (b); (c) such Defaulting Lender's Revolving Commitment and outstanding Revolving Loans and such Defaulting Lender's Pro Rata Share of the Letter of Credit Usage shall be excluded for purposes of calculating the Revolving Commitment fee payable to Lenders in respect of any day during any Default Period with respect to such Defaulting Lender, and such Defaulting Lender shall not be entitled to receive any Revolving Commitment fee pursuant to Section 2.11 with respect to such Defaulting Lender's Revolving Commitment in respect of any Default Period with respect to such Defaulting Lender; and (d) the Total Utilization of Revolving Commitments of all Lenders as at any date of determination shall be calculated as if such Defaulting Lender had funded all Defaulted Loans of such Defaulting Lender. No Revolving Commitment of any Lender shall be increased or otherwise affected, and, except as otherwise expressly provided in this Section 2.21, performance by Borrower of its obligations hereunder and the other Credit Documents shall not be excused or otherwise modified as a result of any Funding Default or the operation of this Section 2.21. The rights and remedies against a Defaulting Lender under this Section 2.21 are in addition to other rights and remedies which Borrower may have against such Defaulting Lender with respect to any Funding Default and which Administrative Agent or any Lender may have against such Defaulting Lender with respect to any Funding Default.

2.22. Removal or Replacement of a Lender. Anything contained herein to the contrary notwithstanding, in the event that: (a) (i) any Lender (an **"Increased-Cost Lender"**) shall give notice to Borrower that such Lender is an Affected Lender or that such Lender is entitled to receive payments under Section 2.19, 2.20 or 2.21, (ii) the circumstances which have caused such Lender to be an Affected Lender or which entitle such Lender to receive such payments shall remain in effect, and (iii) such Lender shall fail to withdraw such notice within five Business Days after Borrower's request for such withdrawal; or (b) (i) any Lender shall become a Defaulting Lender, (ii) the Default Period for such Defaulting Lender shall remain in effect, and (iii) such Defaulting Lender shall fail to cure the default as a result of which it has become a Defaulting Lender within five Business Days after Borrower's request that it cure such default; then, with respect to each such Increased-Cost Lender or Defaulting Lender (the **"Terminated Lender"**), Borrower may, by giving written notice to Administrative Agent and any Terminated Lender of its election to do so, elect to cause such Terminated Lender (and such

Terminated Lender hereby irrevocably agrees) to assign its outstanding Loans and its Revolving Commitments, if any, in full to one or more Eligible Assignees (each a **"Replacement Lender"**) in accordance with the provisions of Section 10.6 and Borrower shall pay or cause to be paid the fees, if any, payable thereunder in connection with any such assignment from an Increased Cost Lender and the Defaulting Lender shall pay the fees, if any, payable thereunder in connection with any such assignment from such Defaulting Lender; provided, (1) on the date of such assignment, the Replacement Lender shall pay to Terminated Lender an amount equal to the sum of (A) an amount equal to the principal of, and all accrued interest on, all outstanding Loans of the Terminated Lender, and (B) an amount equal to all accrued, but theretofore unpaid fees owing to such Terminated Lender pursuant to Section 2.11 and all other amounts owing to such Terminated Lender pursuant to any other provision of any Credit Document and (2) on the date of such assignment, Borrower shall pay any amounts payable to such Terminated Lender pursuant to Section 2.17(c), 2.18 or 2.19; or otherwise as if it were a prepayment; provided, Borrower may not make such election with respect to any Terminated Lender that is also an Issuing Bank unless, prior to the effectiveness of such election, Borrower shall have caused each outstanding Letter of Credit issued thereby to be cancelled. Upon the prepayment of all amounts owing to any Terminated Lender and the termination of such Terminated Lender's Revolving Commitments, if any, such Terminated Lender shall no longer constitute a "Lender" for purposes hereof; provided, any rights of such Terminated Lender to indemnification hereunder shall survive as to such Terminated Lender.

2.23. Super-Priority Nature of Obligations and Status of Lenders' Liens.

(a) On and after the Closing Date, the provisions of the Loan Documents and the DIP Orders (as applicable) shall be effective to create in favor of the Collateral Agent, for the benefit of the Secured Parties, legal, valid and perfected Liens on and security interests in all right, title and interest of Borrower and Guarantors in the Collateral, enforceable against each Borrower or Guarantor that holds or owns any right, title or interest in such Collateral, as follows:

(i) Pursuant to Section 364(c)(2) of the Bankruptcy Code and the DIP Orders (as applicable), all Obligations shall be secured by a perfected First Priority senior Lien on all Collateral that is not otherwise subject to valid, perfected and nonavoidable liens as of the Petition Date, subject only to the Carve-Out;

(ii) Pursuant to Section 364(c)(3) of the Bankruptcy Code and the DIP Orders (as applicable), all Obligations shall be secured by a perfected second priority junior Lien on all Collateral that is otherwise subject to (1) valid, perfected and nonavoidable liens as of the Petition Date or (2) valid liens in existence at the Petition Date that are perfected subsequent to the Petition Date as permitted by Section 546(b) of the Bankruptcy Code (other than Collateral that is subject to the Liens securing the obligations under the Existing Agreements referred to in clause (iii) below, which Liens shall be primed by the Liens described in such clause), subject only to the Carve-Out; and

(iii) Pursuant to Section 364(d)(1) of the Bankruptcy Code and the DIP Orders (as applicable), all Obligations shall be secured by a perfected First Priority senior priming Lien on the Existing Collateral, subject only to (i) the Carve-Out and (ii) those

valid, perfected and nonavoidable Liens in existence on the Petition Date to which the Liens in the Existing Collateral granted in connection with the Existing Agreements are subject in accordance with the Existing Credit Agreements, to the extent such liens and security interests are valid, perfected, enforceable and non-avoidable (provided that with respect to such excepted liens and security interests, the DIP Lenders shall be granted the second priority or other junior liens granted in subparagraph (ii) above).

Subject to the applicable DIP Order, no filings, recordings or other actions shall be necessary to perfect and maintain the perfection and status of such Liens.

(b) Pursuant to Section 364(c)(1) of the Bankruptcy Code and the DIP Orders (as applicable), all Obligations at all times shall constitute allowed super-priority administrative expense claims in each of the Cases having priority over all administrative expenses of the kind specified in sections 503(b) or 507(b) of the Bankruptcy Code, subject only to the Carve-Out.

(c) Except for the Carve Out, no costs or expenses of administration shall be imposed against Administrative Agent, Lenders or any of the Collateral under Section 105 or 506(c) of the Bankruptcy Code, or otherwise, and each of the Credit Parties hereby waives for itself and on behalf of its estate in bankruptcy, any and all rights under Section 105 or 506(c), or otherwise, to assert or impose or seek to assert or impose, any such costs or expenses of administration against Administrative Agent, the Lenders or the Collateral.

(d) Subject to the priorities set forth in subsection (a) above and to the Carve-Out, as to all Collateral consisting of Real Estate Assets, including Leasehold Property, each of the Credit Parties hereby assigns and conveys as security, grants a security interest in, hypothecates, mortgages, pledges and sets over unto Collateral Agent on behalf of the Lenders all of the right, title and interest of Borrower in all of such Real Estate Assets, together in each case with all of the right, title and interest of such Credit Party in and to all buildings, improvements, and fixtures related thereto, any lease or sublease thereof, all general intangibles relating thereto and all proceeds thereof. Each of the Credit Parties acknowledges that, pursuant to the DIP Orders, the Liens in favor of Collateral Agent on behalf of the Lenders in all of such Real Estate Assets shall be perfected without the recordation of any instruments of mortgage or assignment. Each of the Credit Parties further agrees that, as further provided in Section 5.11, upon the request of the Collateral Agent, such Credit Party shall enter into separate fee mortgages and, if obtainable by Borrower after using its commercially reasonable best efforts, leasehold mortgages, in each case in recordable form with respect to such properties on terms satisfactory to Collateral Agent.

(e) The Carve Out shall become operative upon delivery of the Carve-Out Trigger Notice. Upon receipt of the Carve-Out Trigger Notice, the Debtors shall provide immediate notice by facsimile to all Professionals informing them that a Carve-Out Trigger Notice has been received and further advising them that the Debtors' ability to pay Professionals is subject to the Carve-Out.

2.24. No Discharge; Survival of Liens and Claims; Waiver of Priming Rights.

(a) The Credit Parties agree that the Obligations hereunder shall not be discharged by (i) the entry of an order confirming a Chapter 11 plan of reorganization or

liquidation in any Case (and Credit Parties pursuant to Section 1141(d)(4) of the Bankruptcy Code hereby waive any such discharge), (ii) converting any of the Cases to a chapter 7 case, or (iii) dismissing any of the Cases.

(b) The Credit Parties agree that the Liens and super-priority administrative expense claim granted to Secured Parties pursuant to the DIP Orders shall not be affected in any manner by the entry of an order confirming a Chapter 11 plan of reorganization or liquidation in any Case.

(c) Upon the Closing Date, and on behalf of themselves and their estates, and for so long as any Obligations shall be outstanding, Credit Parties hereby irrevocably waive any right, pursuant to Section 364(c) or 364(d) of the Bankruptcy Code or otherwise, to grant any Lien on the Collateral that is of equal or greater priority than the Liens securing the Obligations, or to approve a claim of equal or greater priority than the super-priority administrative expense claim granted to the Obligations.

2.25. Payment of Obligations. Subject to Section 8.1 hereof, upon the maturity (whether by acceleration or otherwise) of any of the Obligations under this Agreement or any of the other Credit Documents, Lenders shall be entitled to immediate payment of such Obligations without further application to or order of the Bankruptcy Court.

2.26. Adequate Protection.

As adequate protection for the priming of their liens and any decline in value of the liens during the pendency of the Cases, the holders of the Existing First Lien Indebtedness and Existing Second Lien Indebtedness shall be granted the protections provided in the applicable DIP Order, including (a) a second priority lien and third priority lien, respectively, on the collateral described in Section 2.23(a)(i) above, and a third priority lien and fourth priority lien, respectively, on the collateral described in Section 2.23(a)(ii) above, and (b) super-priority administrative expense claims subordinated in right to the super-priority administrative expense claim described in Section 2.23(b) above, with such subordinated claim of the holders of the Existing First Lien Indebtedness being prior in right to the subordinated claim of the holders of the Existing Second Lien Indebtedness.

SECTION 3. CONDITIONS PRECEDENT

3.1. Conditions to Initial Availability. The obligation of each Lender to make any Credit Extensions on the Closing Date, which shall be limited to the Initial Revolver Availability and the Initial Term Loan Availability, is subject to the satisfaction, or waiver in accordance with Section 10.5, of the following conditions on or before the Closing Date:

(a) Credit Documents. Administrative Agent shall have received each Credit Document originally executed and delivered by each applicable Credit Party.

(b) Commencement and Status of Cases. Borrower and the Guarantors shall have commenced voluntary cases under Chapter 11 of the Bankruptcy Code in the Bankruptcy Court.

No trustee or examiner with expanded powers relating to the operation of the business of Borrower and the Guarantors shall have been appointed with respect to any Borrower or Guarantor or their respective business, properties or assets, including, without limitation, the Collateral and any other property which is security for the Obligations.

(c) Entry of Interim DIP Order. No later than five (5) Business Days after the Petition Date, the Bankruptcy Court shall have entered, upon motion in form and substance satisfactory to Arranger, on such prior notice to such parties as may be satisfactory to Arranger (it being understood and agreed that such notice set forth in the Interim DIP Order is satisfactory to Arranger), the Interim DIP Order. The Interim DIP Order shall be in full force and effect, shall not be subject to a motion for reconsideration and shall not have been vacated, reversed, modified, amended, stayed or subject to a pending appeal. The Credit Parties shall have complied in full with the notice and all other requirements as provided for under the Interim DIP Order.

(d) Payment of Existing Revolver Indebtedness. A Funding Notice shall request funding under the Initial Term Loan Availability and, to the extent necessary, under the Initial Revolver Availability, sufficient to pay the Existing Revolver Indebtedness; and Administrative Agent and Arranger shall have received a duly executed letter of direction from Borrower directing the disbursement of the proceeds of the Loans in satisfaction of the Existing Revolver Indebtedness.

(e) Other Bankruptcy Court Filings. All "first day" orders entered by the Bankruptcy Court, and all motions and documents filed or to be filed with, and submitted to, the Bankruptcy Court in connection therewith, shall be in form and substance reasonably satisfactory to Arranger.

(f) Organizational Documents; Incumbency. Administrative Agent shall have received (i) copies of each Organizational Document executed and delivered by each Credit Party, as applicable, and, to the extent applicable, certified as of a recent date by the appropriate governmental official, each dated the Closing Date or a recent date prior thereto; (ii) signature and incumbency certificates of the officers of such Person executing the Credit Documents to which it is a party; (iii) resolutions of the Board of Directors or similar governing body of each Credit Party approving and authorizing, among other things, the execution, delivery and performance of this Agreement and the other Credit Documents to which it is a party or by which it or its assets may be bound as of the Closing Date, certified as of the Closing Date by its secretary or an assistant secretary as being in full force and effect without modification or amendment; and (iv) a good standing certificate from the applicable Governmental Authority of each Credit Party's jurisdiction of incorporation, organization or formation and in each jurisdiction in which it is qualified as a foreign corporation or other entity to do business (other than, in the case of jurisdictions other than such Credit Party's jurisdiction of incorporation, organization or formation, where the failure to be in good standing or so qualified could not be reasonably expected to have a Material Adverse Effect), each dated a recent date prior to the Closing Date.

(g) Organizational and Capital Structure. The organizational structure and capital structure of Borrower and its Subsidiaries shall be as set forth on Schedule 4.1.

(h) Transaction Costs; Fees. On or prior to the Closing Date, Borrower (i) shall have delivered to Administrative Agent and Arranger Borrower's reasonable best estimate of the Transaction Costs (other than fees payable to any Agent) and (ii) shall have paid to Agents the fees payable on the Closing Date referred to in Section 2.11(e).

(i) Governmental Authorizations and Consents. Each Credit Party shall have obtained all Governmental Authorizations and all consents of other Persons, in each case that are necessary or advisable in connection with the transactions contemplated by the Credit Documents and each of the foregoing shall be in full force and effect and in form and substance reasonably satisfactory to Administrative Agent and Syndication Agent.

(j) Personal Property Collateral. In order to create in favor of Collateral Agent, for the benefit of Secured Parties, a valid, perfected First Priority security interest in the personal property Collateral, the Credit Parties shall have delivered to Collateral Agent evidence satisfactory to Collateral Agent and Arranger of the compliance by each Credit Party of their obligations under the Pledge and Security Agreement and the other Collateral Documents (including their obligations to execute and deliver UCC financing statements, originals of securities, instruments, chattel paper and certificates of title and any agreements governing deposit and/or securities accounts as provided therein).

(k) Financial Statements. Administrative Agent and Arranger shall have received from Borrower (i) the Historical Financial Statements (it being understood and agreed that such Historical Financial Statements submitted to the Arranger prior to the Closing Date are satisfactory to Administrative Agent and Arranger) and (ii) pro forma consolidated balance sheets of Borrower and its Subsidiaries as at the Closing Date, and reflecting the transactions contemplated by the Credit Documents to occur on or prior to the Closing Date.

(l) Budget. Administrative Agent and Arranger shall have received the Budget.

(m) Cash Flow Forecast. Administrative Agent and Arranger shall have received a Cash Flow Forecast for the period commencing on October 5, 2007.

(n) Minimum EBITDA. Administrative Agent and Arranger shall have received evidence reasonably satisfactory to Administrative Agent and Arranger that the Consolidated Adjusted EBITDA of Borrower for the twelve-fiscal month period ending September 2, 2007 was not less than $137,000,000.

(o) Patriot Act. At least five (5) days prior to the Closing Date, Administrative Agent and Arranger shall have received all documentation and other information required by bank regulatory authorities under applicable "know-your-customer" and anti-money laundering rules and regulations, including the U.S.A. Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "**Patriot Act**").

(p) Opinions of Counsel to Credit Parties. Lenders and their respective counsel shall have received originally executed copies of the favorable written opinions of Kirkland & Ellis LLP, special counsel for Credit Parties, as to such matters as Administrative Agent or Syndication Agent may reasonably request, dated as of the Closing Date and otherwise in form

and substance reasonably satisfactory to Administrative Agent and Syndication Agent (and each Credit Party hereby instructs such counsel to deliver such opinions to Agents and Lenders).

(q) No Litigation. There shall not exist any action, suit, investigation, litigation, proceeding, hearing or other legal or regulatory developments, pending or threatened in any court or before any arbitrator or Governmental Authority (other than the Cases) that, in the reasonable opinion of Requisite Lenders and Syndication Agent, singly or in the aggregate, materially impairs the transactions contemplated by the Credit Documents, or that could have a Material Adverse Effect.

(r) Completion of Proceedings. All partnership, corporate and other proceedings taken or to be taken in connection with the transactions contemplated hereby and all documents incidental thereto not previously found acceptable by Administrative Agent or Syndication Agent and its counsel shall be satisfactory in form and substance to Administrative Agent and Syndication Agent and such counsel, and Administrative Agent, Syndication Agent and such counsel shall have received all such counterpart originals or certified copies of such documents as Administrative Agent or Syndication Agent may reasonably request.

(s) Letter of Direction. Administrative Agent and Arranger shall have received a duly executed letter of direction from Borrower addressed to Arranger and Administrative Agent, on behalf of itself and Lenders, directing the disbursement on the Closing Date of the proceeds of the Loans made on such date.

(t) Closing Date Certificate. Borrower shall have delivered to Administrative Agent and Syndication Agent an executed Closing Date Certificate, together with all attachments thereto.

(u) Closing Date. Lenders shall have made the initial Revolving Loan to Borrower no later than ten (10) days after the Interim DIP Order Entry Date.

Notwithstanding the foregoing, Administrative Agent may delegate its responsibility to accept delivery of the closing items under this Section 3.1 to GSCP, and GSCP may accept such delegation. Lenders hereby agree that Administrative Agent may rely on any acknowledgement by GSCP to Administrative Agent or its counsel that GSCP has received all of the necessary deliveries required under this Section 3.1 unless such delivery has been waived in accordance with this Agreement.

3.2. Conditions to Full Availability. The obligation of each Lender to make any Credit Extensions in excess of the Initial Revolver Availability and the Initial Term Loan Availability, up to the amount of the Full Availability, is subject to the satisfaction, or waiver in accordance with Section 10.5, of the following conditions:

(a) Entry of Final DIP Order. Not later than forty (40) days following the Interim Order Entry Date, the Final DIP Order shall have been entered by the Bankruptcy Court on such prior notice to such parties as may be satisfactory to Administrative Agent and Arranger (it being understood and agreed that such notice set forth in the Interim DIP Order is satisfactory to Administrative Agent and Arranger). The Final DIP Order shall be in full force and effect, shall not be subject to a motion for reconsideration and shall not have been vacated, reversed,

modified, amended, stayed or subject to a pending appeal. The Credit Parties shall have complied in full with the notice and all other requirements as provided for under the Interim DIP Order.

(b) Credit Ratings. To the extent required by Arranger to facilitate syndication of the credit facilities provided for under this Agreement (upon written notice from Arranger to Borrower at least fifteen (15) days prior to the Final DIP Order Entry Date), each of the credit facilities and the corporate family of the Credit Parties shall have been assigned and maintain a credit rating by Moody's and S&P.

(c) Closing Date Certificate. Borrower shall have delivered to Administrative Agent and Syndication Agent an executed Closing Date Certificate (in respect of the Full Availability Closing Date), together with all attachments thereto.

(d) Fees. On or prior to the Full Availability Closing Date, Borrower shall have paid to Agents any fees payable referred to in Section 2.11(e).

(e) Full Availability Closing Date. Lenders shall have made the Term Loans to Borrower no later than five (5) days after the Final DIP Order Entry Date.

3.3. Conditions to Each Credit Extension. The obligation of each Lender to make any Loan, or Issuing Bank to issue any Letter of Credit, on any Credit Date, including the Closing Date, are subject to the satisfaction, or waiver in accordance with Section 10.5, of the following conditions precedent (except as otherwise specifically provided in Section 2.4(d) in respect of Swing Line Loans):Funding Notice/Issuance Notice. Administrative Agent shall have received a fully executed and delivered Funding Notice or Issuance Notice, as the case may be.

(b) Commitment Usage. After making the Credit Extensions requested on such Credit Date: (i) the usage of the Commitments shall not exceed (x) the available Commitments at such date and (y) the aggregate amount authorized under the DIP Order applicable at such time (which, on or prior to the Full Availability Closing Date, shall be the sum of the Initial Revolver Availability plus the Initial Term Loan Availability); and (ii) the Total Utilization of Revolving Commitments shall not exceed (x) the Revolving Commitments then in effect and (y) on or prior to the Full Availability Closing Date, the Initial Revolver Availability.

(c) Representations and Warranties. As of such Credit Date, the representations and warranties contained herein and in the other Credit Documents (other than, for Credit Extensions involving the continuation of Eurodollar Rate Loans into a new Interest Periods, those set forth in Sections 4.8 and 4.10) shall be true and correct in all material respects on and as of that Credit Date to the same extent as though made on and as of that date, except to the extent such representations and warranties specifically relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects on and as of such earlier date.

(d) No Event of Default/Default. As of such Credit Date, no event shall have occurred and be continuing or would result from the consummation of the applicable Credit Extension that would constitute an Event of Default or a Default;

(e) Letters of Credit. On or before the date of issuance of any Letter of Credit, Administrative Agent and Issuing Bank shall have received all other information required by the applicable Issuance Notice, and such other documents or information as Issuing Bank may reasonably require in connection with the issuance of such Letter of Credit.

(f) Maximum Liquidity. After giving effect to such Credit Extension and the use of proceeds thereof, the aggregate Cash and Cash Equivalents of Borrower and its Subsidiaries will not exceed $30,000,000.

(g) Status of DIP Orders. The Interim DIP Order or Final DIP Order, as the case may be, shall be in full force and effect, shall not be subject to a motion for reconsideration and shall not have been vacated, reversed, modified, amended, stayed or subject to a pending appeal without the written consent of the Requisite Lenders. The Credit Parties shall have complied in full with the notice and all other requirements as provided for under the Interim DIP Order or Final DIP Order, as the case may be.

(h) Payment of Fees. The Credit Parties shall have paid the balance of all fees, costs and expenses then payable under and pursuant to this Agreement, provided that failure to pay all fees, costs and expenses shall not be deemed a waiver of the right of the entitled party to receive such funds.

(i) Confirmatory Information. Any Agent or Requisite Lenders shall be entitled, but not obligated to, request and receive, prior to the making of any Credit Extension, additional information reasonably satisfactory to the requesting party confirming the satisfaction of any of items described in the foregoing subsections (a) through (h), if in the good faith judgment of such Agent or Requisite Lenders such request is warranted under the circumstances.

(j) Notices. Any Notice shall be executed by an Authorized Officer in a writing delivered to Administrative Agent. In lieu of delivering a Notice, Borrower may give Administrative Agent telephonic notice by the required time of any proposed borrowing, conversion/continuation or issuance of a Letter of Credit, as the case may be; provided each such notice shall be promptly confirmed in writing by delivery of the applicable Notice to Administrative Agent on or before the applicable date of borrowing, continuation/conversion or issuance. Neither Administrative Agent nor any Lender shall incur any liability to Borrower in acting upon any telephonic notice referred to above that Administrative Agent believes in good faith to have been given by a duly authorized officer or other person authorized on behalf of Borrower or for otherwise acting in good faith.

SECTION 4. REPRESENTATIONS AND WARRANTIES

In order to induce Lenders and Issuing Bank to enter into this Agreement and to make each Credit Extension to be made thereby, each Credit Party represents and warrants to each Lender and Issuing Bank, on the Closing Date and on each Credit Date, that the following statements are true and correct:

4.1. Organization; Requisite Power and Authority; Qualification. Each of Borrower and its Subsidiaries (a) is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization as identified in Schedule 4.1, (b) subject to the entry of the DIP Order by the Bankruptcy Court, has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as proposed to be conducted, to enter into the Credit Documents to which it is a party and to carry out the transactions contemplated thereby, and (c) is qualified to do business and in good standing in every jurisdiction where its assets are located and wherever necessary to carry out its business and operations, except in jurisdictions where the failure to be so qualified or in good standing has not had, and could not be reasonably expected to have, a Material Adverse Effect.

4.2. Equity Interests and Ownership. The Equity Interests of Subsidiaries of Borrower has been duly authorized and validly issued and is fully paid and non-assessable. Except as set forth on Schedule 4.2, as of the date hereof, there is no existing option, warrant, call, right, commitment or other agreement to which any of Subsidiary of Borrower is a party requiring, and there is no membership interest or other Equity Interests of any of Subsidiary of Borrower outstanding which upon conversion or exchange would require, the issuance by any Subsidiary of Borrower of any additional membership interests or other Equity Interests of any of Subsidiary of Borrower or other Securities convertible into, exchangeable for or evidencing the right to subscribe for or purchase, a membership interest or other Equity Interests of any of Subsidiary of Borrower. Schedule 4.2 correctly sets forth the ownership interest of Borrower and each of its Subsidiaries in their respective Subsidiaries as of the Closing Date.

4.3. Due Authorization. Upon the entry of the DIP Order by the Bankruptcy Court, the execution, delivery and performance of the Credit Documents have been duly authorized by all necessary action on the part of each Credit Party that is a party thereto.

4.4. No Conflict. Subject to entry of the DIP Order by the Bankruptcy Court, the execution, delivery and performance by Credit Parties of the Credit Documents to which they are parties and the consummation of the transactions contemplated by the Credit Documents do not and will not (a) violate (i) any provision of any law or any governmental rule or regulation applicable to Borrower or any of its Subsidiaries, (ii) any of the Organizational Documents of Borrower or any of its Subsidiaries, or (iii) any order, judgment or decree of any court or other agency of government binding on Borrower or any of its Subsidiaries; (b) conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under any Contractual Obligation of Borrower or any of its Subsidiaries entered into on or after the Petition Date except to the extent such conflict, breach or default could not reasonably be expected to have a Material Adverse Effect; (c) result in or require the creation or imposition of any Lien upon any of the properties or assets of Borrower or any of its Subsidiaries (other than any Liens created under any of the Credit Documents in favor of Collateral Agent, on behalf of Secured Parties, Liens granted under the DIP Orders providing adequate protection with respect to the Existing First Lien Indebtedness and Existing Second Lien Indebtedness, and non-consensual Liens that are otherwise subject to the automatic stay under the Bankruptcy Code); or (d) require any approval of stockholders, members or partners or any approval or consent of any Person under any Contractual Obligation of Borrower or any of its Subsidiaries entered into on or after the Petition Date, except for such approvals or consents which will be obtained on or before the

Closing Date and disclosed in writing to Lenders and except for any such approvals or consents the failure of which to obtain will not have a Material Adverse Effect.

4.5. Governmental Consents. Upon the entry of the DIP Order by the Bankruptcy Court, the execution, delivery and performance by Credit Parties of the Credit Documents to which they are parties and the consummation of the transactions contemplated by the Credit Documents do not and will not require any registration with, consent or approval of, or notice to, or other action to, with or by, any Governmental Authority except (i) as required by the DIP Order, (ii) for filings and recordings with respect to the Collateral to be made, or otherwise delivered to Collateral Agent for filing and/or recordation, as of the Closing Date, and (iii) any registration, consent, approval, notice or action to the extent that the failure to undertake or obtain such registration, consent, approval, notice or action could not reasonably be expected to have a Material Adverse Effect.

4.6. Binding Obligation. Subject to the entry of the DIP Order by the Bankruptcy Court, each Credit Document has been duly executed and delivered by each Credit Party that is a party thereto and is the legally valid and binding obligation of such Credit Party, enforceable against such Credit Party in accordance with its respective terms.

4.7. Historical Financial Statements. Other than in respect of matters disclosed on Schedule 4.7 hereto, the Historical Financial Statements were prepared in conformity with GAAP and fairly present, in all material respects, the financial position, on a consolidated basis, of the Persons described in such financial statements as at the respective dates thereof and the results of operations and cash flows, on a consolidated basis, of the entities described therein for each of the periods then ended, subject, in the case of any such unaudited financial statements, to changes resulting from (i) audit and normal year-end adjustments and (ii) changes resulting from the matters described on Schedule 4.7 hereto. As of the Closing Date, except in respect of matters disclosed on Schedule 4.7 hereto, neither Borrower nor any of its Subsidiaries has any contingent liability or liability for taxes, long-term lease (other than store leases entered into in the ordinary course of business) or unusual forward or long-term commitment that is not reflected in the Historical Financial Statements or the notes thereto and which in any such case is material in relation to the business, operations, properties, assets, condition (financial or otherwise) or prospects of Borrower and any of its Subsidiaries taken as a whole.

4.8. No Material Adverse Change. Since January 1, 2007, no event, circumstance or change has occurred that has caused or evidences, either in any case or in the aggregate, a Material Adverse Effect.

4.9. No Restricted Junior Payments. Since January 1, 2007, neither Borrower nor any of its Subsidiaries has directly or indirectly declared, ordered, paid or made, or set apart any sum or property for, any Restricted Junior Payment or agreed to do so.

4.10. Adverse Proceedings, etc.. There are no Adverse Proceedings, individually or in the aggregate, that could reasonably be expected to have a Material Adverse Effect. Neither Borrower nor any of its Subsidiaries (a) is in violation of any applicable laws (including Environmental Laws) that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect, or (b) is subject to or in default with respect to any final judgments,

orders, writs, injunctions, decrees, rules or regulations of any court or any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

4.11. Payment of Taxes. Except as otherwise permitted under Section 5.3, all federal, material state, material provincial and other material tax returns and reports of Borrower and its Subsidiaries required to be filed by any of them have been timely filed, and all taxes due and payable and all assessments, fees and other governmental charges upon Borrower and its Subsidiaries and upon their respective properties, assets, income, businesses and franchises which are due and payable have been paid when due and payable. Borrower knows of no proposed tax assessment against Borrower or any of its Subsidiaries which is not being actively contested by Borrower or such Subsidiary in good faith and by appropriate proceedings; provided, such reserves or other appropriate provisions, if any, as shall be required in conformity with GAAP shall have been made or provided therefor.

4.12. Properties.

(a) Title. Each of Borrower and its Subsidiaries has (i) good, sufficient and legal title to (in the case of fee interests in real property), (ii) valid leasehold interests in (in the case of leasehold interests in real or personal property), (iii) valid licensed rights in (in the case of licensed interests in Intellectual Property) and (iv) good title to (in the case of all other personal property), all of their respective properties and assets reflected in their respective Historical Financial Statements referred to in Section 4.7 and in the most recent financial statements delivered pursuant to Section 5.1, in each case except for assets disposed of since the date of such financial statements in the ordinary course of business or as otherwise permitted under Section 6.8 and, with respect to the foregoing clause (ii), except as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Except as permitted by this Agreement, all such properties and assets are free and clear of Liens.

(b) Real Estate. As of the Closing Date, Schedule 4.12 contains a true, accurate and complete list of (i) all Real Estate Assets, and (ii) all leases, subleases or assignments of leases (together with all amendments, modifications, supplements, renewals or extensions of any thereof) affecting each Real Estate Asset of any Credit Party, regardless of whether such Credit Party is the landlord or tenant (whether directly or as an assignee or successor in interest) under such lease, sublease or assignment. Except as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, each agreement listed in clause (ii) of the immediately preceding sentence is in full force and effect and each such agreement constitutes the legally valid and binding obligation of each applicable Credit Party, enforceable against such Credit Party in accordance with its terms.

4.13. Environmental Matters. Neither Borrower nor any of its Subsidiaries nor any of their respective Facilities or operations are subject to any outstanding written order, consent decree or settlement agreement with any Person relating to any Environmental Law, any Environmental Claim, or any Hazardous Materials Activity that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect. Neither Borrower nor any of its Subsidiaries has received any letter or request for information under Section 104 of the

Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9604) or any comparable state law. There are and, to each of Borrower's and its Subsidiaries' knowledge, have been, no conditions, occurrences, or Hazardous Materials Activities which could reasonably be expected to form the basis of an Environmental Claim against Borrower or any of its Subsidiaries that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect. Neither Borrower nor any of its Subsidiaries nor, to any Credit Party's knowledge, any predecessor of Borrower or any of its Subsidiaries has filed any notice under any Environmental Law indicating past or present treatment of Hazardous Materials at any Facility, and none of Borrower's or any of its Subsidiaries' operations involves the generation, transportation, treatment, storage or disposal of hazardous waste, as defined under 40 C.F.R. Parts 260-270 or any state equivalent. Compliance with all current or reasonably foreseeable future requirements pursuant to or under Environmental Laws could not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect. No event or condition has occurred or is occurring with respect to Borrower or any of its Subsidiaries relating to any Environmental Law, any Release of Hazardous Materials, or any Hazardous Materials Activity which individually or in the aggregate has had, or could reasonably be expected to have, a Material Adverse Effect.

4.14. No Defaults. Neither Borrower nor any of its Subsidiaries is in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any of its Contractual Obligations entered into on or after the Petition Date, and no condition exists which, with the giving of notice or the lapse of time or both, could constitute such a default, except where the consequences, direct or indirect, of such default or defaults, if any, could not reasonably be expected to have a Material Adverse Effect.

4.15. Material Contracts. Schedule 4.15 contains a true, correct and complete list of all the Material Contracts in effect on the Closing Date, and except as described thereon, all such Material Contracts are in full force and effect and no defaults currently exist thereunder (other than, as a result of the filing of the Cases, and any payment default directly related to such filing).

4.16. Governmental Regulation. Neither Borrower nor any of its Subsidiaries is subject to regulation under the Federal Power Act or the Investment Company Act of 1940 or under any other federal or state statute or regulation which may limit its ability to incur Indebtedness or which may otherwise render all or any portion of the Obligations unenforceable. Neither Borrower nor any of its Subsidiaries is a "registered investment company" or a company "controlled" by a "registered investment company" or a "principal underwriter" of a "registered investment company" as such terms are defined in the Investment Company Act of 1940.

4.17. Margin Stock. Neither Borrower nor any of its Subsidiaries is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any Margin Stock. No part of the proceeds of the Loans made to such Credit Party will be used to purchase or carry any such Margin Stock or to extend credit to others for the purpose of purchasing or carrying any such margin stock or for any purpose that violates, or is inconsistent with, the provisions of Regulation T, U or X of the Board of Governors.

4.18. Employee Matters. Neither Borrower nor any of its Subsidiaries is engaged in any unfair labor practice that could reasonably be expected to have a Material Adverse Effect. There is (a) no unfair labor practice complaint pending against Borrower or any of its Subsidiaries, or to the best knowledge of Borrower and Borrower, threatened against any of them before the National Labor Relations Board and no grievance or arbitration proceeding arising out of or under any collective bargaining agreement that is so pending against Borrower or any of its Subsidiaries or to the best knowledge of Borrower and Borrower, threatened against any of them, (b) no strike or work stoppage in existence or threatened involving Borrower or any of its Subsidiaries, and (c) to the best knowledge of Borrower and Borrower, no union representation question existing with respect to the employees of Borrower or any of its Subsidiaries and, to the best knowledge of Borrower and Borrower, no union organization activity that is taking place, except (with respect to any matter specified in clause (a), (b) or (c) above, either individually or in the aggregate) such as is not reasonably likely to have a Material Adverse Effect.

4.19. Employee Benefit Plans. Borrower, each of its Subsidiaries and each of their respective ERISA Affiliates are in compliance with all applicable provisions and requirements of ERISA and the Internal Revenue Code and the regulations and published interpretations thereunder with respect to each Employee Benefit Plan, and have performed all their obligations under each Employee Benefit Plan , except, in each case, where the failure to comply or perform would not reasonably be expected to result in liabilities of Borrower and its Subsidiaries in excess of $10,000,000 in the aggregate or have Material Adverse Effect. Each Employee Benefit Plan which is intended to qualify under Section 401(a) of the Internal Revenue Code has received a favorable determination letter from the Internal Revenue Service indicating that such Employee Benefit Plan is so qualified and nothing has occurred subsequent to the issuance of such determination letter which would cause such Employee Benefit Plan to lose its qualified status. No liability to the PBGC (other than required premium payments), the Internal Revenue Service, any Employee Benefit Plan (other than routine contributions) or any trust established under Title IV of ERISA (other than routine contributions) has been or is expected to be incurred by Borrower, any of its Subsidiaries or any of their ERISA Affiliates, which would, when taken together with all such liabilities, exceed $10,000,000 in the aggregate for Borrower and its Subsidiaries or which would reasonably be expected to have Material Adverse Effect. No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all such ERISA Events, would exceed $10,000,000 in the aggregate for Borrower and its Subsidiaries or would reasonably be expected to have Material Adverse Effect. Except to the extent required under Section 4980B of the Internal Revenue Code or similar state laws and to the extent an employee became entitled to benefits prior to his or her termination of employment (e.g., severance, long term disability benefits, etc.), no Employee Benefit Plan provides health or welfare benefits (through the purchase of insurance or otherwise) for any retired or former employee of Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates. The present value of the aggregate benefit liabilities under each Pension Plan sponsored, maintained or contributed to by Borrower, any of its Subsidiaries or any of their ERISA Affiliates (determined as of the end of the most recent plan year on the basis of the actuarial assumptions specified for funding purposes in the most recent actuarial valuation for such Pension Plan), did not exceed the aggregate current value of the assets of such Pension Plan. As of the most recent valuation date for each Multiemployer Plan for which the actuarial report is available, the potential liability of Borrower, its Subsidiaries and their respective ERISA Affiliates for a complete withdrawal from such Multiemployer Plan (within the meaning of Section 4203 of

ERISA), when aggregated with such potential liability for a complete withdrawal from all Multiemployer Plans, based on information available pursuant to Section 4221(e) of ERISA is zero. Borrower, each of its Subsidiaries and each of their ERISA Affiliates have complied with the requirements of Section 515 of ERISA with respect to each Multiemployer Plan and are not in material "default" (as defined in Section 4219(c)(5) of ERISA) with respect to payments to a Multiemployer Plan.

4.20. Certain Fees. No broker's or finder's fee or commission will be payable with respect to the transactions contemplated by the Credit Documents, except as payable to the Agents and the Lenders.

4.21. Compliance with Statutes, etc. Each of Borrower and its Subsidiaries is in compliance with all applicable statutes, regulations and orders of, and all applicable restrictions imposed by, all Governmental Authorities, in respect of the conduct of its business and the ownership of its property (including compliance with all applicable Environmental Laws with respect to any Real Estate Asset or governing its business and the requirements of any permits issued under such Environmental Laws with respect to any such Real Estate Asset or the operations of Borrower or any of its Subsidiaries), except such non-compliance that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

4.22. Disclosure. No representation or warranty of any Credit Party contained in any Credit Document or in any other documents, certificates or written statements furnished to any Agent or Lender by or on behalf of Borrower or any of its Subsidiaries for use in connection with the transactions contemplated hereby contains any untrue statement of a material fact or omits to state a material fact (known to Borrower, in the case of any document not furnished by it) necessary in order to make the statements contained herein or therein not misleading in light of the circumstances in which the same were made, except for the possible adjustment to the Historical Financial Statements resulting from the matters described on Schedule 4.7 hereto. Any projections and pro forma financial information contained in such materials are based upon good faith estimates and assumptions believed by Borrower to be reasonable at the time made, it being recognized by Lenders that such projections as to future events are not to be viewed as facts and that actual results during the period or periods covered by any such projections may differ materially and adversely from the projected results (it being understood that such projections and financial information do not give effect to the matters described on Schedule 4.7 hereto). There are no facts known (or which should upon the reasonable exercise of diligence be known) to Borrower (other than matters of a general economic nature) that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect and that have not been disclosed herein or in such other documents, certificates and statements furnished to Lenders for use in connection with the transactions contemplated hereby.

4.23. Patriot Act. To the extent applicable, each Credit Party is in compliance, in all material respects, with the (i) Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the Untied States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto, and (ii) Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act of 2001). No part of the proceeds of the Loans will be used, directly or indirectly, for any payments to any governmental official or

employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

SECTION 5. AFFIRMATIVE COVENANTS

Each Credit Party covenants and agrees that, so long as any Commitment is in effect and until payment in full of all Obligations and cancellation or expiration of all Letters of Credit, each Credit Party shall perform, and shall cause each of its Subsidiaries to perform, all covenants in this Section 5.

5.1. Financial Statements and Other Reports. Borrower will deliver to Administrative Agent and Lenders:

(a) Monthly Reports. As soon as available, and in any event within 30 days after the end of each fiscal month ending after the Closing Date, commencing with the fiscal month prior to the fiscal month in which the Closing Date occurs, the consolidated balance sheet of Borrower and its Subsidiaries as at the end of such fiscal month and the related consolidated statements of operations, stockholders' equity and cash flows of Borrower and its Subsidiaries for such fiscal month and for the period from the beginning of the then current Fiscal Year to the end of such fiscal month, setting forth in each case in comparative form the corresponding figures for the corresponding periods of the previous Fiscal Year, all in reasonable detail, together with a Financial Officer Certification and a Narrative Report with respect thereto;

(b) Quarterly Financial Statements. As soon as available, and in any event within 50 days after the end of each of the first three Fiscal Quarters of each Fiscal Year, commencing with the Fiscal Quarter in which the Closing Date occurs, the consolidated balance sheets of Borrower and its Subsidiaries as at the end of such Fiscal Quarter and the related consolidated statements of operations, stockholders' equity and cash flows of Borrower and its Subsidiaries for such Fiscal Quarter and for the period from the beginning of the then current Fiscal Year to the end of such Fiscal Quarter, setting forth in each case in comparative form the corresponding figures for the corresponding periods of the previous Fiscal Year, all in reasonable detail, together with a Financial Officer Certification and a Narrative Report with respect thereto;

(c) Annual Financial Statements. As soon as available, and in any event within 105 days after the end of each Fiscal Year, commencing with the Fiscal Year in which the Closing Date occurs, (i) the consolidated balance sheets of Borrower and its Subsidiaries as at the end of such Fiscal Year and the related consolidated statements of operations, stockholders' equity and cash flows of Borrower and its Subsidiaries for such Fiscal Year, setting forth in each case in comparative form the corresponding figures for the previous Fiscal Year covered by such financial statements, in reasonable detail, together with a Financial Officer Certification and a Narrative Report with respect thereto, and (ii) with respect to such consolidated financial statements a report thereon of Ernst & Young LLP or other independent certified public accountants of recognized national standing selected by Borrower, and reasonably satisfactory to Syndication Agent (which report shall state that such consolidated financial statements fairly

present, in all material respects, the consolidated financial position of Borrower and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated in conformity with GAAP applied on a basis consistent with prior years (except as otherwise disclosed in such financial statements) and that the examination by such accountants in connection with such consolidated financial statements has been made in accordance with generally accepted auditing standards) together with a written statement by such independent certified public accountants stating (1) that their audit examination has included a review of the terms of Section 6.7 of this Agreement and the related definitions, (2) whether, in connection therewith, any condition or event that constitutes a Default or an Event of Default under Section 6.7 has come to their attention and, if such a condition or event has come to their attention, specifying the nature and period of existence thereof, and (3) if provided by such independent certified public accountants, that nothing has come to their attention that causes them to believe that the information contained in any Compliance Certificate is not correct or that the matters set forth in such Compliance Certificate are not stated in accordance with the terms hereof;

(d) Cash Flow Forecasts. (i) For each fiscal month, due by 5:00 p.m. PST on the first Friday immediately following the end of such fiscal month, an updated Cash Flow Forecast which shall reflect Borrower's good faith projection of all weekly cash receipts and disbursements in connection with the operation of its business during such period and include the Borrower's studio payment forecast model detailing purchases by studio and title, and (ii) for each week ended Sunday, due by 5:00 p.m. PST on the immediately following Wednesday, an actual-to-projected analysis comparing Borrower's actual cash receipts and disbursements for the immediately preceding week in the Cash Flow Forecast compared to projected cash receipts and disbursements for the immediately preceding week in the Cash Flow Forecast compared to projected cash receipts and disbursements for such week as set forth in the Cash Flow Forecast, which in each case, shall be in form and substance reasonably satisfactory to Administrative Agent and Syndication Agent (it being understood and agreed that the form of the Cash Flow Forecast and the other information referred to in this Section 5.1(d) provided to Arranger on or prior to the Closing Date is acceptable to Administrative Agent and Syndication Agent);

(e) Compliance Certificate. Together with each delivery of financial statements of Borrower and its Subsidiaries pursuant to Sections 5.1(a) (except in connection with monthly financial statements delivered for the fiscal month ending September 30, 2007), 5.1(b) and 5.1(c), a duly executed and completed Compliance Certificate;

(f) Statements of Reconciliation after Change in Accounting Principles. If, as a result of any change in accounting principles and policies from those used in the preparation of the Historical Financial Statements, the consolidated financial statements of Borrower and its Subsidiaries delivered pursuant to Section 5.1(b) or 5.1(c) will differ in any material respect from the consolidated financial statements that would have been delivered pursuant to such subdivisions had no such change in accounting principles and policies been made, then, together with the first delivery of such financial statements after such change, one or more statements of reconciliation for all such prior financial statements in form and substance satisfactory to Syndication Agent; provided, that this Section 5.1(f) shall not apply in the event Borrower or Requisite Lenders do not make the request referred to in, and the Credit Documents are not amended in the manner described in, Section 1.2;

(g) Notice of Default. Promptly upon any officer of Borrower obtaining knowledge (i) of any condition or event that constitutes a Default or an Event of Default or that notice has been given to Borrower with respect thereto, (ii) that any Person has given any notice to Borrower or any of its Subsidiaries or taken any other action with respect to any event or condition set forth in Section 8.1(b), or (iii) of the occurrence of any event or change that has caused or evidences, either in any case or in the aggregate, a Material Adverse Effect, a certificate of its Authorized Officer specifying the nature and period of existence of such condition, event or change, or specifying the notice given and action taken by any such Person and the nature of such claimed Event of Default, Default, default, event or condition, and what action Borrower has taken, is taking and proposes to take with respect thereto;

(h) Notice of Litigation. Promptly upon any officer of Borrower obtaining knowledge of (i) the institution of, or non-frivolous threat of, any Adverse Proceeding not previously disclosed in writing by Borrower to Lenders, or (ii) any material development in any Adverse Proceeding that, in the case of either clause (i) or (ii), if adversely determined could be reasonably expected to have a Material Adverse Effect, or seeks to enjoin or otherwise prevent the consummation of, or to recover any damages or obtain relief as a result of, the transactions contemplated hereby, written notice thereof together with such other information as may be reasonably available to Borrower to enable Lenders and their counsel to evaluate such matters;

(i) ERISA. (i) Promptly upon any officer of Borrower becoming aware of the occurrence of or forthcoming occurrence of any ERISA Event, a written notice specifying the nature thereof, what action Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates has taken, is taking or proposes to take with respect thereto and, when known, any action taken or threatened by the Internal Revenue Service, the Department of Labor or the PBGC with respect thereto; and (ii) with reasonable promptness, copies of (1) each Schedule B (Actuarial Information) to the annual report (Form 5500 Series) filed by Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates with the Internal Revenue Service with respect to each Pension Plan; (2) all notices received by Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates from a Multiemployer Plan sponsor concerning an ERISA Event; and (3) copies of such other documents or governmental reports or filings relating to any Employee Benefit Plan as Administrative Agent shall reasonably request which, in each of (i) and (ii) relate to matters or liabilities that, when taken together with all such matters and liabilities, exceed $10,000,000 in the aggregate for Borrower and its Subsidiaries or which would reasonably be expected to have Material Adverse Effect;

(j) Insurance Report. As soon as practicable and in any event by the last day of each Fiscal Year, a certificate from Borrower's insurance broker(s) in form and substance satisfactory to Administrative Agent and Arranger outlining all material insurance coverage maintained as of the date of such certificate by Borrower and its Subsidiaries;

(k) Notice of Change in Board of Directors. With reasonable promptness, written notice of any change in the board of directors (or similar governing body) of Borrower;

(l) Notice Regarding Material Contracts. Promptly, and in any event within ten Business Days (i) after any Material Contract of Borrower or any of its Subsidiaries is terminated or amended in a manner that is materially adverse to Borrower or such Subsidiary, as the case

may be, or (ii) after any new Material Contract is entered into, a written statement describing such event, with copies of such material amendments or new contracts, delivered to Administrative Agent (to the extent such delivery is permitted by the terms of any such Material Contract, provided, no such prohibition on delivery shall be effective if it were bargained for by Borrower or its applicable Subsidiary with the intent of avoiding compliance with this Section 5.1(l)), and an explanation of any actions being taken with respect thereto;

(m) Information Regarding Collateral. Borrower will furnish to Collateral Agent prompt written notice of any change (i) in any Credit Party's corporate name, (ii) in any Credit Party's identity or corporate structure, (iii) in any Credit Party's jurisdiction of organization or (iv) in any Credit Party's Federal Taxpayer Identification Number or state organizational identification number. Borrower agrees not to effect or permit any change referred to in the preceding sentence unless all filings have been made under the UCC or otherwise that are required in order for Collateral Agent to continue at all times following such change to have a valid, legal and perfected security interest in all the Collateral as contemplated in the Collateral Documents. Borrower also agrees promptly to notify Collateral Agent if any material portion of the Collateral is damaged or destroyed;

(n) Annual Schedule/Collateral Verification. Each year, at the time of delivery of annual financial statements with respect to the preceding Fiscal Year pursuant to Section 5.1(c), Borrower shall deliver to Collateral Agent a certificate of its Authorized Officer either (i) confirming that there has been no change in the information set forth on the schedules to this Agreement and the Pledge and Security Agreement delivered on the Closing Date or the date of the most recent certificate delivered pursuant to this Section or (ii) identifying such changes and attaching the relevant updated replacement schedules;

(o) Case Obligations. (i) The Credit Parties shall deliver to Administrative Agent and Syndication Agent and permit to be posted on a Platform for the benefit of the private-side Lenders, Administrative Agent and Syndication Agent, all pleadings, motions, applications, judicial information, financial information, and other documents filed by or on behalf of the Credit Parties with the Bankruptcy Court or distributed by the Credit Parties to any Committee to the extent not otherwise available on the public docket for the Cases; and

(ii) The Credit Parties shall deliver to Administrative Agent and Arranger in advance of filing with the Bankruptcy Court (x) the proposed form of DIP Orders, (y) each other proposed order and pleading related to the credit facilities provided for under this Agreement, which must be in form and substance reasonably satisfactory to Administrative Agent and Arranger, and (z) any Chapter 11 plan of reorganization or liquidation and any disclosure statement related to such plan;

(p) Other Information. (A) Promptly upon their becoming available, copies of (i) all financial statements, reports, notices and proxy statements sent or made available generally by Borrower to its security holders acting in such capacity or by any Subsidiary of Borrower to its security holders other than Borrower or another Subsidiary of Borrower, (ii) all regular and periodic reports and all registration statements and prospectuses, if any, filed by Borrower or any of its Subsidiaries with any securities exchange or with the Securities and Exchange Commission or any governmental or private regulatory authority, (iii) all press releases and other statements

made available generally by Borrower or any of its Subsidiaries to the public concerning material developments in the business of Borrower or any of its Subsidiaries, and (B) such other information and data with respect to Borrower or any of its Subsidiaries as from time to time may be reasonably requested by Administrative Agent (for itself or any Lender or Issuing Bank) or Arranger;

(q) Certification of Public Information. Concurrently with the delivery of any document or notice required to be delivered pursuant to this Section 5.1, Borrower shall indicate in writing whether such document or notice contains Nonpublic Information. Borrower and each Lender acknowledge that certain of the Lenders may be "public-side" Lenders (Lenders that do not wish to receive material non-public information with respect to Borrower, its Subsidiaries or their securities) and, if documents or notices required to be delivered pursuant to this Section 5.1 or otherwise are being distributed through IntraLinks/IntraAgency, SyndTrak or another relevant website or other information platform (the **"Platform"**), any document or notice that Borrower has indicated contains Nonpublic Information shall not be posted on that portion of the Platform designated for such public-side Lenders. If Borrower has not indicated whether a document or notice delivered pursuant to this Section 5.1 contains solely Nonpublic Information, Administrative Agent and Syndication Agent each reserves the right to post such document or notice solely on that portion of the Platform designated for Lenders who wish to receive material nonpublic information with respect to Borrower, its Subsidiaries and their securities.

Documents required to be delivered pursuant to Section 5.1(b), (c), (k), (l) or (q) (to the extent any such documents are included in materials otherwise filed with the Securities and Exchange Commission) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which Borrower posts such documents with the Securities and Exchange Commission; or (ii) on which such documents are posted on Borrower's behalf on an Internet or intranet website, if any, to which each Lender, each Issuing Bank, Administrative Agent, Syndication Agent and Arranger have access (whether a commercial, third-party website or whether sponsored by Administrative Agent or Syndication Agent); provided that: (i) Borrower shall deliver paper copies of such documents to either Administrative Agent, Syndication Agent, Arranger or any Lender that requests Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by such Administrative Agent, Arranger or such Lender and (ii) Borrower shall notify each Administrative Agent, Syndication Agent, Arranger and each Lender (by telecopier or electronic mail) of the posting of any such documents and provide to Administrative Agent, Syndication Agent and Arranger by electronic mail electronic versions (i.e., soft copies) of such documents. Notwithstanding anything contained herein, in every instance Borrower shall be required to provide paper copies of the Compliance Certificates required by Section 5.1(e) to Administrative Agent. Syndication Agent, Arranger and, except for such Compliance Certificates, Administrative Agent shall have no obligation to request the delivery or to maintain copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by Borrower with any such request for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

5.2. Existence. Except as otherwise permitted under Section 6.8, each Credit Party will, and will cause each of its Subsidiaries to, at all times preserve and keep in full force and effect its existence and all rights and franchises, licenses and permits material to its business;

provided, no Credit Party (other than Borrower with respect to existence) or any of its Subsidiaries shall be required to preserve any such existence, right or franchise, licenses and permits if the failure to do so, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

5.3. Payment of Taxes and Claims. Each Credit Party will, and will cause each of its Subsidiaries to, pay all Taxes imposed upon it or any of its properties or assets or in respect of any of its income, businesses or franchises before any penalty or fine accrues thereon, and all claims (including claims for labor, services, materials and supplies) for sums that have become due and payable and that by law have or may become a Lien upon any of its properties or assets, prior to the time when any penalty or fine shall be incurred with respect thereto; provided, no such Tax or claim need be paid if (i) it is subject to the automatic stay in connection with the Cases, (ii) such Tax or claim does not, together with all other Taxes then remaining unpaid, exceed $500,000 in the aggregate, or (iii) it is being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, so long as (a) adequate reserve or other appropriate provision, as shall be required in conformity with GAAP shall have been made therefor, and (b) in the case of a Tax or claim which has or may become a Lien against any of the Collateral, such contest proceedings conclusively operate to stay the sale of any portion of the Collateral to satisfy such Tax or claim. No Credit Party will, nor will it permit any of its Subsidiaries to, file or consent to the filing of any consolidated income tax return with any Person (other than Borrower or any of its Subsidiaries).

5.4. Maintenance of Properties. Each Credit Party will, and will cause each of its Subsidiaries to, maintain or cause to be maintained in good repair, working order and condition, ordinary wear and tear excepted, all material tangible properties used or useful in the business of Borrower and its Subsidiaries and from time to time will make or cause to be made all appropriate repairs, renewals and replacements thereof, except for any such properties that may be included in the Store Rationalization Program.

5.5. Insurance. Borrower will maintain or cause to be maintained, with financially sound and reputable insurers, such public liability insurance, third party property damage insurance, business interruption insurance and casualty insurance with respect to liabilities, losses or damage in respect of the assets, properties and businesses of Borrower and its Subsidiaries as may customarily be carried or maintained under similar circumstances by Persons of established reputation engaged in similar businesses, in each case in such amounts (giving effect to self-insurance), with such deductibles, covering such risks and otherwise on such terms and conditions as shall be customary for such Persons. Without limiting the generality of the foregoing, Borrower will maintain or cause to be maintained (a) flood insurance with respect to each Flood Hazard Property that is located in a community that participates in the National Flood Insurance Program, in each case in compliance with any applicable regulations of the Board of Governors of the Federal Reserve System, and (b) replacement value casualty insurance on the Collateral under such policies of insurance, with such insurance companies, in such amounts, with such deductibles, and covering such risks as are at all times carried or maintained under similar circumstances by Persons of established reputation engaged in similar business (it being understood and agreed that Borrower's hazard self-insurance program of $250,000 per store consistent with past prudent business practice and currently in effect as of the Closing Date is acceptable). Each such policy of insurance shall (i) name Collateral Agent, on

behalf of Secured Parties, as an additional insured thereunder as its interests may appear, (ii) in the case of each casualty insurance policy, contain a loss payable clause or endorsement, satisfactory in form and substance to Collateral Agent, that names Collateral Agent, on behalf of the Secured Parties, as the loss payee thereunder and provide for at least thirty days' prior written notice to Collateral Agent of any modification or cancellation of such policy.

5.6. Books and Records; Inspections. Each Credit Party will, and will cause each of its Subsidiaries to, keep proper books of record and accounts in which full, true and correct entries in conformity in all material respects with GAAP (except as related to matters described on Schedule 4.7 hereto) shall be made of all dealings and transactions in relation to its business and activities. Each Credit Party will, and will cause each of its Subsidiaries to, permit any authorized representatives designated by Administrative Agent or any Lender to visit and inspect any of the properties of any Credit Party and any of its respective Subsidiaries, to inspect, copy and take extracts from its and their financial and accounting records, and to discuss its and their affairs, finances and accounts with its and their officers and independent public accountants, all upon reasonable notice and at such reasonable times during normal business hours and as often as may reasonably be requested.

5.7. Lenders Meetings. Borrower will, upon the request of Administrative Agent, Arranger or Requisite Lenders, participate in a meeting of Administrative Agent, Arranger and Lenders once during each Fiscal Year to be held at Borrower's corporate offices (or at such other location as may be agreed to by Borrower and Administrative Agent) at such time as may be agreed to by Borrower and Administrative Agent or Arranger.

5.8. Compliance with Laws. Each Credit Party will comply, and shall cause each of its Subsidiaries and all other Persons, if any, on or occupying any Facilities to comply, with the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority (including all Environmental Laws), noncompliance with which could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, and each Credit Party will comply with the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority in respect of the disclosure (if any) of the matters described on Schedule 4.7.

5.9. Environmental.

(a) Environmental Disclosure. Borrower will deliver to Administrative Agent and Lenders:

(i) as soon as practicable following receipt thereof, copies of all environmental audits, investigations, analyses and reports of any kind or character, whether prepared by personnel of Borrower or any of its Subsidiaries or by independent consultants, governmental authorities or any other Persons, with respect to significant environmental matters at any Facility or with respect to any material Environmental Claims;

(ii) promptly upon an officer of Borrower obtaining knowledge of the occurrence thereof, written notice describing in reasonable detail (1) any Release required

to be reported to any federal, state or local governmental or regulatory agency under any applicable Environmental Laws, (2) any remedial action taken by Borrower or any other Person in response to (A) any Hazardous Materials Activities the existence of which has a reasonable possibility of resulting in one or more Environmental Claims having, individually or in the aggregate, a Material Adverse Effect, or (B) any Environmental Claims that, individually or in the aggregate, have a reasonable possibility of resulting in a Material Adverse Effect, and (3) Borrower's discovery of any occurrence or condition on any real property adjoining or in the vicinity of any Facility that could cause such Facility or any part thereof to be subject to any material restrictions on the ownership, occupancy, transferability or use thereof under any Environmental Laws;

(iii) as soon as practicable following the sending or receipt thereof by Borrower or any of its Subsidiaries, a copy of any and all written communications with respect to (1) any Environmental Claims that, individually or in the aggregate, have a reasonable possibility of giving rise to a Material Adverse Effect, (2) any Release required to be reported to any federal, state or local governmental or regulatory agency, and (3) any request for information from any governmental agency that suggests such agency is investigating whether Borrower or any of its Subsidiaries may be potentially responsible for any Hazardous Materials Activity that, individually or in the aggregate, has a reasonable possibility of resulting in a Material Adverse Effect;

(iv) prompt written notice describing in reasonable detail (1) any proposed acquisition of stock, assets, or property by Borrower or any of its Subsidiaries that could reasonably be expected to (A) expose Borrower or any of its Subsidiaries to, or result in, Environmental Claims that could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or (B) affect the ability of Borrower or any of its Subsidiaries to maintain in full force and effect all material Governmental Authorizations required under any Environmental Laws for their respective operations and (2) any proposed action to be taken by Borrower or any of its Subsidiaries to modify current operations in a manner that could reasonably be expected to subject Borrower or any of its Subsidiaries to any additional material obligations or requirements under any Environmental Laws; and

(v) with reasonable promptness, such other documents and information as from time to time may be reasonably requested by Administrative Agent in relation to any matters disclosed pursuant to this Section 5.9(a).

(b) Hazardous Materials Activities, Etc. Each Credit Party shall promptly take, and shall cause each of its Subsidiaries promptly to take, any and all actions necessary to (i) cure any violation of applicable Environmental Laws by such Credit Party or its Subsidiaries that could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, and (ii) make an appropriate response to any Environmental Claim against such Credit Party or any of its Subsidiaries and discharge any obligations it may have to any Person thereunder where failure to do so could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

5.10. Collateral; Subsidiaries In order to confirm the valid, perfected First Priority security interest in the personal property Collateral in favor of Collateral Agent, for the benefit of Secured Parties, the Credit Parties shall deliver to Collateral Agent, promptly following the request of the Collateral Agent, (i) fully executed and notarized Intellectual Property Security Agreements, in proper form for filing or recording in all appropriate places in all applicable jurisdictions, memorializing and recording the encumbrance of the Intellectual Property Assets listed in Schedule 4.7 to the Pledge and Security Agreement, and (ii) evidence that each Credit Party shall have taken or caused to be taken any other action, executed and delivered or caused to be executed and delivered any other agreement, document and instrument (including (i) using its commercially reasonable best efforts to obtain a Landlord Personal Property Collateral Access Agreement executed by the landlord of any Leasehold Property which is a warehouse, distribution center or other location at which a material amount of Collateral is located, and by the applicable Credit Party and (ii) any intercompany notes evidencing Indebtedness permitted to be incurred pursuant to Section 6.1(b)) and made or caused to be made any other filing and recording (other than as set forth herein) reasonably required by Collateral Agent.

(b) In the event that any Person becomes a Domestic Subsidiary of Borrower (or Borrower elects to have Movie Gallery Canada become a Guarantor), Borrower shall (a) promptly cause such Domestic Subsidiary (or Movie Gallery Canada, as the case may be) to become a Guarantor hereunder and a Grantor under the Pledge and Security Agreement by executing and delivering to Administrative Agent and Collateral Agent a Counterpart Agreement, and (b) take all such actions and execute and deliver, or cause to be executed and delivered, all such documents, instruments, agreements, and certificates as are similar to those described in this Section 5.10 and in Sections 3.1(f), 3.1(j), 3.1(p) and 5.11. In the event that any Person becomes a Foreign Subsidiary of Borrower, and the ownership interests of such Foreign Subsidiary are owned by Borrower or by any Domestic Subsidiary thereof, Borrower shall, or shall cause such Domestic Subsidiary to, deliver, all such documents, instruments, agreements, and certificates as are similar to those described in Section 3.1(f), and Borrower shall take, or shall cause such Domestic Subsidiary to take, all of the actions referred to in Section 3.1(j) necessary to grant and to perfect a First Priority Lien in favor of Collateral Agent, for the benefit of Secured Parties, under the Pledge and Security Agreement in 65% of such Equity Interests. In the event that any Inactive Entity shall have total revenues exceeding $1,000,000 for any four consecutive Fiscal Quarters after the Closing Date or at any time after the Closing Date shall have total assets exceeding $1,000,000, Borrower shall, or shall cause any Domestic Subsidiary holding the Equity Interests in such Inactive Entity to, take, all of the actions referred to in Section 3.1(j) necessary to grant and to perfect a First Priority Lien in favor of Collateral Agent, for the benefit of Secured Parties, under the Pledge and Security Agreement in such Equity Interests (to the extent required pursuant to the terms of the Pledge and Security Agreement). With respect to each such Subsidiary, Borrower shall promptly send to Administrative Agent written notice setting forth with respect to such Person (i) the date on which such Person became a Subsidiary of Borrower, and (ii) all of the data required to be set forth in Schedules 4.1 and 4.2 with respect to all Subsidiaries of Borrower; and such written notice shall be deemed to supplement Schedule 4.1 and 4.2 for all purposes hereof.

5.11. Real Estate Assets.

In respect of any Real Estate Asset which has not otherwise been made subject to the Lien of the Collateral Documents in favor of Collateral Agent, for the benefit of Secured Parties, such Credit Party shall promptly take all such actions and execute and deliver, or cause to be executed and delivered, all such mortgages, documents, instruments, agreements, opinions and certificates with respect to each such Real Estate Asset that Collateral Agent shall request to create in favor of Collateral Agent, for the benefit of Secured Parties, a valid and, subject to any filing and/or recording referred to herein, perfected First Priority security interest in such Real Estate Assets. In addition to the foregoing, Borrower shall, at the request of Collateral Agent, deliver, from time to time, to Collateral Agent such appraisals as are required by law or regulation of Real Estate Assets with respect to which Collateral Agent has been granted a Lien.

5.12. Further Assurances. At any time or from time to time upon the request of Administrative Agent or Collateral Agent, each Credit Party will, at its expense, promptly execute, acknowledge and deliver such further documents and do such other acts and things as Administrative Agent or Collateral Agent may reasonably request in order to effect fully the purposes of the Credit Documents. In furtherance and not in limitation of the foregoing, each Credit Party shall take such actions as Administrative Agent or Collateral Agent may reasonably request from time to time to ensure that the Obligations are guarantied by the Guarantors and are secured by substantially all of the assets of Borrower, and its Subsidiaries and all of the outstanding Equity Interests of Borrower and its Subsidiaries (subject to limitations contained in the Credit Documents with respect to Foreign Subsidiaries).

5.13. Miscellaneous Covenants. Unless otherwise consented to by Agents or Requisite Lenders:

(a) Maintenance of Ratings. To the extent required by Arranger to facilitate syndication of the credit facilities provided for under this Agreement, subject to the timing requirement set forth in Section 3.2(b), Borrower shall use commercially reasonable efforts to maintain ratings issued by Moody's and S&P with respect to its senior secured debt.

(b) Cash Management Systems. Borrower and its Subsidiaries shall establish and maintain cash management systems in accordance with the terms of the Collateral Documents.

(c) Total Utilization of Revolving Commitments. Borrower and its Subsidiaries shall cause the Total Utilization of Revolving Commitments to not exceed (i) the Revolving Commitments then in effect and (ii) on or prior to the Full Availability Closing Date, the Initial Revolver Availability.

(d) Evidence of Insurance. Within two (2) Business Days following the Closing Date, Collateral Agent shall have received a certificate from Borrower's insurance broker or other evidence reasonably satisfactory to it that all insurance required to be maintained pursuant to Section 5.5 is in full force and effect, together with endorsements naming Collateral Agent, for the benefit of Secured Parties, as additional insured and loss payee thereunder to the extent required under Section 5.5.

SECTION 6. NEGATIVE COVENANTS

Each Credit Party covenants and agrees that, so long as any Commitment is in effect and until payment in full of all Obligations and cancellation or expiration of all Letters of Credit, such Credit Party shall perform, and shall cause each of its Subsidiaries to perform, all covenants in this Section 6.

6.1. Indebtedness. No Credit Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or guaranty, or otherwise become or remain directly or indirectly liable with respect to any Indebtedness, except:

(a) the Obligations;

(b) Indebtedness of any Guarantor Subsidiary to Borrower or to any other Guarantor Subsidiary, or of Borrower to any Guarantor Subsidiary; provided, (i) all such Indebtedness shall be evidenced by the Intercompany Note, which shall be subject to a First Priority Lien pursuant to the Pledge and Security Agreement, (ii) all such Indebtedness shall be unsecured and subordinated in right of payment to the payment in full of the Obligations pursuant to the terms of the Intercompany Note, and (iii) any payment by any such Guarantor Subsidiary under any guaranty of the Obligations shall result in a pro tanto reduction of the amount of any Indebtedness owed by such Subsidiary to Borrower or to any of its Subsidiaries for whose benefit such payment is made;

(c) Indebtedness which may be deemed to exist pursuant to any guaranties, performance, surety, statutory, appeal or similar obligations incurred in the ordinary course of business;

(d) Indebtedness in respect of netting services, overdraft protections and otherwise in connection with deposit accounts incurred in the ordinary course of business;

(e) guaranties in the ordinary course of business of the obligations of suppliers, customers, franchisees and licensees of Borrower and its Subsidiaries;

(f) guaranties by Borrower of Indebtedness of a Guarantor Subsidiary or guaranties by a Guarantor Subsidiary of Indebtedness of Borrower or another Guarantor Subsidiary with respect, in each case, to Indebtedness otherwise permitted to be incurred pursuant to this Section 6.1; provided, that if the Indebtedness that is being guarantied is unsecured and/or subordinated to the Obligations, the guaranty shall also be unsecured and/or subordinated to the Obligations;

(g) (A) Prepetition Indebtedness described in Schedule 6.1, (B) the Existing First Lien Indebtedness, (C) the Existing Second Lien Indebtedness and (D) the Senior Notes;

(h) Indebtedness in respect of Hedge Agreements in existence on the Petition Date and entered into in the ordinary course of business and not for speculative purposes;

(i) Indebtedness with respect to Capital Leases in an aggregate amount (together with the aggregate amount of Indebtedness incurred pursuant to Section 6.1(j)) not to exceed at any time $2,500,000 outstanding;

(j) purchase money Indebtedness in an aggregate amount (together with the aggregate amount of Indebtedness incurred pursuant to Section 6.1(i)) not to exceed at any time $2,500,000 outstanding (including in connection with store shell construction in the ordinary course of business); provided, any such Indebtedness (A) shall be secured only by the asset acquired, constructed or improved in connection with the incurrence of such Indebtedness, and (B) shall constitute not less than 90% of the aggregate consideration paid with respect to such asset;

(k) Indebtedness of any Foreign Subsidiary to Borrower or any other Subsidiary (i) existing on the Petition Date or (ii) to the extent permitted as an Investment pursuant to Section 6.6(h); and

(l) other Indebtedness of Borrower and its Subsidiaries in an aggregate amount not to exceed at any time $2,000,000, provided that (i) such Indebtedness is unsecured and (ii) no such Indebtedness may be incurred and owing by a Foreign Subsidiary or an Inactive Entity; and

(m) Indebtedness incurred by Borrower or any of its Subsidiaries arising from customary agreements providing for indemnification, adjustment of purchase price or similar obligations, or from guaranties or letters of credit, surety bonds or performance bonds securing the performance of Borrower or any such Subsidiary pursuant to such agreements, in connection with dispositions permitted pursuant to Section 6.8 of any business, assets or Subsidiary of Borrower or any of its Subsidiaries.

6.2. Liens. No Credit Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or permit to exist any Lien on or with respect to any property or asset of any kind (including any document or instrument in respect of goods or accounts receivable) of Borrower or any of its Subsidiaries, whether now owned or hereafter acquired or licensed, or any income, profits or royalties therefrom, or file or permit the filing of, or permit to remain in effect, any financing statement or other similar notice of any Lien with respect to any such property, asset, income, profits or royalties under the UCC of any State or under any similar recording or notice statute or under the Intellectual Property laws, rules or procedures, except:

(a) Liens in favor of Collateral Agent for the benefit of Secured Parties granted pursuant to any Credit Document, and Liens granted pursuant to applicable DIP Orders;

(b) Liens for Taxes not yet delinquent or are being contested, in each case in accordance with Section 5.3;

(c) statutory Liens of landlords, banks (and rights of set-off), of carriers, warehousemen, mechanics, repairmen, workmen and materialmen, and other Liens imposed by law (other than any such Lien imposed pursuant to Section 401 (a)(29) or 412(n) of the Internal Revenue Code or by ERISA), in each case incurred in the ordinary course of business, to the extent such liens secure Indebtedness or other obligations which arose prior to the

commencement of the Cases, so long as the rights and remedies of the Person that has such lien is at all times effectively stayed pursuant to Section 362 of the Bankruptcy Code (except with respect to the perfection of such Liens as permitted in Section 362(b)(3) of the Bankruptcy Code), or which accrue after the commencement of the Cases and which are not overdue;

(d) Liens incurred in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, or to secure the performance of tenders, statutory obligations, surety and appeal bonds, bids, leases, government contracts, trade contracts, performance and return-of-money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money or other Indebtedness), so long as no foreclosure, sale or similar proceedings have been commenced with respect to any portion of the Collateral on account thereof;

(e) easements, rights-of-way, restrictions, encroachments, and other minor defects or irregularities in title, in each case which do not and will not interfere in any material respect with the ordinary conduct of the business of Borrower or any of its Subsidiaries;

(f) any interest or title of a lessor or sublessor under any lease of real estate permitted hereunder;

(g) purported Liens evidenced by the filing of precautionary UCC financing statements relating solely to operating leases of personal property entered into in the ordinary course of business;

(h) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(i) any zoning or similar law or right reserved to or vested in any governmental office or agency to control or regulate the use of any real property;

(j) non-exclusive outbound licenses of patents, copyrights, trademarks and other Intellectual Property rights granted by Borrower or any of its Subsidiaries in the ordinary course of business and not interfering in any respect with the ordinary conduct of or materially detracting from the value of the business of Borrower or such Subsidiary;

(k) Liens existing on the Closing Date and described on Schedule 6.2; provided that such Liens are subordinated to the Liens securing the Obligations pursuant to Section 364(d) of the Bankruptcy Code and in accordance with the terms of this Agreement to the extent such Liens were, prior to the Closing Date, subordinated to the Liens securing the Existing First Lien Indebtedness and Existing Secured Lien Indebtedness and the DIP Orders;

(l) adequate protection Liens granted in favor of the holders of Existing First Lien Indebtedness and Existing Second Lien Indebtedness by the Bankruptcy Court pursuant to the terms of the DIP Orders;

(m) Liens on a title report delivered pursuant to Section 5.11;

(n) Liens securing Indebtedness permitted pursuant to Section 6.1(i) or 6.1(j), provided any such Lien shall encumber only the asset acquired, constructed or improved with the proceeds of such Indebtedness;

(o) Liens on the assets of Foreign Subsidiaries (other than the Collateral) securing Indebtedness existing on the Closing Date; and

(p) Liens arising out of judgments or awards in connection with court proceedings which do not constitute an Event of Default.

6.3. No Further Negative Pledges; Negative Pledge. Except with respect to (a) specific property encumbered to secure payment of particular Indebtedness or to be sold pursuant to an executed agreement with respect to a permitted Asset Sale and (b) restrictions by reason of customary provisions restricting assignments, subletting or other transfers contained in leases, licenses and similar agreements entered into in the ordinary course of business (provided that such restrictions are limited to the property or assets secured by such Liens or the property or assets subject to such leases, licenses or similar agreements, as the case may be), no Credit Party nor any of its Subsidiaries shall enter into any agreement prohibiting the creation or assumption of any Lien upon any of its properties or assets, whether now owned or hereafter acquired, to secure the Obligations.

(b) No Credit Party will sell, assign, transfer, exchange or otherwise dispose of any Equity Interests issued by any Foreign Subsidiary which are owned or otherwise held by such Credit Party, except for sales, assignments, transfers, exchanges or other dispositions to another Credit Party. No Credit Party will create, incur, assume or, other than in connection with the Existing First Lien Indebtedness and Existing Second Lien Indebtedness, suffer to exist, any Lien on the Equity Interests issued by any Foreign Subsidiary which are owned or otherwise held by such Credit Party, except for any Lien or claim in favor of Collateral Agent for the benefit of the Secured Parties.

6.4. Restricted Junior Payments. No Credit Party shall, nor shall it permit any of its Subsidiaries or Affiliates through any manner or means or through any other Person to, directly or indirectly, declare, order, pay, make or set apart, or agree to declare, order, pay, make or set apart, any sum for any Restricted Junior Payment.

6.5. Restrictions on Subsidiary Distributions. Except as provided herein and in the Existing Agreements, no Credit Party shall, nor shall it permit any of its Subsidiaries to, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction of any kind on the ability of any Subsidiary of Borrower to (a) pay dividends or make any other distributions on any of such Subsidiary's Equity Interests owned by Borrower or any other Subsidiary of Borrower, (b) repay or prepay any Indebtedness owed by such Subsidiary to Borrower or any other Subsidiary of Borrower, (c) make loans or advances to Borrower or any other Subsidiary of Borrower, or (d) transfer, lease or license any of its property or assets to Borrower or any other Subsidiary of Borrower other than restrictions (i) in agreements evidencing Indebtedness permitted by Section 6.1(i) or 6.1(j) that impose restrictions on the property so acquired, constructed or improved, (ii) by reason of customary provisions restricting assignments, subletting or other transfers contained in leases, licenses, joint venture agreements

and similar agreements entered into in the ordinary course of business, (iii) that are or were created by virtue of any transfer of, agreement to transfer or option or right with respect to any property, assets or Equity Interests not otherwise prohibited under this Agreement (including an agreement which has been entered into in connection with the sale or transfer of assets or Equity Interests of a Subsidiary permitted hereunder) that impose restrictions on such Equity Interests or assets, (iv) any agreement of a Foreign Subsidiary governing the Indebtedness existing on the Closing Date (provided that such restrictions are no more onerous or restrictive than those set forth herein and do not prevent the Obligations being secured as provided herein and in the other Credit Documents), (vi) described on Schedule 6.5, or (v) that exist under or by reason of applicable law, including the Bankruptcy Code as to any Subsidiary that is a Debtor.

6.6. Investments. No Credit Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, make or own any Investment in any Person, including any Joint Venture, except:

(a) Investments in Cash and Cash Equivalents;

(b) equity Investments owned as of the Closing Date in any Subsidiary and Investments made after the Closing Date in Borrower and any wholly-owned Guarantor Subsidiary of Borrower in the ordinary course of business;

(c) Investments in the form of deposits, prepayments and other credits to suppliers made in the ordinary course of business consistent with the past practices of Borrower and its Subsidiaries;

(d) intercompany loans to the extent permitted under Sections 6.1(b) and 6.1(k);

(e) Consolidated Capital Expenditures with respect to Borrower and the Guarantors permitted by Section 6.7(c);

(f) loans and advances to employees of Borrower and its Subsidiaries made in the ordinary course of business in an aggregate principal amount not to exceed $250,000 in the aggregate;

(g) Investments described in Schedule 6.6;

(h) other Investments in Subsidiaries other than wholly-owned Guarantor Subsidiaries of Borrower in an aggregate amount not to exceed at any time $5,000,000; provided, that (i) no such Investments may be made in Inactive Entities unless the Equity Interests therein are then pledged to Collateral Agent in accordance with Section 5.10 and pursuant to the terms of the Pledge and Security Agreement and (ii) no such Investment may be made in Movie Galley Canada unless and until such Investment is evidenced by a promissory note and the obligations thereunder secured (under the applicable laws of Canada) by substantially all the assets of Movie Gallery Canada, in each case pursuant to documentation reasonably satisfactory to Administrative Agent and Arranger (it being understood that no legal opinions will be required in connection with such documentation, and the perfection of Liens created thereunder will be limited to necessary and customary filings under the Personal Property Security Act or other similar legislation as in effect from time to time in the relevant province of

Canada or other applicable Governmental Authority), and such promissory note and rights under such security interest (and under related documentation) are pledged to Collateral Agent in accordance with Section 5.10 and pursuant to the terms of the Pledge and Security Agreement;

(i) additional Investments (other than in Foreign Subsidiaries) so long as the aggregate amount invested, loaned or advanced pursuant to this clause (determined without regard to any write-downs or write-offs of such investments, loans and advances) does not exceed $500,000 in the aggregate at any time outstanding;

(j) non-consensual investments received in connection with the bankruptcy or reorganization of customers and suppliers; and

(k) non-Cash consideration issued by a purchaser of asset in connection with the sale of such assets to the extent permitted by Section 6.8(d).

Notwithstanding the foregoing, in no event shall any Credit Party make any Investment which results in or facilitates in any manner any Restricted Junior Payment.

6.7. Financial Covenants.

(a) Minimum Consolidated Adjusted EBITDA. Borrower shall not permit Consolidated Adjusted EBITDA as of the last day of any fiscal month, beginning with the fiscal month ending November 4, 2007, for the immediately preceding twelve-fiscal month period ending on such date, to be less than the correlative amount indicated:

Fiscal Month Ending	**Consolidated Adjusted EBITDA**
November 4, 2007	$114,000,000
December 2, 2007	$108,000,000
January 6, 2008	$118,000,000
February 10, 2008	$110,000,000
March 9, 2008	$104,000,000
April 6, 2008	$108,000,000
May, 11, 2008	$110,000,000
June 8, 2008	$120,000,000
July 6, 2008	$120,000,000
August 10, 2008	$120,000,000
September 7, 2008	$120,000,000

(b) Total Available Liquidity. As of the last day of any fiscal month, beginning with the fiscal month ending November 4, 2007, Borrower shall not permit (i) the Revolving Commitments less the Total Utilization of Revolving Commitments plus (ii) the aggregate amount of Cash in the cash deposit and concentration accounts maintained by the Credit Parties, to be less than the correlative amount set forth below for such fiscal month:

Fiscal Month Ending	Amounts
November 4, 2007	$13,000,000
December 2, 2007	$7,000,000
January 6, 2008	$61,000,000
February 10, 2008	$96,000,000
March 9, 2008	$57,000,000
April 6, 2008	$97,000,000
May, 11, 2008	$79,000,000
June 8, 2008	$55,000,000
July 6, 2008	$39,000,000
August 10, 2008	$55,000,000
September 7, 2008	$43,000,000

(c) Secured Leverage Ratio. Borrower shall not permit the Secured Leverage Ratio as of the last day of any fiscal month, beginning with the fiscal month ending November 4, 2007, to exceed the correlative ratio indicated:

Fiscal Month Ending	Secured Leverage Ratio
November 4, 2007	7.80:1.00
December 2, 2007	8.35:1.00
January 6, 2008	7.40:1.00
February 10, 2008	7.90:1.00
March 9, 2008	8.20:1.00
April 6, 2008	7.90:1.00
May, 11, 2008	7.60:1.00
June 8, 2008	7.10:1.00
July 6, 2008	7.20:1.00
August 10, 2008	7.20:1.00
September 7, 2008	7.20:1.00

(d) Maximum Consolidated Capital Expenditures. Borrower shall not, and shall not permit its Subsidiaries to, make or incur Consolidated Capital Expenditures, as of the last day of any fiscal month, beginning with the fiscal month ending November 4, 2007, for the immediately preceding twelve-fiscal month period ending on such date, in an aggregate amount for Borrower and its Subsidiaries in excess of $20,000,000.

(e) Certain Calculations. With respect to any period during which an Asset Sale has occurred (each, a **"Subject Transaction"**), for purposes of determining compliance with the financial covenants set forth in this Section 6.7, Consolidated Adjusted EBITDA shall be calculated with respect to such period on a pro forma basis (including pro forma adjustments arising out of events which are directly attributable to a specific transaction, are factually

supportable and are expected to have a continuing impact, in each case determined on a basis consistent with Article 11 of Regulation S-X promulgated under the Securities Act and as interpreted by the staff of the Securities and Exchange Commission, which would include cost savings resulting from head count reduction, closure of facilities and similar restructuring charges, which pro forma adjustments shall be certified by the chief financial officer of Borrower) using the historical (audited, if available) financial statements of any business so acquired or to be acquired or sold or to be sold and the consolidated financial statements of Borrower and its Subsidiaries which shall be reformulated as if such Subject Transaction, and any Indebtedness incurred or repaid in connection therewith, had been consummated or incurred or repaid at the beginning of such period (and assuming that such Indebtedness bears interest during any portion of the applicable measurement period prior to the relevant acquisition at the weighted average of the interest rates applicable to outstanding Loans incurred during such period).

6.8. Fundamental Changes; Disposition of Assets; Acquisitions. No Credit Party shall, nor shall it permit any of its Subsidiaries to, enter into any transaction of merger or consolidation, or liquidate, wind-up or dissolve itself (or suffer any liquidation or dissolution), or convey, sell, lease or license, exchange, transfer or otherwise dispose of, in one transaction or a series of transactions, all or any part of its business, assets or property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible, whether now owned or hereafter acquired, leased or licensed, or acquire by purchase or otherwise (other than purchases or other acquisitions of inventory, materials and equipment and Capital Expenditures in the ordinary course of business) the business, property or fixed assets of, or stock or other evidence of beneficial ownership of, any Person or any division or line of business or other business unit of any Person, except (but subject to approval by the Bankruptcy Court if, in Borrower's reasonable opinion (and upon reasonable prior notice from Borrower to Administrative Agent), required by the Bankruptcy Code):

(a) sales or other dispositions of assets that do not constitute Asset Sales;

(b) disposals of obsolete, worn out or surplus property;

(c) sales and other dispositions of Non-Core Assets and assets associated with stores included in the Store Rationalization Program, in each case in connection with the use of cash in accordance with Section 2.6; provided (1) the consideration received for such assets shall be in an amount at least equal to the fair market value thereof (determined in good faith by the board of directors of Borrower (or similar governing body)), (2) no less than 100% thereof shall be paid in Cash, and (3) the Net Asset Sale Proceeds thereof shall be applied as required by Section 2.13(a);

(d) Asset Sales, the proceeds of which (valued at the principal amount thereof in the case of non-Cash proceeds consisting of notes or other debt Securities and valued at fair market value in the case of other non-Cash proceeds) do not exceed $75,000 (or, if approved by Administrative Agent and Arranger, $250,000) in any single transaction or related series of transactions and, when aggregated with the proceeds of all other Asset Sales under this Section 6.8(d) made from the Closing Date to the date of determination, are less than $2,500,000 in the aggregate; provided, in each case (1) the consideration received for such assets shall be in an

amount at least equal to the fair market value thereof (determined in good faith by the board of directors of Borrower (or similar governing body)), (2) no less than 75% thereof shall be paid in Cash, and (3) the Net Asset Sale Proceeds thereof shall be applied as required by Section 2.13(a);

(e) Investments made in accordance with Section 6.6; and

(f) sale-leaseback transactions permitted by Section 6.10.

6.9. Disposal of Subsidiary Interests. Except for any sale of all of its interests in the Equity Interests of any of its Subsidiaries in compliance with the provisions of Section 6.8 and Liens permitted under Section 6.2(a), no Credit Party shall, nor shall it permit any of its Subsidiaries to, (a) directly or indirectly sell, assign, pledge or otherwise encumber or dispose of any Equity Interests of any of its Subsidiaries, except (but subject to approval by the Bankruptcy Court if required by the Bankruptcy Code) to qualify directors if required by applicable law; or (b) permit any of its Subsidiaries directly or indirectly to sell, assign, pledge or otherwise encumber or dispose of any Equity Interests of any of its Subsidiaries, except (but subject to approval by the Bankruptcy Court if required by the Bankruptcy Code) to another Credit Party (subject to the restrictions on such disposition otherwise imposed hereunder), or to qualify directors if required by applicable law.

6.10. Sales and Lease-Backs. No Credit Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, become or remain liable as lessee or as a guarantor or other surety with respect to any lease of any property (whether real, personal or mixed), whether now owned or hereafter acquired, which such Credit Party (a) has sold or transferred or is to sell or to transfer to any other Person (other than Borrower or any of its Subsidiaries), or (b) intends to use for substantially the same purpose as any other property which has been or is to be sold or transferred by such Credit Party to any Person (other than Borrower or any of its Subsidiaries) in connection with such lease, except sale-leasebacks of real estate owned by any such Credit Party on the Closing Date not to exceed $15,000,000 in the aggregate on fair and reasonable terms no less favorable to such Credit Party than it could obtain in an arm's-length transaction with a Person that is not an Affiliate and pursuant to documentation reasonably acceptable to Administrative Agent and Arranger.

6.11. Transactions with Shareholders and Affiliates. No Credit Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any Affiliate of Borrower on terms that are less favorable to Borrower or that Subsidiary, as the case may be, than those that might be obtained at the time from a Person who is not such a holder or Affiliate as determined in good faith by the disinterested members of the Board of Directors of Borrower; provided (but subject to approval by the Bankruptcy Court if, in Borrower's reasonable opinion (and upon reasonable prior notice from Borrower to Administrative Agent), required by the Bankruptcy Code), the foregoing restriction shall not apply to (a) any transaction between Borrower and any Guarantor Subsidiary; (b) reasonable and customary fees paid to members of the board of directors (or similar governing body) of Borrower and its Subsidiaries; (c) compensation arrangements for officers and other employees of Borrower and its Subsidiaries entered into in the ordinary course of business; (d) the provision of officers' and directors' indemnification and insurance in the ordinary course of business to the

extent permitted by applicable law; (e) transactions described in Schedule 6.11; (f) Indebtedness that may be incurred to the extent permitted by Section 6.1(k); and (g) Investments that may be made to the extent permitted by Section 6.6(h).

6.12. Conduct of Business; Employee Retention Plans; Severance. From and after the Closing Date, no Credit Party shall, nor shall it permit any of its Subsidiaries to: (a) engage in any business other than (i) the businesses engaged in by such Credit Party on the Closing Date and similar or related businesses and (ii) such other lines of business as may be consented to by Requisite Lenders; provided that Credit Parties shall be permitted to implement the Store Rationalization Program and to otherwise comply with the Bankruptcy Code; (b) adopt any employee retention plans which provide for the payment of cash without the prior written consent of Administrative Agent and Arranger; and/or (c) make or approve any severance payment or payments which exceed $75,000 for any individual without the prior written consent of Administrative Agent and Arranger.

6.13. Amendments or Waivers of Organizational Documents. No Credit Party shall nor shall it permit any of its Subsidiaries to, agree to any amendment, restatement, supplement or other modification to, or waiver of, any of its Organizational Documents after the Closing Date in a manner that would adversely affect the ability of such Credit Party to perform its obligations under the Credit Documents or adversely affect the rights, remedies and benefits available to, or conferred upon, any Agent and any Lender or any Secured Party under any Credit Document, except for changes pursuant to a Chapter 11 plan of reorganization or liquidation with respect to the Debtors.

6.14. Chapter 11 Claims; Adequate Protection. No Credit Party shall, nor shall it permit any of its Subsidiaries to, incur, create, assume, suffer to exist or permit (other than those existing, and disclosed to Syndication Agent, on the date hereof) any (i) administrative expense, unsecured claim, or other super-priority claim or Lien (except Permitted Liens) that is pari passu with or senior to the claims of the Secured Parties against the Credit Parties hereunder, or apply to the Bankruptcy Court for authority to do so, except for the Carve-Out, or (ii) obligation to make adequate protection payments, or otherwise provide adequate protection, other than with respect to the Existing First Lien Indebtedness and the Existing Second Lien Indebtedness or otherwise as approved by the Requisite Lenders.

6.15. DIP Orders . No Credit Party shall make or permit to be made any change, amendment or modification, or shall make any application or motion for any change, amendment or modification, to the DIP Orders other than as approved in writing by the Requisite Lenders.

6.16. Limitation on Prepayments of Prepetition Indebtedness. Except as otherwise permitted pursuant to the DIP Orders or agreed to by the Requisite Lenders, including with respect to the Existing Revolver Indebtedness, the Existing First Lien Indebtedness and the Existing Second Lien Indebtedness, no Credit Party shall (i) make any payment or prepayment on or redemption or acquisition for value (including, without limitation, by way of depositing with the trustee with respect thereto money or securities before due for the purpose of paying when due) of any Prepetition Indebtedness, (ii) pay any interest on any Prepetition Indebtedness (whether in cash, in kind securities or otherwise), (iii) make any payment or create or permit any Lien pursuant to Section 361 of the Bankruptcy Code (or pursuant to any other provision of the

Bankruptcy Code authorizing adequate protection), or (iv) apply to the Bankruptcy Court for the authority to do any of the foregoing; provided, that (x) Credit Parties shall make payments required to be made by the Bankruptcy Code, including under Section 365 of the Bankruptcy Code, and (y) Credit Parties may make payments permitted by any of the "first day" orders consented to by Arranger and any other orders of the Bankruptcy Court consented to by Administrative Agent. In addition, no Credit Party shall permit any of its Subsidiaries to make any payment, redemption or acquisition which such Credit Party is prohibited from making under the provisions of this Section 6.16.

6.17. Reclamation Claims. No Credit Party shall hereafter enter into any agreement to return any of its inventory to any of its creditors for application against any Prepetition Indebtedness, trade payables incurred prior to the Petition Date or other prepetition claims under Section 546(h) of the Bankruptcy Code or otherwise or allow any creditor to take any setoff or recoupment against such Prepetition Indebtedness, trade payables incurred prior to the Petition Date or other prepetition claims based upon any such return pursuant to Section 553(b)(1) of the Bankruptcy Code or otherwise if, after giving effect to any such agreement, setoff or recoupment, the aggregate amount of Prepetition Indebtedness, prepetition trade payables and other prepetition claims subject to all such agreements, setoffs and recoupments since the Petition Date would exceed $3,500,000. Subject to the foregoing limitation, Borrower shall be permitted to make payments in respect of trade payables incurred prior to the Petition Date so long as such payments are consistent with orders consented to by Administrative Agent and entered by the Bankruptcy Court.

6.18. Fiscal Year. No Credit Party shall, nor shall it permit any of its Subsidiaries to change its Fiscal Year.

6.19. Subrogation. No Credit Party shall assert any right of subrogation against any Debtor prior to the payment in full of the Obligations.

SECTION 7. GUARANTY

7.1. Guaranty of the Obligations. Guarantors jointly and severally hereby irrevocably and unconditionally guaranty to Administrative Agent for the ratable benefit of the Beneficiaries the due and punctual payment in full of all Obligations when the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (collectively, the **"Guaranteed Obligations"**).

7.2. Payment by Guarantors. Guarantors hereby jointly and severally agree, in furtherance of the foregoing and not in limitation of any other right which any Beneficiary may have at law or in equity against any Guarantor by virtue hereof, that upon the failure of Borrower to pay any of the Guaranteed Obligations when and as the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise, Guarantors will upon demand pay, or cause to be paid, in Cash, to Administrative Agent for the ratable benefit of Beneficiaries, an amount equal to the sum of the unpaid principal amount of all Guaranteed Obligations then due as aforesaid, accrued and unpaid interest on such Guaranteed Obligations (including interest which, but for Borrower's becoming the subject of a case under

the Bankruptcy Code, would have accrued on such Guaranteed Obligations, whether or not a claim is allowed against Borrower for such interest in the related bankruptcy case) and all other Guaranteed Obligations then owed to Beneficiaries as aforesaid.

7.3. Liability of Guarantors Absolute. Each Guarantor agrees that its obligations hereunder are irrevocable, absolute, independent and unconditional and shall not be affected by any circumstance which constitutes a legal or equitable discharge of a guarantor or surety other than payment in full of the Guaranteed Obligations. In furtherance of the foregoing and without limiting the generality thereof, each Guarantor agrees as follows:

(a) this Guaranty is a guaranty of payment when due and not of collectability. This Guaranty is a primary obligation of each Guarantor and not merely a contract of surety;

(b) Administrative Agent may enforce this Guaranty upon the occurrence of an Event of Default notwithstanding the existence of any dispute between Borrower and any Beneficiary with respect to the existence of such Event of Default;

(c) the obligations of each Guarantor hereunder are independent of the obligations of Borrower and the obligations of any other guarantor (including any other Guarantor) of the obligations of Borrower, and a separate action or actions may be brought and prosecuted against such Guarantor whether or not any action is brought against Borrower or any of such other guarantors and whether or not Borrower is joined in any such action or actions;

(d) payment by any Guarantor of a portion, but not all, of the Guaranteed Obligations shall in no way limit, affect, modify or abridge any Guarantor's liability for any portion of the Guaranteed Obligations which has not been paid. Without limiting the generality of the foregoing, if Administrative Agent is awarded a judgment in any suit brought to enforce any Guarantor's covenant to pay a portion of the Guaranteed Obligations, such judgment shall not be deemed to release such Guarantor from its covenant to pay the portion of the Guaranteed Obligations that is not the subject of such suit, and such judgment shall not, except to the extent satisfied by such Guarantor, limit, affect, modify or abridge any other Guarantor's liability hereunder in respect of the Guaranteed Obligations;

(e) any Beneficiary, upon such terms as it deems appropriate, without notice or demand and without affecting the validity or enforceability hereof or giving rise to any reduction, limitation, impairment, discharge or termination of any Guarantor's liability hereunder, from time to time may (i) renew, extend, accelerate, increase the rate of interest on, or otherwise change the time, place, manner or terms of payment of the Guaranteed Obligations; (ii) settle, compromise, release or discharge, or accept or refuse any offer of performance with respect to, or substitutions for, the Guaranteed Obligations or any agreement relating thereto and/or subordinate the payment of the same to the payment of any other obligations; (iii) request and accept other guaranties of the Guaranteed Obligations and take and hold security for the payment hereof or the Guaranteed Obligations; (iv) release, surrender, exchange, substitute, compromise, settle, rescind, waive, alter, subordinate or modify, with or without consideration, any security for payment of the Guaranteed Obligations, any other guaranties of the Guaranteed Obligations, or any other obligation of any Person (including any other Guarantor) with respect to the Guaranteed Obligations; (v) enforce and apply any security now or hereafter held by or for

the benefit of such Beneficiary in respect hereof or the Guaranteed Obligations and direct the order or manner of sale thereof, or exercise any other right or remedy that such Beneficiary may have against any such security, in each case as such Beneficiary in its discretion may determine consistent herewith and any applicable security agreement, including foreclosure on any such security pursuant to one or more judicial or nonjudicial sales, whether or not every aspect of any such sale is commercially reasonable, and even though such action operates to impair or extinguish any right of reimbursement or subrogation or other right or remedy of any Guarantor against Borrower or any security for the Guaranteed Obligations; and (vi) exercise any other rights available to it under the Credit Documents; and

(f) this Guaranty and the obligations of Guarantors hereunder shall be valid and enforceable and shall not be subject to any reduction, limitation, impairment, discharge or termination for any reason (other than payment in full of the Guaranteed Obligations), including the occurrence of any of the following, whether or not any Guarantor shall have had notice or knowledge of any of them: (i) any failure or omission to assert or enforce or agreement or election not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy (whether arising under the Credit Documents, at law, in equity or otherwise) with respect to the Guaranteed Obligations or any agreement relating thereto, or with respect to any other guaranty of or security for the payment of the Guaranteed Obligations; (ii) any rescission, waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions (including provisions relating to events of default) hereof, any of the other Credit Documents, or any agreement or instrument executed pursuant thereto, or of any other guaranty or security for the Guaranteed Obligations, in each case whether or not in accordance with the terms hereof or such Credit Document, or any agreement relating to such other guaranty or security; (iii) the Guaranteed Obligations, or any agreement relating thereto, at any time being found to be illegal, invalid or unenforceable in any respect; (iv) the application of payments received from any source (other than payments received pursuant to the other Credit Documents or from the proceeds of any security for the Guaranteed Obligations, except to the extent such security also serves as collateral for indebtedness other than the Guaranteed Obligations) to the payment of indebtedness other than the Guaranteed Obligations, even though any Beneficiary might have elected to apply such payment to any part or all of the Guaranteed Obligations; (v) any Beneficiary's consent to the change, reorganization or termination of the corporate structure or existence of Borrower or any of its Subsidiaries and to any corresponding restructuring of the Guaranteed Obligations; (vi) any failure to perfect or continue perfection of a security interest in any collateral which secures any of the Guaranteed Obligations; (vii) any defenses, set-offs or counterclaims which Borrower may allege or assert against any Beneficiary in respect of the Guaranteed Obligations, including failure of consideration, breach of warranty, payment, statute of frauds, statute of limitations, accord and satisfaction and usury; and (viii) any other act or thing or omission, or delay to do any other act or thing, which may or might in any manner or to any extent vary the risk of any Guarantor as an obligor in respect of the Guaranteed Obligations.

7.4. Waivers by Guarantors. Each Guarantor hereby waives, for the benefit of Beneficiaries: (a) any right to require any Beneficiary, as a condition of payment or performance by such Guarantor, to (i) proceed against Borrower, any other guarantor (including any other Guarantor) of the Guaranteed Obligations or any other Person, (ii) proceed against or exhaust any security held from Borrower, any such other guarantor or any other Person, (iii) proceed

against or have resort to any balance of any Deposit Account or credit on the books of any Beneficiary in favor of Borrower or any other Person, or (iv) pursue any other remedy in the power of any Beneficiary whatsoever; (b) any defense arising by reason of the incapacity, lack of authority or any disability or other defense of Borrower or any other Guarantor including any defense based on or arising out of the lack of validity or the unenforceability of the Guaranteed Obligations or any agreement or instrument relating thereto or by reason of the cessation of the liability of Borrower or any other Guarantor from any cause other than payment in full of the Guaranteed Obligations; (c) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal; (d) any defense based upon any Beneficiary's errors or omissions in the administration of the Guaranteed Obligations, except behavior which amounts to bad faith; (e) (i) any principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms hereof and any legal or equitable discharge of such Guarantor's obligations hereunder, (ii) the benefit of any statute of limitations affecting such Guarantor's liability hereunder or the enforcement hereof, (iii) any rights to set-offs, recoupments and counterclaims, and (iv) promptness, diligence and any requirement that any Beneficiary protect, secure, perfect or insure any security interest or lien or any property subject thereto; (f) notices, demands, presentments, protests, notices of protest, notices of dishonor and notices of any action or inaction, including acceptance hereof, notices of default hereunder, or any agreement or instrument related thereto, notices of any renewal, extension or modification of the Guaranteed Obligations or any agreement related thereto, notices of any extension of credit to Borrower and notices of any of the matters referred to in Section 7.3 and any right to consent to any thereof; and (g) any defenses or benefits that may be derived from or afforded by law which limit the liability of or exonerate guarantors or sureties, or which may conflict with the terms hereof.

7.5. Guarantors' Rights of Subrogation, Contribution, etc. Until the Guaranteed Obligations shall have been indefeasibly paid in full and the Revolving Commitments shall have terminated and all Letters of Credit shall have expired or been cancelled, each Guarantor hereby waives any claim, right or remedy, direct or indirect, that such Guarantor now has or may hereafter have against Borrower or any other Guarantor or any of its assets in connection with this Guaranty or the performance by such Guarantor of its obligations hereunder, in each case whether such claim, right or remedy arises in equity, under contract, by statute, under common law or otherwise and including (a) any right of subrogation, reimbursement or indemnification that such Guarantor now has or may hereafter have against Borrower with respect to the Guaranteed Obligations, (b) any right to enforce, or to participate in, any claim, right or remedy that any Beneficiary now has or may hereafter have against Borrower, and (c) any benefit of, and any right to participate in, any collateral or security now or hereafter held by any Beneficiary. In addition, until the Guaranteed Obligations shall have been indefeasibly paid in full and the Revolving Commitments shall have terminated and all Letters of Credit shall have expired or been cancelled, each Guarantor shall withhold exercise of any right of contribution such Guarantor may have against any other guarantor (including any other Guarantor) of the Guaranteed Obligations. Each Guarantor further agrees that, to the extent the waiver or agreement to withhold the exercise of its rights of subrogation, reimbursement, indemnification and contribution as set forth herein is found by a court of competent jurisdiction to be void or voidable for any reason, any rights of subrogation, reimbursement or indemnification such Guarantor may have against Borrower or against any collateral or security, and any rights of contribution such Guarantor may have against any such other guarantor, shall

be junior and subordinate to any rights any Beneficiary may have against Borrower, to all right, title and interest any Beneficiary may have in any such collateral or security, and to any right any Beneficiary may have against such other guarantor. If any amount shall be paid to any Guarantor on account of any such subrogation, reimbursement, indemnification or contribution rights at any time when all Guaranteed Obligations shall not have been finally and indefeasibly paid in full, such amount shall be held in trust for Administrative Agent on behalf of Beneficiaries and shall forthwith be paid over to Administrative Agent for the benefit of Beneficiaries to be credited and applied against the Guaranteed Obligations, whether matured or unmatured, in accordance with the terms hereof.

7.6. Subordination of Other Obligations. Any Indebtedness of Borrower or any Guarantor now or hereafter held by any Guarantor (the **"Obligee Guarantor"**) is hereby subordinated in right of payment to the Guaranteed Obligations, and any such Indebtedness collected or received by the Obligee Guarantor after an Event of Default has occurred and is continuing shall be held in trust for Administrative Agent on behalf of Beneficiaries and shall forthwith be paid over to Administrative Agent for the benefit of Beneficiaries to be credited and applied against the Guaranteed Obligations but without affecting, impairing or limiting in any manner the liability of the Obligee Guarantor under any other provision hereof.

7.7. Continuing Guaranty. This Guaranty is a continuing guaranty and shall remain in effect until all of the Guaranteed Obligations shall have been paid in full and the Revolving Commitments shall have terminated and all Letters of Credit shall have expired or been cancelled. Each Guarantor hereby irrevocably waives any right to revoke this Guaranty as to future transactions giving rise to any Guaranteed Obligations.

7.8. Authority of Guarantors or Borrower. It is not necessary for any Beneficiary to inquire into the capacity or powers of any Guarantor or Borrower or the officers, directors or any agents acting or purporting to act on behalf of any of them.

7.9. Financial Condition of Borrower. Any Credit Extension may be made to Borrower or continued from time to time, in each case without notice to or authorization from any Guarantor regardless of the financial or other condition of Borrower at the time of any such grant or continuation, as the case may be. No Beneficiary shall have any obligation to disclose or discuss with any Guarantor its assessment, or any Guarantor's assessment, of the financial condition of Borrower. Each Guarantor has adequate means to obtain information from Borrower on a continuing basis concerning the financial condition of Borrower and its ability to perform its obligations under the Credit Documents, and each Guarantor assumes the responsibility for being and keeping informed of the financial condition of Borrower and of all circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations. Each Guarantor hereby waives and relinquishes any duty on the part of any Beneficiary to disclose any matter, fact or thing relating to the business, operations or conditions of Borrower now known or hereafter known by any Beneficiary.

7.10. Discharge of Guaranty Upon Sale of Guarantor. If all of the Equity Interests of any Guarantor or any of its successors in interest hereunder shall be sold or otherwise disposed of (including by merger or consolidation) in accordance with the terms and conditions hereof, the Guaranty of such Guarantor or such successor in interest, as the case may be,

hereunder shall automatically be discharged and released without any further action by any Beneficiary or any other Person effective as of the time of such Asset Sale.

SECTION 8. EVENTS OF DEFAULT; CARVE-OUT EVENT

8.1. Events of Default. If any one or more of the following conditions or events shall occur:

(a) Failure to Make Payments When Due. Failure by Borrower to pay (i) when due any principal of any Loan, whether at stated maturity, by acceleration, by notice of voluntary prepayment, by mandatory prepayment or otherwise; (ii) when due any amount payable to Issuing Bank in reimbursement of any drawing under a Letter of Credit; or (iii) any interest on any Loan or any fee or any other amount due hereunder within five days after the date due; or

(b) Default in Other Agreements. (i) Failure of any Credit Party or any of their respective Subsidiaries to pay when due any principal of or interest on or any other amount payable in respect of one or more items of Indebtedness incurred following the Petition Date (other than Indebtedness referred to in Section 8.1(a)) in an individual principal amount of $1,000,000 or more or with an aggregate principal amount of $2,500,000 or more, in each case beyond the grace period, if any, provided therefor; or (ii) breach or default by any Credit Party with respect to any other material term of (1) one or more items of such Indebtedness in the individual or aggregate principal amounts referred to in clause (i) above or (2) any loan agreement, mortgage, indenture or other agreement relating to such item(s) of Indebtedness, in each case beyond the grace period, if any, provided therefor, if the effect of such breach or default is to cause, or to permit the holder or holders of that Indebtedness (or a trustee on behalf of such holder or holders), to cause, that Indebtedness to become or be declared due and payable (or redeemable) prior to its stated maturity or the stated maturity of any underlying obligation, as the case may be; or

(c) Breach of Certain Covenants. Failure of any Credit Party to perform or comply with any term or condition contained in Section 2.6, Section 2.13, Section 2.23, Section 5.1(d), Section 5.1(g), Section 5.1(h), Section 5.2, Section 5.13(c) or Section 6; or

(d) Breach of Representations, etc. Any representation, warranty, certification or other statement made or deemed made by any Credit Party in any Credit Document or in any statement or certificate at any time given by any Credit Party or any of its Subsidiaries in writing pursuant hereto or thereto or in connection herewith or therewith shall be false in any material respect as of the date made or deemed made; or

(e) Other Defaults Under Credit Documents. Any Credit Party shall default in the performance of or compliance with any term contained herein or any of the other Credit Documents, other than any such term expressly referred to in any other Section of this Section 8.1, and such default shall not have been remedied or waived within thirty days after the earlier of (i) an officer of such Credit Party becoming aware of such default or (ii) receipt by Borrower of notice from Administrative Agent or any Lender of such default; or

(f) Employee Benefit Plans. (i) There shall occur an ERISA Event which individually results in or might reasonably be expected to result in liability of Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates in excess of $2,500,000 during the term hereof; (ii) there shall occur one or more ERISA Events which individually or in the aggregate results in or might reasonably be expected to result in liability of Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates in excess of $10,000,000 during the term hereof; or (iii) there exists any fact or circumstance that reasonably could be expected to result in the imposition of a Lien or security interest under Section 412(n) of the Internal Revenue Code or under ERISA which (A) individually results in or might reasonably be expected to result in liability or obligations of Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates in excess of $2,500,000 during the term hereof or (B) in the aggregate results in or might reasonably be expected to result in liability or obligations of Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates in excess of $10,000,000 during the term hereof; or

(g) Change of Control. A Change of Control shall occur; or

(h) Guaranties, Collateral Documents and other Credit Documents. At any time after the execution and delivery thereof, (i) the Guaranty for any reason, other than the satisfaction in full of all Obligations, shall cease to be in full force and effect (other than in accordance with its terms) or shall be declared to be null and void or any Guarantor shall repudiate its obligations thereunder, (ii) this Agreement or any Collateral Document ceases to be in full force and effect (other than by reason of a release of Collateral in accordance with the terms hereof or thereof or the satisfaction in full of the Obligations in accordance with the terms hereof) or shall be declared null and void, or Collateral Agent shall not have or shall cease to have a valid and perfected Lien in any Collateral purported to be covered by the Collateral Documents with the priority required by the relevant Collateral Document, in each case for any reason other than the failure of Collateral Agent or any Secured Party to take any action within its control, or (iii) any Credit Party shall contest the validity or enforceability of any Credit Document in writing or deny in writing that it has any further liability, including with respect to future advances by Lenders, under any Credit Document to which it is a party or shall contest the validity or perfection of any Lien in any Collateral purported to be covered by the Collateral Documents; or

(i) Final DIP Order; Full Availability. The Final DIP Order Entry Date shall not occur within forty (40) days after the Interim DIP Order Entry Date; or, the Full Availability Closing Date does not occur within five (5) Business Days of the Final DIP Order Entry Date; or

(j) Pendency of Cases. The Bankruptcy Court shall dismiss any of the Cases or shall convert any of the Cases to a Chapter 7 Case; or

(k) Trustee or Examiner. The Credit Parties shall file, support or fail to oppose a motion seeking, or the Bankruptcy Court shall enter, an order in any of the Cases appointing (i) a trustee under Chapter 7 or Chapter 11 of the Bankruptcy Code, (ii) a responsible officer or (iii) an examiner, in each case with enlarged powers relating to the operation of the business (powers beyond those set forth in subclauses (3) and (4) of Section 1106(a) of the Bankruptcy Code) under Section 1106(b) of the Bankruptcy Code in the Cases; or

(l) Competing Liens and Claims. The Credit Parties shall file, support or fail to oppose a motion seeking, or the Bankruptcy Court shall enter, an order in any of the Cases (i) approving additional financing under Section 364(c) or (d) of the Bankruptcy Code not otherwise permitted pursuant to this Agreement, (ii) granting any Lien (other than Permitted Liens or Liens expressly permitted in the DIP Orders) upon or affecting any Collateral which are pari passu or senior to the Liens on the Collateral in favor of Collateral Agent, for the benefit of Agent and Lenders, (iii) granting any claim priority senior to or pari passu with the claims of the Lenders under the Credit Documents or any other claim having priority over any or all administrative expenses of the kind specified in Section 503(b) or Section 507(b) of the Bankruptcy Code, or (iv) granting any other relief that is adverse to Administrative Agent's, Syndication Agent's, Collateral Agent's or Lenders' interests under any Credit Document or their rights and remedies hereunder or their interest in the Collateral; or

(m) Violation of Orders. (i) Any Credit Party shall fail to comply with the terms of the DIP Orders in any material respect, (ii) the DIP Orders shall be amended, supplemented, stayed, reversed, vacated or otherwise modified without the written consent of the Requisite Lenders, or (iii) any Credit Party shall file a motion for reconsideration with respect to the DIP Orders, or (iv) the right of Borrower to borrow under this Agreement is terminated by an order entered by the Bankruptcy Court; or

(n) Challenge to Obligations. The Credit Parties or any of their Subsidiaries shall seek to, or shall support (in any such case by way of any motion or other pleading filed with the Bankruptcy Court or any other writing to another party-in-interest executed by or on behalf of the Credit Parties or any of their Subsidiaries) any other Person's motion to, disallow in whole or in part the Lenders' claim in respect of the Obligations or to challenge the validity and enforceability of the Liens in favor of Collateral Agent; or

(o) Unauthorized Payments. Other than payments permitted pursuant to Section 6.16 or the applicable DIP Order, the Credit Parties shall make any payment (whether by way of adequate protection or otherwise) of principal or interest or otherwise on account of any Prepetition Indebtedness; or

(p) Relief from Automatic Stay. The Bankruptcy Court shall enter an order granting relief from the automatic stay to any creditor or party in interest (i) to permit foreclosure (or the granting of a deed in lieu of foreclosure or the like) on any assets of the Credit Parties which have an aggregate value in excess of $2,500,000 or (ii) to permit other actions that would have a material adverse affect on the Credit Parties or the Chapter 11 estates; or

(q) Postpetition Judgments. Any judgments which, to the extent not covered by insurance, are in the aggregate in excess of $2,500,000 as to any postpetition obligation shall be rendered against the Credit Parties and the enforcement thereof shall not be stayed (by court ordered stay or by consent of the party litigants), it being understood that Federal Rule of Civil Procedure 62(a) provides for a ten (10) day stay on enforcement of money judgments; or there shall be rendered against any of the Credit Parties a non-monetary judgment with respect to a postpetition event which causes or would reasonably be expected to cause a material adverse change or a material adverse effect on the ability of the Credit Parties to perform their obligations under the Loan Documents; or

(r) Substantial Asset Dispositions. Absent the written consent of the Requisite Lenders, entry by the Bankruptcy Court of an order under Section 363 or 365 of the Bankruptcy Code authorizing or approving the sale or assignment of a material portion of any of the Credit Parties' assets, or procedures in respect thereof, or any of the Credit Parties shall seek, support, or fail to contest in good faith, the entry of such an order in the Cases; or

(s) Noncompliant Plan of Reorganization. A Chapter 11 plan of reorganization or liquidation with respect to the Debtors is filed and (i) the treatment of the claims of the Agents and Lenders in such plan is not approved by Administrative Agent and Syndication Agent or (ii) such plan does not provide for the payment in full in cash of the Obligations on or prior to the date of consummation thereof;

THEN, upon the occurrence of any Event of Default and at any time during the continuance thereof, at the request of (or with the consent of) Requisite Lenders, upon notice to Borrower by Administrative Agent, in each case notwithstanding the provisions of Section 362 of the Bankruptcy Code and without any application, motion or notice to, hearing before, or order from, the Bankruptcy Court: (A) the Revolving Commitments, if any, of each Lender having such Revolving Commitments and the obligation of Issuing Bank to issue any Letter of Credit shall immediately terminate; (B) each of the following shall immediately become due and payable, in each case without presentment, demand, protest or other requirements of any kind, all of which are hereby expressly waived by each Credit Party: (I) the unpaid principal amount of and accrued interest on the Loans, (II) an amount equal to the maximum amount that may at any time be drawn under all Letters of Credit then outstanding (regardless of whether any beneficiary under any such Letter of Credit shall have presented, or shall be entitled at such time to present, the drafts or other documents or certificates required to draw under such Letters of Credit), and (III) all other Obligations; provided, the foregoing shall not affect in any way the obligations of Lenders under Section 2.3(b)(v) or Section 2.4(e); (C) subject to the satisfaction of the notice and other requirements set forth in the DIP Orders, Administrative Agent may cause Collateral Agent to enforce any and all Liens and security interests created pursuant to Collateral Documents; and (D) Administrative Agent shall direct Borrower to pay (and Borrower hereby agrees upon receipt of such notice to pay) to Administrative Agent such additional amounts of cash as reasonably requested by Issuing Bank, to be held as security for Borrower's reimbursement Obligations in respect of Letters of Credit then outstanding.

SECTION 9. AGENTS

9.1. Appointment of Agents.

GSCP is hereby appointed Syndication Agent hereunder, and each Lender hereby authorizes GSCP to act as Syndication Agent in accordance with the terms hereof and the other Credit Documents. BNY is hereby appointed Administrative Agent and Collateral Agent hereunder and under the other Credit Documents and each Lender hereby authorizes BNY to act as Administrative Agent and Collateral Agent in accordance with the terms hereof and the other Credit Documents. GSCP is hereby appointed Documentation Agent hereunder, and each Lender hereby authorizes GSCP to act as Documentation Agent in accordance with the terms

hereof and the other Credit Documents. Each Agent hereby agrees to act in its capacity as such upon the express conditions contained herein and the other Credit Documents, as applicable. The provisions of this Section 9 are solely for the benefit of Agents, Arranger and Lenders and no Credit Party shall have any rights as a third party beneficiary of any of the provisions thereof. In performing its functions and duties hereunder, each Agent shall act solely as an agent of Lenders and does not assume and shall not be deemed to have assumed any obligation towards or relationship of agency or trust with or for Borrower or any of its Subsidiaries. Each of Syndication Agent and Documentation Agent, without consent of or notice to any party hereto, may assign any and all of its rights or obligations hereunder to any of its Affiliates. As of the Closing Date, neither GSCP, in its capacity as Syndication Agent (except as expressly provided in this Agreement), nor GSCP, in its capacity as Documentation Agent, shall have any obligations but shall be entitled to all benefits of this Section 9.

9.2. Powers and Duties. Each Lender irrevocably authorizes each Agent to take such action on such Lender's behalf and to exercise such powers, rights and remedies hereunder and under the other Credit Documents as are specifically delegated or granted to such Agent by the terms hereof and thereof, together with such powers, rights and remedies as are reasonably incidental thereto. Each Agent and Arranger shall have only those duties and responsibilities that are expressly specified herein and the other Credit Documents. Each Agent and Arranger may exercise such powers, rights and remedies and perform such duties by or through its agents or employees. No Agent or Arranger shall have, by reason hereof or any of the other Credit Documents, a fiduciary relationship in respect of any Lender; and nothing herein or any of the other Credit Documents, expressed or implied, is intended to or shall be so construed as to impose upon any Agent or Arranger any obligations in respect hereof or any of the other Credit Documents except as expressly set forth herein or therein. Administrative Agent hereby agrees that it shall (i) furnish to GSCP, in its capacity as Arranger or Syndication Agent, upon GSCP's request, a copy of the Register, (ii) cooperate with GSCP in granting access to any Lenders (or potential lenders) who GSCP identifies to the Platform and (iii) maintain GSCP's access to the Platform.

9.3. General Immunity.

(a) No Responsibility for Certain Matters. No Agent or Arranger shall be responsible to any Lender for the execution, effectiveness, genuineness, validity, enforceability, collectability or sufficiency hereof or any other Credit Document or for any representations, warranties, recitals or statements made herein or therein or made in any written or oral statements or in any financial or other statements, instruments, reports or certificates or any other documents furnished or made by any Agent or Arranger to Lenders or by or on behalf of any Credit Party or any Lender in connection with the Credit Documents and the transactions contemplated thereby or for the financial condition or business affairs of any Credit Party or any other Person liable for the payment of any Obligations, nor shall any Agent or Arranger be required to ascertain or inquire as to the performance or observance of any of the terms, conditions, provisions, covenants or agreements contained in any of the Credit Documents or as to the use of the proceeds of the Loans or as to the existence or possible existence of any Event of Default or Default or to make any disclosures with respect to the foregoing. Anything contained herein to the contrary notwithstanding, Administrative Agent shall not have any

liability arising from confirmations of the amount of outstanding Loans or the Letter of Credit Usage or the component amounts thereof.

(b) Exculpatory Provisions. Agents, Arranger and any of their respective officers, partners, directors, employees or agents shall not be liable to Lenders for any action taken or omitted by any Agent or Arranger under or in connection with any of the Credit Documents except to the extent caused by such Agent's or Arranger's gross negligence or willful misconduct, as determined by a final, non-appealable judgment of a court of competent jurisdiction. Each Agent and Arranger shall be entitled to refrain from any act or the taking of any action (including the failure to take an action) in connection herewith or any of the other Credit Documents or from the exercise of any power, discretion or authority vested in it hereunder or thereunder unless and until such Agent or Arranger shall have received instructions in respect thereof from Requisite Lenders (or such other Lenders as may be required to give such instructions under Section 10.5) and, upon receipt of such instructions from Requisite Lenders (or such other Lenders, as the case may be), such Agent or Arranger shall be entitled to act or (where so instructed) refrain from acting, or to exercise such power, discretion or authority, in accordance with such instructions. Agents or Arranger may distribute documents, deliverables or other materials to the Lenders for acceptance or rejection, and may, upon appropriate notice, rely on the lack of an objection by Lenders as a deemed approval of the action presented. Without prejudice to the generality of the foregoing, (i) each Agent and Arranger shall be entitled to rely, and shall be fully protected in relying, upon any communication, instrument or document believed by it to be genuine and correct and to have been signed or sent by the proper Person or Persons and shall be entitled to rely and shall be protected in relying on opinions and judgments of attorneys (who may be attorneys for Borrower and its Subsidiaries), accountants, experts and other professional advisors selected by it; and (ii) no Lender shall have any right of action whatsoever against any Agent or Arranger as a result of such Agent or Arranger acting or (where so instructed) refraining from acting hereunder or any of the other Credit Documents in accordance with the instructions of Requisite Lenders (or such other Lenders as may be required to give such instructions under Section 10.5).

(c) Delegation of Duties. Administrative Agent, Syndication Agent and Arranger may perform any and all of its duties and exercise its rights and powers under this Agreement or under any other Credit Document by or through any one or more sub-agents appointed by Administrative Agent, Syndication Agent or Arranger, as applicable. Administrative Agent, Syndication Agent, Arranger and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Affiliates. The exculpatory, indemnification and other provisions of this Section 9.3 and of Section 9.6 shall apply to any of the Affiliates of Administrative Agent, Syndication Agent and Arranger, respectively, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent, Syndication Agent or as Arranger. All of the rights, benefits, and privileges (including the exculpatory and indemnification provisions) of this Section 9.3 and of Section 9.6 shall apply to any such sub-agent and to the Affiliates of any such sub-agent, and shall apply to their respective activities as sub-agent as if such sub-agent and Affiliates were named herein. Notwithstanding anything herein to the contrary, with respect to each sub-agent appointed by Administrative Agent, Syndication Agent or Arranger, (i) such sub-agent shall be a third party beneficiary under this Agreement with respect to all such rights, benefits and privileges (including exculpatory rights

and rights to indemnification) and shall have all of the rights and benefits of a third party beneficiary, including an independent right of action to enforce such rights, benefits and privileges (including exculpatory rights and rights to indemnification) directly, without the consent or joinder of any other Person, against any or all of the Credit Parties and the Lenders, (ii) such rights, benefits and privileges (including exculpatory rights and rights to indemnification) shall not be modified or amended without the consent of such sub-agent, and (iii) such sub-agent shall only have obligations to Administrative Agent, Syndication Agent or Arranger, as applicable, and not to any Credit Party, Lender or any other Person and no Credit Party, Lender or any other Person shall have any rights, directly or indirectly, as a third party beneficiary or otherwise, against such sub-agent.

9.4. Agents Entitled to Act as Lender. The agency hereby created shall in no way impair or affect any of the rights and powers of, or impose any duties or obligations upon, any Agent or Arranger in its individual capacity as a Lender hereunder. With respect to its participation in the Loans and the Letters of Credit, each Agent and Arranger shall have the same rights and powers hereunder as any other Lender and may exercise the same as if it were not performing the duties and functions delegated to it hereunder, and the term "Lender" shall, unless the context clearly otherwise indicates, include each Agent in its individual capacity. Any Agent, Arranger and their respective Affiliates may accept deposits from, lend money to, own securities of, and generally engage in any kind of banking, trust, financial advisory or other business with Borrower or any of its Affiliates as if it were not performing the duties specified herein, and may accept fees and other consideration from Borrower for services in connection herewith and otherwise without having to account for the same to Lenders.

9.5. Lenders' Representations, Warranties and Acknowledgment.

(a) Each Lender represents and warrants that it has made its own independent investigation of the financial condition and affairs of Borrower and its Subsidiaries in connection with Credit Extensions hereunder and that it has made and shall continue to make its own appraisal of the creditworthiness of Borrower and its Subsidiaries. Agents and Arranger shall not have any duty or responsibility, either initially or on a continuing basis, to make any such investigation or any such appraisal on behalf of Lenders or to provide any Lender with any credit or other information with respect thereto, whether coming into its possession before the making of the Loans or at any time or times thereafter, and Agents and Arranger shall not have any responsibility with respect to the accuracy of or the completeness of any information provided to Lenders.

(b) Each Lender, by delivering its signature page to this Agreement or an Assignment Agreement and funding its Revolving Loans on the Closing Date and its Terms Loans on the Full Availability Closing Date shall be deemed to have acknowledged receipt of, and consented to and approved, each Credit Document and each other document required to be approved by any Agent, Arranger, Requisite Lenders or Lenders, as applicable on the Closing Date and the Full Availability Closing Date.

(c) Each Lender wishing to be public-side must designate a person or proxy who is available to review and execute upon Nonpublic Information.

9.6. Right to Indemnity. Each Lender, in proportion to its Pro Rata Share, severally agrees to indemnify each Agent and Arranger, to the extent that such Agent and Arranger shall not have been reimbursed by any Credit Party, for and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including counsel fees and disbursements) or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against such Agent or Arranger in exercising its powers, rights and remedies or performing its duties hereunder or under the other Credit Documents or otherwise in its capacity as such Agent or Arranger in any way relating to or arising out of this Agreement or the other Credit Documents; provided, no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from such Agent's or Arranger's gross negligence or willful misconduct, as determined by a final, non-appealable judgment of a court of competent jurisdiction. If any indemnity furnished to any Agent or Arranger for any purpose shall, in the opinion of such Agent, be insufficient or become impaired, such Agent or Arranger may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished; provided, in no event shall this sentence require any Lender to indemnify any Agent or Arranger against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement in excess of such Lender's Pro Rata Share thereof; and provided further, this sentence shall not be deemed to require any Lender to indemnify any Agent or Arranger against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement described in the proviso in the immediately preceding sentence.

9.7. Successor Administrative Agent, Collateral Agent, Syndication Agent and Swing Line Lender. Administrative Agent may resign at any time by giving thirty days' prior written notice thereof to Lenders and Borrower, and Administrative Agent may be removed at any time with or without cause by an instrument or concurrent instruments in writing delivered to Borrower and Administrative Agent and signed by Requisite Lenders. Upon any such notice of resignation or any such removal, Requisite Lenders shall have the right, upon five Business Days' notice to Borrower (and, provided a Default or Event of Default is not then continuing, with the consent of Borrower (such consent not to be unreasonably withheld or delayed)), to appoint a successor Administrative Agent. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor Administrative Agent, that successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Administrative Agent and the retiring or removed Administrative Agent shall promptly (i) transfer to such successor Administrative Agent all sums, Securities and other items of Collateral held under the Collateral Documents, together with all records and other documents necessary or appropriate in connection with the performance of the duties of the successor Administrative Agent under the Credit Documents, and (ii) execute and deliver to such successor Administrative Agent such amendments to financing statements, and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Administrative Agent of the security interests created under the Collateral Documents, whereupon such retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder. If the Requisite Lenders have not appointed a successor Administrative Agent, Administrative Agent shall have the right (upon notice to Borrower and, provided a Default or Event of Default is not then continuing, with the consent of Borrower (such consent not to be unreasonably withheld or delayed)) to appoint a

financial institution to act as Administrative Agent hereunder and in any case, Administrative Agent's resignation shall become effective on the thirtieth day after such notice of resignation. If neither the Requisite Lenders nor Administrative Agent have appointed a successor Administrative Agent, the Requisite Lenders shall be deemed to succeeded to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent; provided that, until a successor Administrative Agent is so appointed by the Requisite Lenders or Administrative Agent, Administrative Agent, by notice to the Borrower and the Requisite Lenders, may retain its role as Collateral Agent under any Collateral Document. Except as provided in the immediately preceding sentence, and without limitation of the rights and obligations of the Collateral Agent and successor Collateral Agent set forth in Section 9.7(b), any resignation or removal of BNY or its successor as Administrative Agent pursuant to this Section shall also constitute the resignation or removal of BNY or its successor as Collateral Agent. After any retiring or removed Administrative Agent's resignation or removal hereunder as Administrative Agent, the provisions of this Section 9 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent hereunder. Any successor Administrative Agent appointed pursuant to this Section shall, upon its acceptance of such appointment, become the successor Collateral Agent for all purposes hereunder. If BNY or its successor as Administrative Agent pursuant to this Section has resigned as Administrative Agent but retained its role as Collateral Agent and no successor Collateral Agent has become the Collateral Agent pursuant to the immediately preceding sentence, BNY or its successor may resign as Collateral Agent upon notice to the Borrower and the Requisite Lenders at any time.

(b) In addition to the foregoing, Collateral Agent may resign at any time by giving thirty 30 days' prior written notice thereof to Lenders and the Grantors, and Collateral Agent may be removed at any time with or without cause by an instrument or concurrent instruments in writing delivered to the Grantors and Collateral Agent signed by the Requisite Lenders. Upon any such notice of resignation or any such removal, Requisite Lenders shall have the right, upon five Business Days' notice to Administrative Agent and Borrower (and, provided a Default or Event of Default is not then continuing, with the consent of Borrower (such consent not to be unreasonably withheld or delayed)), to appoint a successor Collateral Agent. Upon the acceptance of any appointment as Collateral Agent hereunder by a successor Collateral Agent, that successor Collateral Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Collateral Agent under this Agreement and the Collateral Documents, and the retiring or removed Collateral Agent under this Agreement shall promptly (i) transfer to such successor Collateral Agent all sums, Securities and other items of Collateral held hereunder or under the Collateral Documents, together with all records and other documents necessary or appropriate in connection with the performance of the duties of the successor Collateral Agent under this Agreement and the Collateral Documents, and (ii) execute and deliver to such successor Collateral Agent or otherwise authorize the filing of such amendments to financing statements, and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Collateral Agent of the security interests created under the Collateral Documents, whereupon such retiring or removed Collateral Agent shall be discharged from its duties and obligations under this Agreement and the Collateral Documents. After any retiring or removed Collateral Agent's resignation or removal hereunder as the Collateral Agent, the provisions of this Agreement and the Collateral Documents shall inure to its benefit as to any actions taken or omitted to be taken by it under this Agreement or the Collateral Documents while it was the Collateral Agent hereunder.

(c) If Administrative Agent is also Swing Line Lender, any resignation or removal of BNY or its successor as Administrative Agent pursuant to this Section shall also constitute the resignation or removal of BNY or its successor as Swing Line Lender, and any successor Administrative Agent appointed pursuant to this Section shall, upon its acceptance of such appointment, become the successor Swing Line Lender for all purposes hereunder. In such event (a) Borrower shall prepay any outstanding Swing Line Loans made by the retiring or removed Administrative Agent in its capacity as Swing Line Lender, (b) upon such prepayment, the retiring or removed Administrative Agent and Swing Line Lender shall surrender any Swing Line Note held by it to Borrower for cancellation, and (c) Borrower shall issue, if so requested by successor Administrative Agent and Swing Line Lender, a new Swing Line Note to the successor Administrative Agent and Swing Line Lender, in the principal amount of the Swing Line Sublimit then in effect and with other appropriate insertions.

(d) Syndication Agent may resign at any time by giving thirty days' prior written notice thereof to Lenders, Issuing Bank, Administrative Agent and Borrower, and Syndication Agent may be removed at any time with or without cause by an instrument or concurrent instruments in writing delivered to Borrower and Syndication Agent and signed by Requisite Lenders. Upon any such notice of resignation or any such removal, Requisite Lenders shall have the right, upon five Business Days' notice to Borrower (and, provided a Default or Event of Default is not then continuing, with the consent of Borrower (such consent not to be unreasonably withheld or delayed)), to appoint a successor Syndication Agent. Upon the acceptance of any appointment as Syndication Agent hereunder by a successor Syndication Agent, that successor Syndication Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Syndication Agent. If the Requisite Lenders have not appointed a successor Syndication Agent, Syndication Agent shall have the right (upon notice to Borrower and, provided a Default or Event of Default is not then continuing, with the consent of Borrower (such consent not to be unreasonably withheld or delayed)) to appoint a financial institution to act as Syndication Agent hereunder and in any case, Syndication Agent's resignation shall become effective on the thirtieth day after such notice of resignation. If neither the Requisite Lenders nor Syndication Agent have appointed a successor Syndication Agent, the Requisite Lenders shall be deemed to succeeded to and become vested with all the rights, powers, privileges and duties of the retiring Syndication Agent. After any retiring or removed Syndication Agent's resignation or removal hereunder as Syndication Agent, the provisions of this Section 9 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Syndication Agent hereunder.

(e) If Syndication Agent is also Swing Line Lender, any resignation or removal of GSCP or its successor as Syndication Agent pursuant to this Section shall also constitute the resignation or removal of GSCP or its successor as Swing Line Lender, and any successor Syndication Agent appointed pursuant to this Section shall, upon its acceptance of such appointment, become the successor Swing Line Lender for all purposes hereunder; provided, that such successor Swing Line Lender shall be reasonably acceptable to Issuing Bank, if Wachovia Bank, National Association is then the Issuing Bank; provided, further, that nothing herein shall limit the ability of Syndication Agent to resign or otherwise be removed as set forth in Section 9.7(d) or this Section 9.7(e). In such event (a) Borrower shall prepay any outstanding Swing Line Loans made by the retiring or removed Syndication Agent in its capacity as Swing Line Lender, (b) upon such prepayment, the retiring or removed Syndication Agent and Swing Line

Lender shall surrender any Swing Line Note held by it to Borrower for cancellation, and (c) Borrower shall issue, if so requested by successor Syndication Agent and Swing Line Lender, a new Swing Line Note to the successor Syndication Agent and Swing Line Lender, in the principal amount of the Swing Line Sublimit then in effect and with other appropriate insertions.

(f) Upon any resignation or removal of GSCP as Swing Line Lender, Issuing Bank may require Borrower to immediately (i) collateralize the then issued and outstanding amount of all Letters of Credit by causing a letter of credit issuer (reasonably acceptable to Issuing Bank) to issue back-up letters of credit for the benefit of Issuing Bank in an aggregate amount equal to 105% of the aggregate issued and outstanding amount of all such Letters of Credit issued by Issuing Bank, or (ii) cash collateralize the then issued and outstanding amount of all Letters of Credit by depositing with the Issuing Bank an amount equal to 105% of the aggregate issued and outstanding amount of all such Letters of Credit, such amounts to be held as collateral security by such Issuing Bank for all Obligations in respect of such Letters of Credit (it being understood that Borrower shall have the option to comply with either of the foregoing subclauses (i) or (ii)); provided, that in the event Issuing Bank makes the foregoing demand upon Borrower, Borrower may, by giving written notice to Administrative Agent, Swing Line Lender and Issuing Bank of its election to do so, elect to cause the removal of Issuing Bank, in accordance with Section 9.7(g).

(g) Issuing Bank may resign at any time by giving thirty days' prior written notice thereof to Lenders, Swing Line Lender, Administrative Agent and Borrower, and Issuing Bank may be removed at any time (i) with or without cause by an instrument or concurrent instruments in writing delivered to Borrower and Issuing Bank and signed by Requisite Lenders or (ii) upon notice from Borrower as provided in Section 9.7(f). Upon any such notice of resignation or any such removal, Requisite Lenders shall have the right, upon five Business Days' notice to Borrower (and, provided a Default or Event of Default is not then continuing, with the consent of Borrower (such consent not to be unreasonably withheld or delayed)), to appoint a successor Issuing Bank. Upon the acceptance of any appointment as Issuing Bank hereunder by a successor Issuing Bank, that successor Issuing Bank shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Issuing Bank. If the Requisite Lenders have not appointed a successor Issuing Bank, Issuing Bank shall have the right (upon notice to Borrower and, provided a Default or Event of Default is not then continuing, with the consent of Borrower (such consent not to be unreasonably withheld or delayed)) to appoint a financial institution to act as Issuing Bank hereunder and in any case, Issuing Bank's resignation shall become effective on the thirtieth day after such notice of resignation. If neither the Requisite Lenders nor Issuing Bank have appointed a successor Issuing Bank, the Requisite Lenders shall be deemed to succeeded to and become vested with all the rights, powers, privileges and duties of the retiring Issuing Bank. After any retiring or removed Issuing Bank's resignation or removal hereunder as Issuing Bank, the provisions of this Section 9 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Issuing Bank hereunder. Immediately upon any such resignation or removal of Issuing Bank, the Letters of Credit issued by such retiring or removed Issuing Bank shall at the option of Borrower (i) be canceled and returned to such retiring or removed Issuing Bank (together with a surrender letter reasonably acceptable to the retiring or removed Issuing Bank from the beneficiary of each such Letter of Credit issued by the retiring or removed Issuing Bank, stating that the beneficiary has not made any outstanding draws under such Letter of Credit and that such Letter of Credit is

cancelled and no longer effective and that the retiring or removed Issuing Bank has no further obligations to such beneficiary under each such Letter of Credit), (ii) be collateralized by Borrower by causing the successor Issuing Bank or other letter of credit issuer (in each case reasonably acceptable to the retiring or removed Issuing Bank) to issue back-up letters of credit for the benefit of such retiring or removed Issuing Bank in an aggregate amount equal to 105% of the aggregate issued and outstanding amount of all such Letters of Credit issued by such retiring or removed Issuing Bank, or (iii) be cash collateralized by Borrower by depositing with the retiring or removed Issuing Bank an amount equal to 105% of the aggregate issued and outstanding amount of all such Letters of Credit issued by such retiring or removed Issuing Bank, such amounts to be held as collateral security by such retiring or removed Issuing Bank for all Obligations in respect of such Letters of Credit.

9.8. Collateral Documents and Guaranty.

(a) Agents under Collateral Documents and Guaranty. Each Secured Party hereby further authorizes Administrative Agent or Collateral Agent, as applicable, on behalf of and for the benefit of Secured Parties, to be the agent for and representative of the Secured Parties with respect to the Guaranty, the Collateral and the Collateral Documents. Subject to Section 10.5, without further written consent or authorization from any Secured Party, Administrative Agent or Collateral Agent, as applicable shall, at the request and expense of Borrower, execute any documents or instruments necessary to (i) in connection with a sale or disposition of assets permitted by this Agreement, release any Lien encumbering any item of Collateral that is the subject of such sale or other disposition of assets or to which Requisite Lenders (or such other Lenders as may be required to give such consent under Section 10.5) have otherwise consented or (ii) release any Guarantor from the Guaranty pursuant to Section 7.10 or with respect to which Requisite Lenders (or such other Lenders as may be required to give such consent under Section 10.5) have otherwise consented.

(b) Right to Realize on Collateral and Enforce Guaranty. Anything contained in any of the Credit Documents to the contrary notwithstanding, Borrower, Administrative Agent, Collateral Agent and each Secured Party hereby agree that (i) no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Guaranty, it being understood and agreed that all powers, rights and remedies hereunder may be exercised solely by Administrative Agent, on behalf of the Secured Parties in accordance with the terms hereof and all powers, rights and remedies under the Collateral Documents may be exercised solely by Collateral Agent, and (ii) in the event of a foreclosure by Collateral Agent on any of the Collateral pursuant to a public or private sale or other disposition, Collateral Agent or any Lender may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition and Collateral Agent, as agent for and representative of Secured Parties (but not any Lender or Lenders in its or their respective individual capacities unless Requisite Lenders shall otherwise agree in writing) shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by Collateral Agent at such sale or other disposition.

(c) Closing Date Collateral Actions. Without limiting any other rights of Collateral Agent under the Credit Documents, each Lender acknowledges that, in respect of all

of actions taken by Arranger and Arranger's counsel with respect to obtaining a security interest in any of the Collateral, perfecting such security interests in the Collateral, maintaining such security interests in the Collateral, and providing Lenders with any other rights and remedies with respect to such Collateral, in each case on or prior to the Closing Date (collectively, the "Collateral Actions"), the Collateral Agent shall be permitted to unconditionally rely on such Collateral Actions. Furthermore, Collateral Agent has no obligation to review, correct, analyze, or supplement any of the Collateral Actions taken by Arranger or Arranger's counsel on or prior to the Closing Date, and Collateral Agent has no responsibilities or obligations with respect to any Collateral Actions taken, or omitted to be taken, by Arranger, on or prior to the Closing Date.

9.9. Withholding Taxes.

To the extent required by any applicable law, Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding tax. If the Internal Revenue Service or any other Governmental Authority asserts a claim that Administrative Agent did not properly withhold tax from amounts paid to or for the account of any Lender because the appropriate form was not delivered or was not properly executed or because such Lender failed to notify Administrative Agent of a change in circumstance which rendered the exemption from, or reduction of, withholding tax ineffective or for any other reason, such Lender shall indemnify Administrative Agent fully for all amounts paid, directly or indirectly, by Administrative Agent as tax or otherwise, including any penalties or interest and together with all expenses (including legal expenses, allocated internal costs and out-of-pocket expenses) incurred.

SECTION 10. MISCELLANEOUS

10.1. Notices.

(a) Notices Generally. Any notice or other communication herein required or permitted to be given to a Credit Party, Syndication Agent, Documentation Agent, Collateral Agent, Administrative Agent, Arranger, Swing Line Lender or Issuing Bank shall be sent to such Person's address as set forth on Appendix B or in the other relevant Credit Document, and in the case of any Lender, the address as indicated on Appendix B or otherwise indicated to Administrative Agent in writing. Except as otherwise set forth in paragraph (b) below, each notice hereunder shall be in writing and may be personally served, telexed or sent by telefacsimile or United States mail or courier service and shall be deemed to have been given when delivered in person or by courier service and signed for against receipt thereof, upon receipt of telefacsimile or telex, or three Business Days after depositing it in the United States mail with postage prepaid and properly addressed; provided, no notice to any Agent or Arranger shall be effective until received by such Agent or Arranger; provided further, any such notice or other communication shall at the request of Administrative Agent, Syndication Agent or Arranger be provided to any sub-agent appointed pursuant to Section 9.3(c) hereto as designated by Administrative Agent, Syndication Agent or Arranger, as applicable, from time to time.

(b) Electronic Communications.

(i) Notices and other communications to the Lenders and Issuing Bank hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites, including the Platform) pursuant to procedures approved by Administrative Agent or Syndication Agent, provided that the foregoing shall not apply to notices to any Lender or Issuing Bank pursuant to Section 2 if such Lender or Issuing Bank, as applicable, has notified Administrative Agent or Syndication Agent that it is incapable of receiving notices under such Section by electronic communication. Administrative Agent, Syndication Agent or Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications. Unless Administrative Agent or Syndication Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(ii) Each of the Credit Parties understands that the distribution of material through an electronic medium is not necessarily secure and that there are confidentiality and other risks associated with such distribution and agrees and assumes the risks associated with such electronic distribution, except to the extent caused by the willful misconduct or gross negligence of Administrative Agent or Syndication Agent, as the case may be, as determined by a final, non-appealable judgment of a court of competent jurisdiction.

(iii) The Platform and any Approved Electronic Communications are provided "as is" and "as available". None of the Agents, Arranger or any of their respective officers, directors, employees, agents, advisors or representatives (the "**Agent Affiliates**") warrant the accuracy, adequacy, or completeness of the Approved Electronic Communications or the Platform and each expressly disclaims liability for errors or omissions in the Platform and the Approved Electronic Communications. No warranty of any kind, express, implied or statutory, including any warranty of merchantability, fitness for a particular purpose, non-infringement of third party rights or freedom from viruses or other code defects is made by the Agent Affiliates in connection with the Platform or the Approved Electronic Communications.

(iv) Each of the Credit Parties, the Lenders, Issuing Bank and the Agents agree that Administrative Agent and Syndication Agent may, but shall not be obligated to, store any Approved Electronic Communications on the Platform in accordance with Administrative Agent's or Syndication Agent's customary document retention procedures and policies.

10.2. Expenses. Whether or not the transactions contemplated hereby shall be consummated, Borrower agrees to pay promptly (a) all the actual and reasonable costs and expenses of the Agents, Arranger and Issuing Bank in connection with the negotiation, preparation, execution and administration of the Credit Documents and any consents, amendments, waivers or other modifications thereto and any other documents or matters requested by Borrower, including, without limitation, the reasonable fees, expenses and disbursements of counsel (in each case including allocated costs of internal counsel); (b) all the costs of furnishing all opinions by counsel for Borrower and the other Credit Parties; (c) all the actual costs and reasonable expenses of creating, perfecting and recording Liens in favor of Collateral Agent, for the benefit of the Secured Parties, including filing and recording fees, expenses and taxes, stamp or documentary taxes, search fees, title insurance premiums and reasonable fees, expenses and disbursements of counsel to each Agent and of counsel providing any opinions that any Agent or Requisite Lenders may request in respect of the Collateral or the Liens created pursuant to the Collateral Documents; (d) all the actual costs and reasonable fees, expenses and disbursements of any auditors, accountants, consultants or appraisers; (e) all the actual costs and reasonable expenses (including the reasonable fees, expenses and disbursements of any appraisers, consultants, advisors and agents employed or retained by Collateral Agent and its counsel) in connection with the custody or preservation of any of the Collateral; (f) all other actual and reasonable costs and expenses incurred by each Agent and Arranger, respectively, in connection with the syndication of the Loans and Commitments and the negotiation, preparation and execution of the Credit Documents and any consents, amendments, waivers or other modifications thereto and the transactions contemplated thereby; and (g) after the occurrence of a Default or an Event of Default, all costs and expenses, including reasonable attorneys' fees (including allocated costs of internal counsel) and costs of settlement, incurred by any Agent, Arranger and Lenders in enforcing any Obligations of or in collecting any payments due from any Credit Party hereunder or under the other Credit Documents by reason of such Default or Event of Default (including in connection with the sale, lease or license of, collection from, or other realization upon any of the Collateral or the enforcement of the Guaranty) or in connection with any refinancing or restructuring of the credit arrangements provided hereunder in the nature of a "work-out" or pursuant to any insolvency or bankruptcy cases or proceedings.

10.3. Indemnity.

(a) In addition to the payment of expenses pursuant to Section 10.2, whether or not the transactions contemplated hereby shall be consummated, each Credit Party agrees to defend (subject to Indemnitees' selection of counsel), indemnify, pay and hold harmless, each Agent, Arranger and Lender and the officers, partners, members, directors, trustees, advisors, employees, agents, sub-agents and Affiliates of each Agent, Arranger and each Lender (each, an **"Indemnitee"**), from and against any and all Indemnified Liabilities; provided, (i) no Credit Party shall have any obligation to any Indemnitee hereunder with respect to any Indemnified Liabilities to the extent such Indemnified Liabilities arise from the gross negligence or willful misconduct of that Indemnitee, in each case, as determined by a final, non-appealable judgment of a court of competent jurisdiction, and (ii) no Credit Party shall be liable for any settlement of any claim or proceeding effected by any Indemnitee without the prior written consent of Borrower (which consent shall not be unreasonably withheld or delayed), but if settled with such consent, or if the Credit Parties are offered the ability to assume the defense of the claim or action and decline to do so, or if there shall be a final judgment against an Indemnitee, then in

each case each of the Credit Parties shall indemnify and hold harmless such Indemnitees from and against any loss or liability by reason of such settlement or judgment in the manner set forth in this Agreement. To the extent that the undertakings to defend, indemnify, pay and hold harmless set forth in this Section 10.3 may be unenforceable in whole or in part because they are violative of any law or public policy, the applicable Credit Party shall contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by Indemnitees or any of them.

(b) To the extent permitted by applicable law, no Credit Party shall assert, and each Credit Party hereby waives, any claim against each Lender, each Agent, Arranger and their respective Affiliates, directors, employees, attorneys, agents or sub-agents, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) (whether or not the claim therefor is based on contract, tort or duty imposed by any applicable legal requirement) arising out of, in connection with, arising out of, as a result of, or in any way related to, this Agreement or any Credit Document or any agreement or instrument contemplated hereby or thereby or referred to herein or therein, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof or any act or omission or event occurring in connection therewith, and Borrower hereby waives, releases and agrees not to sue upon any such claim or any such damages, whether or not accrued and whether or not known or suspected to exist in its favor.

10.4. Set-Off. In addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, upon the occurrence of an Event of Default and at any time thereafter during the continuance of such Event of Default, each Lender is hereby authorized, in each case notwithstanding the provisions of Section 362 of the Bankruptcy Code, and without any application, motion or notice to, hearing before, or order from, the Bankruptcy Court, by each Credit Party at any time or from time to time subject to the consent of Administrative Agent (such consent not to be unreasonably withheld or delayed), without notice to any Credit Party or to any other Person (other than Administrative Agent), any such notice being hereby expressly waived, to set off and to appropriate and to apply any and all deposits (general or special, including Indebtedness evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts) and any other Indebtedness at any time held or owing by such Lender to or for the credit or the account of any Credit Party against and on account of the obligations and liabilities of any Credit Party to such Lender hereunder, the Letters of Credit and participations therein and under the other Credit Documents, including all claims of any nature or description arising out of or connected hereto, the Letters of Credit and participations therein or with any other Credit Document, irrespective of whether or not (a) such Lender shall have made any demand hereunder or (b) the principal of or the interest on the Loans or any amounts in respect of the Letters of Credit or any other amounts due hereunder shall have become due and payable pursuant to Section 2 and although such obligations and liabilities, or any of them, may be contingent or unmatured.

10.5. Amendments and Waivers.

(a) Requisite Lenders' Consent. Subject to the additional requirements of Sections 10.5(b) and 10.5(c), no amendment, modification, termination or waiver of any provision of the Credit Documents, or consent to any departure by any Credit Party therefrom,

shall in any event be effective without the written concurrence of the Requisite Lenders; provided that Administrative Agent may, with the consent of Borrower only, amend, modify or supplement this Agreement to cure any ambiguity, omission, defect or inconsistency, so long as such amendment, modification or supplement does not adversely affect the rights of any Lender or Issuing Bank.

(b) Affected Lenders' Consent. Without the written consent of each Lender (other than a Defaulting Lender) or Issuing Bank (with respect to matters relating to Letters of Credit only) that would be affected thereby, no amendment, modification, termination, or consent shall be effective if the effect thereof would:

(i) extend the scheduled final maturity of any Loan or Note;

(ii) waive, reduce or extend any scheduled repayment (but not prepayment);

(iii) extend the stated expiration date of any Letter of Credit beyond the Revolving Commitment Termination Date (for the avoidance of doubt, in addition to the written consent of any affected Lender (other than a Defaulting Lender), the written consent of Issuing Bank shall be required in connection with this subclause (iii));

(iv) reduce the rate of interest on any Loan (other than any waiver of any increase in the interest rate applicable to any Loan pursuant to Section 2.10) or any fee or any premium payable hereunder;

(v) extend the time for payment of any such interest or fees;

(vi) reduce (A) the principal amount of any Loan or (B) any reimbursement obligation in respect of any Letter of Credit (for the avoidance of doubt, in addition to the written consent of any affected Lender (other than a Defaulting Lender), the written consent of Issuing Bank shall be required in connection with subclause (vi)(B));

(vii) amend, modify, terminate or waive any provision of Section 2.12(c), this Section 10.5(b), Section 10.5(c) or any other provision of this Agreement that expressly provides that the consent of all Lenders is required;

(viii) amend the definition of **"Requisite Lenders"** or **"Pro Rata Share";** provided, with the consent of Requisite Lenders, additional extensions of credit pursuant hereto may be included in the determination of **"Requisite Lenders"** or **"Pro Rata Share"** on substantially the same basis as the Term Loan Commitments, the Term Loans, Revolving Commitments and the Revolving Loans are included on the Closing Date;

(ix) release all or substantially all of the Collateral or all or substantially all of the Guarantors from the Guaranty except as expressly provided in the Credit Documents; or

(x) consent to the assignment or transfer by any Credit Party of any of its rights and obligations under any Credit Document.

(c) Other Consents. No amendment, modification, termination or waiver of any provision of the Credit Documents, or consent to any departure by any Credit Party therefrom, shall:

(i) increase any Commitment of any Lender over the amount thereof then in effect without the written consent of such Lender; provided, no amendment, modification or waiver of any condition precedent, covenant, Default or Event of Default shall constitute an increase in any Commitment of any Lender;

(ii) amend, modify, terminate or waive any provision hereof relating to the Swing Line Sublimit or the Swing Line Loans without the written consent of Swing Line Lender;

(iii) alter the required application of any repayments or prepayments as between Classes pursuant to Section 2.14 without the written consent of Lenders holding more than 50% of the aggregate Term Loan Exposure of all Lenders or Revolving Exposure of all Lenders, as applicable, of each Class which is being allocated a lesser repayment or prepayment as a result thereof; provided, Requisite Lenders may waive, in whole or in part, any prepayment so long as the application, as between Classes, of any portion of such prepayment which is still required to be made is not altered;

(iv) amend, modify, terminate or waive any obligation of Lenders or Swing Line Lender, or the rights, duties or obligations of Issuing Bank, or amend or modify the terms of the Swing Line Loans, in each case to the extent relating to the Letters of Credit (including the purchase of participations in Letters of Credit as provided in Section 2.4(e) or the making of Swing Line Loans as provided in Section 2.4(d)), without the written consent of Administrative Agent and Issuing Bank; or reduce the Swing Line Sublimit without the written consent of Issuing Bank;

(v) amend, modify, terminate or waive any provision of Section 9 as the same applies to any Agent, or any other provision hereof as the same applies to the rights or obligations of any Agent, in each case without the written consent of such Agent; or

(vi) amend, modify, terminate or waive any provision of this Agreement as the same applies to Arranger or the Syndication Agent, respectively, or any other provision hereof as the same applies to the rights or obligations of Arranger or the Syndication Agent, respectively, in each case without the written consent of Arranger or the Syndication Agent, respectively.

(d) Execution of Amendments, etc. Administrative Agent may, but shall have no obligation to, with the concurrence of any Lender, execute amendments, modifications, waivers or consents on behalf of such Lender. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on any Credit Party in any case shall entitle any Credit Party to any other or further notice or demand in similar or other circumstances. Any amendment, modification, termination, waiver or

consent effected in accordance with this Section 10.5 shall be binding upon each Lender at the time outstanding, each future Lender and, if signed by a Credit Party, on such Credit Party.

10.6. Successors and Assigns; Participations.

(a) Generally. This Agreement shall be binding upon the parties hereto and their respective successors and assigns and shall inure to the benefit of the parties hereto and the successors and assigns of Lenders. No Credit Party's rights or obligations hereunder nor any interest therein may be assigned or delegated by any Credit Party without the prior written consent of all Lenders. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby and, to the extent expressly contemplated hereby, Affiliates of each of the Agents, Arranger and Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Register. Borrower, Administrative Agent and Lenders shall deem and treat the Persons listed as Lenders in the Register as the holders and owners of the corresponding Commitment and Loans listed therein for all purposes hereof, and no assignment or transfer of any such Commitment or Loan shall be effective, in each case, unless and until recorded in the Register following receipt of an Assignment Agreement effecting the assignment or transfer thereof, in each case, as provided in Section 10.6(d). Each assignment shall be recorded in the Register on the Business Day the Assignment Agreement is received by Administrative Agent, if received by 12:00 noon New York City time, and on the following Business Day if received after such time, prompt notice thereof shall be provided to Borrower and a copy of such Assignment Agreement shall be maintained, as applicable. The date of such recordation of a transfer shall be referred to herein as the **"Assignment Effective Date."** Any request, authority or consent of any Person who, at the time of making such request or giving such authority or consent, is listed in the Register as a Lender shall be conclusive and binding on any subsequent holder, assignee or transferee of the corresponding Commitments or Loans.

(c) Right to Assign. Each Lender shall have the right at any time to sell, assign or transfer all or a portion of its rights and obligations under this Agreement, including all or a portion of its Commitment or Loans owing to it or other Obligations (provided, however, that pro rata assignments shall not be required and each assignment shall be of a uniform, and not varying, percentage of all rights and obligations under and in respect of any applicable Loan and any related Commitments):

(i) to any Person meeting the criteria of clause (i) of the definition of the term of "Eligible Assignee" upon the giving of notice to Borrower and Administrative Agent; and

(ii) to any Person meeting the criteria of clause (ii) of the definition of the term of "Eligible Assignee" upon giving of notice to Borrower and Administrative Agent and, in the case of assignments of Revolving Loans or Revolving Commitments to any such Person (except in the case of assignments made by or to GSCP), consented to by each of Borrower and Administrative Agent (such consent not to be (x) unreasonably withheld or delayed or, (y) in the case of Borrower, required at any time an Event of

Default shall have occurred and then be continuing); provided, further each such assignment pursuant to this Section 10.6(c)(ii) shall be in an aggregate amount of not less than (A) $1,000,000 (or such lesser amount as may be agreed to by Borrower and Administrative Agent or as shall constitute the aggregate amount of the Revolving Commitments and Revolving Loans of the assigning Lender) with respect to the assignment of the Revolving Commitments and Revolving Loans and (B) $2,500,000 (or such lesser amount as may be agreed to by Borrower and Administrative Agent or as shall constitute the aggregate amount of the Term Loans of the assigning Lender) with respect to the assignment of Term Loans.

(d) Mechanics. Assignments and assumptions of Loans and Commitments shall only be effected by manual execution and delivery to Administrative Agent of an Assignment Agreement. Assignments shall be effective as of the Assignment Effective Date. In connection with all assignments there shall be delivered to Administrative Agent such forms, certificates or other evidence, if any, with respect to United States federal income tax withholding matters as the assignee under such Assignment Agreement may be required to deliver pursuant to Section 2.19(c).

(e) Representations and Warranties of Assignee. Each Lender, upon execution and delivery hereof or upon succeeding to an interest in the Commitments and Loans, as the case may be, represents and warrants as of the Closing Date or as of the Assignment Effective Date that (i) it is an Eligible Assignee; (ii) it has experience and expertise in the making of or investing in commitments or loans such as the applicable Commitments or Loans, as the case may be; and (iii) it will make or invest in, as the case may be, its Commitments or Loans for its own account in the ordinary course and without a view to distribution of such Commitments or Loans within the meaning of the Securities Act or the Exchange Act or other federal securities laws (it being understood that, subject to the provisions of this Section 10.6, the disposition of such Commitments or Loans or any interests therein shall at all times remain within its exclusive control).

(f) Effect of Assignment. Subject to the terms and conditions of this Section 10.6, as of the Assignment Effective Date with respect to any Assignment Agreement (i) the assignee thereunder shall have the rights and obligations of a "Lender" hereunder to the extent of its interest in the Loans and Commitments as reflected in the Register and shall thereafter be a party hereto and a "Lender" for all purposes hereof; (ii) the assigning Lender thereunder shall, to the extent that rights and obligations hereunder have been assigned to the assignee, relinquish its rights (other than any rights which survive the termination hereof under Section 10.8) and be released from its obligations hereunder (and, in the case of an assignment covering all or the remaining portion of an assigning Lender's rights and obligations hereunder, such Lender shall cease to be a party hereto on the Assignment Effective Date; provided, anything contained in any of the Credit Documents to the contrary notwithstanding, (x) Issuing Bank shall continue to have all rights and obligations thereof with respect to any Letters of Credit issued by such Issuing Bank until the cancellation or expiration of such Letters of Credit and the reimbursement of any amounts drawn thereunder, and (y) such assigning Lender shall continue to be entitled to the benefit of all indemnities hereunder as specified herein with respect to matters arising out of the prior involvement of such assigning Lender as a Lender hereunder); (iii) the Commitments shall be modified to reflect any Commitment of such assignee and any Commitment of such assigning

Lender, if any; and (iv) if any such assignment occurs after the issuance of any Note hereunder, the assigning Lender shall, upon the effectiveness of such assignment or as promptly thereafter as practicable, surrender its applicable Notes to Administrative Agent for cancellation, and thereupon Borrower shall issue and deliver new Notes, if so requested by the assignee and/or assigning Lender, to such assignee and/or to such assigning Lender, with appropriate insertions, to reflect the new Revolving Commitments and/or outstanding Loans of the assignee and/or the assigning Lender.

(g) Participations.

(i) Each Lender shall have the right at any time to sell one or more participations to any Person (other than Borrower, any of its Subsidiaries or any of its Affiliates) in all or any part of its Commitments, Loans or in any other Obligation.

(ii) The holder of any such participation, other than an Affiliate of the Lender granting such participation, shall not be entitled to require such Lender to take or omit to take any action hereunder except with respect to any amendment, modification or waiver that would (A) extend the final scheduled maturity of any Loan, Note or Letter of Credit (unless such Letter of Credit is not extended beyond the Revolving Commitment Termination Date) in which such participant is participating, or reduce the rate or extend the time of payment of interest or fees thereon (except in connection with a waiver of applicability of any post-default increase in interest rates) or reduce the principal amount thereof, or increase the amount of the participant's participation over the amount thereof then in effect (it being understood that a waiver of any Default or Event of Default or of a mandatory reduction in the Commitment shall not constitute a change in the terms of such participation, and that an increase in any Commitment or Loan shall be permitted without the consent of any participant if the participant's participation is not increased as a result thereof), (B) consent to the assignment or transfer by any Credit Party of any of its rights and obligations under this Agreement or (C) release all or substantially all of the Collateral under the Collateral Documents (except as expressly provided in the Credit Documents) supporting the Loans hereunder in which such participant is participating.

(iii) Borrower agrees that each participant shall be entitled to the benefits of Sections 2.17(c), 2.18 and 2.19 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (c) of this Section; provided, (x) a participant shall not be entitled to receive any greater payment under Section 2.18 or 2.19 than the applicable Lender would have been entitled to receive with respect to the participation sold to such participant, unless the sale of the participation to such participant is made with Borrower's prior written consent and (y) a participant that would be a Non-US Lender if it were a Lender shall not be entitled to the benefits of Section 2.19 unless Borrower is notified of the participation sold to such participant and such participant agrees, for the benefit of Borrower, to comply with Section 2.19 as though it were a Lender; provided further that, except as specifically set forth in clauses (x) and (y) of this sentence, nothing herein shall require any notice to Borrower or any other Person in connection with the sale of any participation. To the extent permitted by law, each participant also shall be entitled to the benefits of Section 10.4 as though it were a

Lender, provided such Participant agrees to be subject to Section 2.16 as though it were a Lender.

(h) Certain Other Assignments and Participations. In addition to any other assignment or participation permitted pursuant to this Section 10.6:

(i) any Lender may assign and/or pledge all or any portion of its Loans, the other Obligations owed by or to such Lender, and its Notes, if any, to secure obligations of such Lender including any Federal Reserve Bank as collateral security pursuant to Regulation A of the Board of Governors and any operating circular issued by such Federal Reserve Bank; and

(ii) notwithstanding anything to the contrary in this Section 10.6, any Lender may sell participations (or otherwise transfer its rights) in or to all or a portion of its rights and obligations under the Credit Documents (including all its rights and obligations with respect to the Term Loans, Revolving Loans and Letters of Credit) to one or more lenders or other Persons that provide financing to such Lender;

provided, that no Lender, as between Borrower and such Lender, shall be relieved of any of its obligations hereunder as a result of any such assignment, pledge, participation or other transfer and provided further, that in no event shall the applicable Federal Reserve Bank, pledge, trustee, lender or other financing source described in the preceding clauses (i) or (ii) be considered to be a "Lender" or be entitled to require the assigning, selling or transferring Lender to take or omit to take any action hereunder.

10.7. Independence of Covenants. All covenants hereunder shall be given independent effect so that if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or would otherwise be within the limitations of, another covenant shall not avoid the occurrence of a Default or an Event of Default if such action is taken or condition exists.

10.8. Survival of Representations, Warranties and Agreements. All representations, warranties and agreements made herein shall survive the execution and delivery hereof and the making of any Credit Extension. Notwithstanding anything herein or implied by law to the contrary, the agreements of each Credit Party set forth in Sections 2.17(c), 2.18, 2.19, 10.2, 10.3 and 10.4 and the agreements of Lenders set forth in Sections 2.16, 9.3(b) and 9.6 shall survive the payment of the Loans and the cancellation or expiration of the Letters of Credit, and the reimbursement of any amounts drawn thereunder, and the termination hereof.

10.9. No Waiver; Remedies Cumulative. No failure or delay on the part of any Agent, Arranger or any Lender in the exercise of any power, right or privilege hereunder or under any other Credit Document shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other power, right or privilege. The rights, powers and remedies given to each Agent, Arranger and each Lender hereby are cumulative and shall be in addition to and independent of all rights, powers and remedies existing by virtue of any statute or rule of law or in any of the other Credit

Documents. Any forbearance or failure to exercise, and any delay in exercising, any right, power or remedy hereunder shall not impair any such right, power or remedy or be construed to be a waiver thereof, nor shall it preclude the further exercise of any such right, power or remedy.

10.10. Marshalling; Payments Set Aside. Neither any Agent nor any Lender shall be under any obligation to marshal any assets in favor of any Credit Party or any other Person or against or in payment of any or all of the Obligations. To the extent that any Credit Party makes a payment or payments to Administrative Agent or Lenders (or to Administrative Agent, on behalf of Lenders), or any Agent or Lenders enforce any security interests or exercise their rights of setoff, and such payment or payments or the proceeds of such enforcement or setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, any other state or federal law, common law or any equitable cause, then, to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor or related thereto, shall be revived and continued in full force and effect as if such payment or payments had not been made or such enforcement or setoff had not occurred.

10.11. Severability. In case any provision in or obligation hereunder or under any other Credit Document shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

10.12. Obligations Several; Independent Nature of Lenders' Rights. The obligations of Lenders hereunder are several and no Lender shall be responsible for the obligations or Commitment of any other Lender hereunder. Nothing contained herein or in any other Credit Document, and no action taken by Lenders pursuant hereto or thereto, shall be deemed to constitute Lenders as a partnership, an association, a joint venture or any other kind of entity. The amounts payable at any time hereunder to each Lender shall be a separate and independent debt, and each Lender shall be entitled to protect and enforce its rights arising out hereof and it shall not be necessary for any other Lender to be joined as an additional party in any proceeding for such purpose.

10.13. Headings. Section headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

10.14. APPLICABLE LAW. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THEREOF, AND, TO THE EXTENT APPLICABLE, THE BANKRUPTCY CODE.

10.15. CONSENT TO JURISDICTION. ALL JUDICIAL PROCEEDINGS BROUGHT AGAINST ANY CREDIT PARTY ARISING OUT OF OR RELATING HERETO OR ANY OTHER CREDIT DOCUMENT, OR ANY OF THE OBLIGATIONS,

SHALL BE BROUGHT IN THE BANKRUPTCY COURT, OR IN THE EVENT THAT THE BANKRUPTCY COURT DOES NOT HAVE JURISDICTION OVER ANY MATTER OR IF IT HAS JURISDICTION BUT DOES NOT EXERCISE SUCH JURISDICTION FOR ANY REASON, THEN 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 CREDIT PARTY, FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, IRREVOCABLY (A) ACCEPTS GENERALLY AND UNCONDITIONALLY THE NONEXCLUSIVE JURISDICTION AND VENUE OF SUCH COURTS; (B) WAIVES ANY DEFENSE OF FORUM NON CONVENIENS; (C) 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 CREDIT PARTY AT ITS ADDRESS PROVIDED IN ACCORDANCE WITH SECTION 10.1; (D) AGREES THAT SERVICE AS PROVIDED IN CLAUSE (C) ABOVE IS SUFFICIENT TO CONFER PERSONAL JURISDICTION OVER THE APPLICABLE CREDIT PARTY IN ANY SUCH PROCEEDING IN ANY SUCH COURT, AND OTHERWISE CONSTITUTES EFFECTIVE AND BINDING SERVICE IN EVERY RESPECT; AND (E) AGREES THAT AGENTS AND LENDERS RETAIN THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST ANY CREDIT PARTY IN THE COURTS OF ANY OTHER JURISDICTION.

10.16. WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY AGREES TO WAIVE ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING HEREUNDER OR UNDER ANY OF THE OTHER CREDIT DOCUMENTS OR ANY DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THIS LOAN TRANSACTION OR THE LENDER/BORROWER RELATIONSHIP THAT IS BEING ESTABLISHED. 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 OF THIS TRANSACTION, 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 10.16 AND EXECUTED BY EACH OF THE PARTIES HERETO), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS HERETO OR ANY OF THE OTHER CREDIT DOCUMENTS OR

TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THE LOANS MADE HEREUNDER. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

10.17. Confidentiality. Each Agent, Arranger and each Lender (which term shall for the purposes of this Section 10.17 include Issuing Bank) shall hold all non-public information regarding Borrower and its Subsidiaries and their businesses identified as such by Borrower and obtained by such Agent, Arranger or such Lender pursuant to the requirements hereof in accordance with such Agent's, Arranger's and such Lender's customary procedures for handling confidential information of such nature, it being understood and agreed by Borrower that, in any event, Administrative Agent and Arranger may disclose such information to the Lenders and each Agent, Arranger and each Lender may make (i) disclosures of such information to Affiliates of such Lender, Arranger or Agent and to their respective agents and advisors (and to other Persons authorized by a Lender, Arranger or Agent to organize, present or disseminate such information in connection with disclosures otherwise made in accordance with this Section 10.17), (ii) disclosures of such information reasonably required by any bona fide or potential assignee, pledgee, transferee or participant in connection with the contemplated assignment, pledge, transfer or participation of any Loans or any participations therein or by any direct or indirect contractual counterparties (or the professional advisors thereto) to any swap or derivative transaction relating to Borrower and its obligations (provided, such assignees, pledgees, transferees, participants, counterparties and advisors are advised of and agree to be bound by either the provisions of this Section 10.17 or other provisions at least as restrictive as this Section 10.17), (iii) disclosure to any rating agency when required by it, provided that, prior to any disclosure, such rating agency shall undertake in writing to preserve the confidentiality of any confidential information relating to the Credit Parties received by it from any of the Agents, Arranger or any Lender, and (iv) disclosures required or requested by any governmental agency or representative thereof or by the NAIC or pursuant to legal or judicial process; provided, unless specifically prohibited by applicable law or court order, each Lender, Arranger and each Agent shall make reasonable efforts to notify Borrower of any request by any governmental agency or representative thereof (other than any such request in connection with any examination of the financial condition or other routine examination of such Lender by such governmental agency) for disclosure of any such non-public information prior to disclosure of such information. In addition, each Agent, Arranger and each Lender may disclose the existence of this Agreement and the information about this Agreement to market data collectors, similar services providers to the lending industry, and service providers to the Agents, Arranger and the Lenders in connection with the administration and management of this Agreement and the other Credit Documents.

10.18. Usury Savings Clause. Notwithstanding any other provision herein, the aggregate interest rate charged with respect to any of the Obligations, including all charges or fees in connection therewith deemed in the nature of interest under applicable law shall not exceed the Highest Lawful Rate. If the rate of interest (determined without regard to the preceding sentence) under this Agreement at any time exceeds the Highest Lawful Rate, the outstanding amount of the Loans made hereunder shall bear interest at the Highest Lawful Rate until the total amount of interest due hereunder equals the amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect. In addition, if when the Loans made hereunder are repaid in full the total interest due

hereunder (taking into account the increase provided for above) is less than the total amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect, then to the extent permitted by law, Borrower shall pay to Administrative Agent an amount equal to the difference between the amount of interest paid and the amount of interest which would have been paid if the Highest Lawful Rate had at all times been in effect. Notwithstanding the foregoing, it is the intention of Lenders and Borrower to conform strictly to any applicable usury laws. Accordingly, if any Lender contracts for, charges, or receives any consideration which constitutes interest in excess of the Highest Lawful Rate, then any such excess shall be cancelled automatically and, if previously paid, shall at such Lender's option be applied to the outstanding amount of the Loans made hereunder or be refunded to Borrower.

10.19. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

10.20. Effectiveness. This Agreement shall become effective upon the execution of a counterpart hereof by each of the parties hereto and receipt by Borrower and Administrative Agent of written or telephonic notification of such execution and authorization of delivery thereof. With the exception of those terms contained in the Syndication Letter, dated October 9, 2007, among GSCP and the Borrower which by the terms of the Syndication Letter remain in full force and effect, all of GSCP's and its Affiliates obligations under the Syndication Letter shall terminate and be superceeded by the Credit Documents and GSCP and its Affiliates shall be released from all liability in connection therewith, including, without limitation, any claim for injury or damages, whether consequential, special, direct, indirect, punitive or otherwise.

10.21. Patriot Act. Each Lender and Administrative Agent (for itself and not on behalf of any Lender) hereby notifies each Credit Party that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies each Credit Party, which information includes the name and address of each Credit Party and other information that will allow such Lender or Administrative Agent, as applicable, to identify each Credit Party in accordance with the Patriot Act.

10.22. Electronic Execution of Assignments. The words "execution," "signed," "signature," and words of like import in any Assignment Agreement shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

10.23. No Fiduciary Duty.

Each Agent, Arranger, each Lender and their Affiliates (collectively, solely for purposes of this paragraph, the "**Lenders**"), may have economic interests that conflict with those of the Borrower. The Borrower agrees that nothing in the Credit Documents or otherwise will be

deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between the Lenders and the Borrower, its stockholders or its affiliates. Borrower, its Subsidiaries and their respective affiliates each acknowledge and agree that (i) the transactions contemplated by the Credit Documents are arm's-length commercial transactions between the Lenders, on the one hand, and the Borrower, on the other, (ii) in connection therewith and with the process leading to such transaction each of the Lenders is acting solely as a principal and not the agent or fiduciary of the Borrower, its management, stockholders, creditors or any other person, (iii) no Lender has assumed an advisory or fiduciary responsibility in favor of the Borrower with respect to the transactions contemplated hereby or the process leading thereto (irrespective of whether any Lender or any of its affiliates has advised or is currently advising the Borrower on other matters) or any other obligation to the Borrower except the obligations expressly set forth in the Credit Documents and (iv) the Borrower has consulted its own legal and financial advisors to the extent it deemed appropriate. The Borrower, each of its Subsidiaries and each of their respective affiliates each further acknowledges and agrees that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto. The Borrower, each of its Subsidiaries and each of their respective affiliates each agrees that it will not claim that any Lender has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to the Borrower, in connection with such transaction or the process leading thereto.

[Remainder of page intentionally left blank**]**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first written above.

MOVIE GALLERY, INC.

By: _____
Name: S. Page Todd
Title: Executive Vice President, Secretary, and General Counsel

MOVIE GALLERY US, LLC

By: Movie Gallery, Inc., its Manager and Sole Member

By: _____
Name: S. Page Todd
Title: Executive Vice President, Secretary, and General Counsel

M.G. DIGITAL, LLC

By: Movie Gallery US, LLC, its Manager and Sole Member

By: Movie Gallery, Inc., its Manager and Sole Member

By: _____
Name: S. Page Todd
Title: Executive Vice President, Secretary, and General Counsel

[Signatures Continued on the Next Page**]**

M.G.A REALTY I, LLC

By: Movie Gallery US, LLC, its Manager and Sole Member

By: Movie Gallery, Inc., its Manager and Sole Member

By: _____
Name: S. Page Todd
Title: Executive Vice President, Secretary, and General Counsel

HOLLYWOOD ENTERTAINMENT CORPORATION

By: _____
Name: S. Page Todd
Title: Executive Vice President, Secretary, and General Counsel

MG AUTOMATION LLC

By: Hollywood Entertainment Corporation, its Manager and Sole Member

By: _____
Name: S. Page Todd
Title: Executive Vice President, Secretary, and General Counsel

GOLDMAN SACHS CREDIT PARTNERS L.P.,
as Syndication Agent, Documentation Agent, Swing Line Lender and a Lender

By: _____
Authorized Signatory

THE BANK OF NEW YORK,
as Administrative Agent and Collateral Agent

By: _____
Name:
Title:

WACHOVIA BANK, NATIONAL ASSOCIATION, as Issuing Bank

By: _____
Name:
Title:

APPENDIX A-1
TO CREDIT AND GUARANTY AGREEMENT

Term Loan Commitments

Lender	Term Loan Commitment	Pro Rata Share
Goldman Sachs Credit Partners L.P.	$100,000,000.00	100%
Total	**$100,000,000.00**	**100%**

APPENDIX A-2
TO CREDIT AND GUARANTY AGREEMENT

Revolving Commitments

Lender	Revolving Commitment	Pro Rata Share
Goldman Sachs Credit Partners L.P.	$50,000,000.00	100%
Total	**$50,000,000.00**	**100%**

APPENDIX B
TO CREDIT AND GUARANTY AGREEMENT

Notice Addresses

MOVIE GALLERY, INC.
900 West Main Street
Dothan, Alabama 36301
Attention: S. Page Todd,
Executive Vice President, Secretary and General Counsel
Facsimile: (334) 836-3626

MOVIE GALLERY US, LLC
900 West Main Street
Dothan, Alabama 36301
Attention: S. Page Todd,
Executive Vice President, Secretary and General Counsel
Facsimile: (334) 836-3626

M.G. DIGITAL, LLC
900 West Main Street
Dothan, Alabama 36301
Attention: S. Page Todd,
Executive Vice President, Secretary and General Counsel
Facsimile: (334) 836-3626

M.G.A. REALTY I, LLC
900 West Main Street
Dothan, Alabama 36301
Attention: S. Page Todd,
Executive Vice President, Secretary and General Counsel
Facsimile: (334) 836-3626

HOLLYWOOD ENTERTAINMENT CORPORATION
900 West Main Street
Dothan, Alabama 36301
Attention: S. Page Todd,
Executive Vice President, Secretary and General Counsel
Facsimile: (334) 836-3626

MG AUTOMATION LLC

900 West Main Street
Dothan, Alabama 36301
Attention: S. Page Todd,
Executive Vice President, Secretary and General Counsel
Facsimile: (334) 836-3626

in each case, with a copy to:

Kirkland & Ellis LLP
200 East Randolph Drive
Chicago, Illinois 60601-6636
Attention: Anup Sathy, Esq.
Facsimile: (312) 861-2200

THE BANK OF NEW YORK
as Administrative Agent and Collateral Agent

Administrative Agent's and Collateral Agent's Principal Office:

The Bank Of New York
Asset Solutions Division
600 E. Las Colinas Blvd.
Suite 1300
Irving, TX 75039-5699
Attention: Administrative Agent Portfolio Manager
Telephone: (972) 401-8500
Facsimile: (972) 401-8557
email: bhingston@bankofny.com.

in each case, with a copy to:

Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202
Attention: Laurie G. Lang, Esq.
Telephone: (214) 651-5667
Facsimile: (214) 200-0667
email: laurie.lang@haynesboone.com

GOLDMAN SACHS CREDIT PARTNERS L.P.,
as Syndication Agent, Documentation Agent, Swing Line Lender and a Lender:

Syndication Agent's, Documentation Agent's and Swing Line Lender's Principal Office:

Goldman Sachs Credit Partners L.P.
c/o Goldman, Sachs & Co.
30 Hudson Street, 17th Floor
Jersey City, NJ 07302
Attention: SBD Operations
Attention: Pedro Ramirez
Facsimile: (212) 357-4597
Email: gsd.link@gs.com

in each case, with a copy to:

Goldman Sachs Credit Partners L.P.
1 New York Plaza
New York, New York 10004
Attention: Rob Schatzman
Facsimile: (212) 902-3000

WACHOVIA BANK, NATIONAL ASSOCIATION
as Issuing Bank

Issuing Bank's Principal Office:

Wachovia Bank, National Association
1133 Avenue of the Americas
New York, New York 10036
Attention: Portfolio Manager--Movie Gallery
Telephone: 212-840-2000
Facsimile: 212-545-4420

with a copy to:

Otterbourg, Steindler, Houston & Rosen, P.C.
230 Park Avenue
New York, New York 10169
Attention: Jonathan N. Helfat, Esq.
Telephone: 212-661-9100
Facsimile: 212-682-6104

EXHIBIT C

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

In re:	)	Case No. 07-_____
	)	Jointly Administered
MOVIE GALLERY, INC., et al.,[1]	)	Chapter 11
	)	
Debtors.	)	
	)	

NOTICE OF INTERIM HEARING AND REQUEST FOR ENTRY OF INTERIM ORDER PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 363, 364(c), 364(d) AND 364(e) AND FED. R. BANKR. P. 4001 AND 9014 (I) AUTHORIZING DEBTORS TO OBTAIN SECURED POST-PETITION FINANCING ON SUPER-PRIORITY PRIMING LIEN BASIS, GRANTING ADEQUATE PROTECTION FOR PRIMING AND MODIFYING THE AUTOMATIC STAY, (II) AUTHORIZING DEBTORS TO USE CASH COLLATERAL OF EXISTING SECURED LENDERS AND GRANTING ADEQUATE PROTECTION FOR USE, (III) AUTHORIZING DEBTORS TO REPAY EXISTING REVOLVER INDEBTEDNESS UPON INTERIM APPROVAL AND (IV) PRESCRIBING FORM AND MANNER OF NOTICE AND SETTING THE TIME FOR THE FINAL HEARING

TO: The Debtors' Landlords

PLEASE TAKE NOTICE THAT, on October 16, 2007, the above-captioned debtors (collectively, the "Debtors") filed the Motion of the Debtors for Interim and Final Orders Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364(c), 364(d) and 364(e) and Fed. R. Bankr. P. 4001 and 9014 (i) Authorizing Debtors to Obtain Secured Post-Petition Financing on Super-Priority Priming Lien Basis, Granting Adequate Protection for Priming and Modifying the Automatic Stay, (ii) Authorizing Debtors to Use Cash Collateral of Existing Secured Lenders and Granting Adequate Protection for Use, (iii) Authorizing Debtors to Repay Existing Revolver Indebtedness Upon Interim Approval and (iv) Prescribing Form and Manner of Notice and Setting the Time for the Final Hearing (the "DIP Motion") with the United States Bankruptcy Court for the Eastern District of Virginia, Richmond Division, 1100 E. Main Street, Room 335, Richmond, Virginia 23219 (the "Bankruptcy Court").

PLEASE TAKE FURTHER NOTICE THAT a hearing is scheduled to be held on **October 16, 2007 at 2:00 p.m.** (prevailing Eastern Time) at the Bankruptcy Court (the "Interim Hearing"), at which the Debtors will seek an order approving the relief requested in the DIP Motion on an interim basis (the "Interim DIP Order").

PLEASE TAKE FURTHER NOTICE THAT the assets and property subject to the liens and security interests requested to be granted in the Interim DIP Order includes, without limitation (collectively, the "Collateral"): **all of Debtors' now owned or hereafter acquired real and personal property, including but not limited to leasehold interests, inventory, accounts, chattel paper, documents, general intangibles, goods, instruments, insurance, intellectual property, investment related property, letter of credit rights, money, receivables and receivable records, commercial tort claims and claims and causes of action brought under Chapter 5 of the Bankruptcy Code and the proceeds thereof; all collateral records, collateral support and supporting obligations relating to any of the foregoing; and all proceeds, products, accessions, rents and profits of or in respect of any of the foregoing.**

PLEASE TAKE FURTHER NOTICE THAT, subject to approval at the Interim Hearing, until all of the Obligations (as defined in the Interim DIP Order) have been paid, any party who holds a lien or security interest in any of the Collateral that is junior and/or subordinate to the liens and claims of the lenders to the financing authorized by the Interim DIP Order (the "DIP Lenders") and receives proceeds from such Collateral, shall be deemed to have received, and shall hold, such proceeds in trust for DIP Lenders and shall immediately turnover to DIP Lenders such proceeds in accordance with (a) the documents documenting the loan that is the subject of the DIP Motion and (b) the Interim Order.

PLEASE TAKE FURTHER NOTICE THAT, subject to approval at the Interim Hearing, upon the acceleration of the Obligations following an event of default under the applicable loan documents (the "DIP Credit Agreement") and pursuant to the procedures in the Interim DIP Order, among other things, the DIP Lenders shall have the right: (a)(i) to enter upon, occupy and use any personal property, fixtures and equipment owned or leased by the Debtors; and (ii) to use any and all trademarks, tradenames, copyrights, licenses, patents or any other similar assets of the Debtors, which are owned by or subject to a lien of any third party and

[1] The Debtors in the cases include: Movie Gallery, Inc.; Hollywood Entertainment Corporation; M.G. Digital, LLC; M.G.A. Realty I, LLC; MG Automation LLC; and Movie Gallery US, LLC.

which are used by Debtors in their businesses and (b) following the expiration of a five (5) business days notice period, to enter onto or into such leased premises for the purpose of removing the Collateral from the leased premises or selling such Collateral at the leased premises, in each case subject to the applicable terms of such Debtor's lease arrangements with such lessor to the extent enforceable or effective under the Bankruptcy Code.

PLEASE TAKE FURTHER NOTICE THAT copies of the proposed Interim DIP Order, the DIP Motion and the proposed Final DIP Order (when finalized) are available at www.kccllc.net/moviegallery and upon request to Kurtzman Carson Consultants, 2335 Alaska Avenue, El Segundo, California 90245, Telephone: 888-647-1730.

PLEASE TAKE FURTHER NOTICE THAT if no objections to the DIP Motion are timely submitted, as described generally in this Notice, the Bankruptcy Court may grant the relief requested in the DIP Motion on an interim basis without further notice or hearing (and subsequently on a final basis in accordance with the Interim DIP Order).

Richmond, Virginia
Dated: October 15, 2007

KIRKLAND & ELLIS LLP

/s/ Michael A. Condyles

Richard M. Cieri (NY 4207122)
Citigroup Center
153 East 53rd Street
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And

Anup Sathy, P.C. (IL 6230191)
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Proposed Co-Counsel to the Debtors

EXHIBIT D

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

In re:	)	Case No. 07-_____
	)	Jointly Administered
MOVIE GALLERY, INC., et al.,[1]	)	Chapter 11
	)	
Debtors.	)	
	)	

NOTICE OF OBJECTION DEADLINE, FINAL HEARING AND ENTRY OF INTERIM ORDER PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 363, 364(c), 364(d) AND 364(e) AND FED. R. BANKR. P. 4001 AND 9014 (I) AUTHORIZING DEBTORS TO OBTAIN SECURED POST-PETITION FINANCING ON SUPER-PRIORITY PRIMING LIEN BASIS, GRANTING ADEQUATE PROTECTION FOR PRIMING AND MODIFYING THE AUTOMATIC STAY, (II) AUTHORIZING DEBTORS TO USE CASH COLLATERAL OF EXISTING SECURED LENDERS AND GRANTING ADEQUATE PROTECTION FOR USE, (III) AUTHORIZING DEBTORS TO REPAY EXISTING REVOLVER INDEBTEDNESS UPON INTERIM APPROVAL AND (IV) PRESCRIBING FORM AND MANNER OF NOTICE AND SETTING THE TIME FOR THE FINAL HEARING

TO: (a) the Office of the United States Trustee for the Eastern District of Virginia; (b) the entities listed on the Consolidated List of Creditors Holding the 30 Largest Unsecured Claims filed pursuant to Bankruptcy Rule 1007(d); (c) counsel to the agent for the Debtors' proposed postpetition secured lenders; (d) counsel to the agent for the Debtors' prepetition first lien facilities; (e) counsel to the agent for the Debtors' prepetition second lien facility; (f) the trustee for the Debtors' 11% senior unsecured notes; (g) counsel to a significant holder of the Debtors' 11% senior unsecured notes; (h) the trustee for the Debtors' 9.625% senior subordinated unsecured notes; (i) counsel for certain movie studios; (j) the Internal Revenue Service; (k) the Securities and Exchange Commission; (l) the banks that process disbursements in the Debtors' cash management system; (m) the Debtors' landlords; (n) the taxing authorities to which the Debtors pay taxes; and (o) those other creditors known to the Debtors who may have liens upon or perfected security interests in any of the Debtors' assets and properties

PLEASE TAKE NOTICE THAT, on October 16, 2007, the above-captioned debtors (collectively, the "Debtors") filed the Motion of the Debtors for Interim and Final Orders Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364(c), 364(d) and 364(e) and Fed. R. Bankr. P. 4001 and 9014 (i) Authorizing Debtors to Obtain Secured Post-Petition Financing on Super-Priority Priming Lien Basis, Granting Adequate Protection for Priming and Modifying the Automatic Stay, (ii) Authorizing Debtors to Use Cash Collateral of Existing Secured Lenders and Granting Adequate Protection for Use, (iii) Authorizing Debtors to Repay Existing Revolver Indebtedness Upon Interim Approval and (iv) Prescribing Form and Manner of Notice and Setting the Time for the Final Hearing [Docket No. __] (the "DIP Motion") with the United States Bankruptcy Court for the Eastern District of Virginia, Richmond Division, 1100 E. Main Street, Room 301, Richmond, Virginia 23219 (the "Bankruptcy Court").

PLEASE TAKE FURTHER NOTICE THAT, on October __, 2007, the Bankruptcy Court granted the relief requested in the DIP Motion on an interim basis and entered the Interim Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364(c), 364(d) and 364(e) and Fed. R. Bankr. P. 4001 and 9014 (i) Authorizing Debtors to Obtain Secured Post-Petition Financing on Super-Priority Priming Lien Basis, Granting Adequate Protection for Priming and Modifying the Automatic Stay, (ii) Authorizing Debtors to Use Cash Collateral of Existing Secured Lenders and Granting Adequate Protection for Use, (iii) Authorizing Debtors to Repay Existing Revolver Indebtedness Upon Interim Approval and (iv) Prescribing Form and Manner of Notice and Setting the Time for the Final Hearing [Docket No.] (the "Interim DIP Order").

PLEASE TAKE FURTHER NOTICE THAT a hearing will be held on **November __, 2007 at __:___a./p.m.** (prevailing Eastern Time) before The Honorable Judge _____ at the Bankruptcy Court (the "Final Hearing"), at which the Debtors will seek an order approving the relief requested in the DIP Motion on a final basis (the "Final DIP Order" and with the Interim DIP Order, the "DIP Orders").

PLEASE TAKE FURTHER NOTICE THAT objections or responses to the relief requested in the DIP Motion, if any, must be made in writing and filed with the Bankruptcy Court and served so as to be received on or before _____ ___**, 2007 at __:___a./p.m.** (prevailing Eastern Time) by: (a) counsel to the Debtors, Kirkland & Ellis, LLP, 200 East Randolph Drive, Chicago, Illinois 60601-6636, Attn: Anup Sathy, P.C. and Marc J. Carmel and Kutak Rock LLP, Bank of America Center, 1111 East Main Street, Suite 800, Richmond, Virginia 23219-3500, Attn: Michael A. Condyles and Peter J. Barrett; (b) counsel for the agents for the Debtors' postpetition lenders and first lien lenders, Skadden Arps Slate Meagher & Flom LLP, Four Times Square, New York, New

[1] The Debtors in the cases include: Movie Gallery, Inc.; Hollywood Entertainment Corporation; M.G. Digital, LLC; M.G.A. Realty I, LLC; MG Automation LLC; and Movie Gallery US, LLC.

York 10036, Attn: Jay M. Goffman; (c) counsel for the Second Lien Lenders, Milbank, Tweed, Hadley & McCloy LLP, One Chase Manhattan Plaza, New York, New York 10005, Attn: Matthew S. Barr; and (d) the Office of the United States Trustee for the Eastern District of Virginia, 600 East Main Street, Suite 301, Richmond, Virginia 23219, Attn: Robert B. Van Arsdale.

PLEASE TAKE FURTHER NOTICE THAT the assets and property subject to the liens and security interests granted in the Interim DIP Order and requested to be granted in the Final DIP Order includes, without limitation (collectively, the "Collateral"): **all of Debtors' now owned or hereafter acquired real and personal property, including but not limited to leasehold interests, inventory, accounts, chattel paper, documents, general intangibles, goods, instruments, insurance, intellectual property, investment related property, letter of credit rights, money, receivables and receivable records, commercial tort claims and claims and causes of action brought under Chapter 5 of the Bankruptcy Code and the proceeds thereof; all collateral records, collateral support and supporting obligations relating to any of the foregoing; and all proceeds, products, accessions, rents and profits of or in respect of any of the foregoing.**

PLEASE TAKE FURTHER NOTICE THAT until all of the Obligations (as defined in the Interim DIP Order) have been paid, any party who holds a lien or security interest in any of the Collateral that is junior and/or subordinate to the liens and claims of the lenders to the financing authorized by the Interim DIP Order (the "DIP Lenders") and receives proceeds from such Collateral, shall be deemed to have received, and shall hold, such proceeds in trust for DIP Lenders and shall immediately turnover to DIP Lenders such proceeds in accordance with (a) the documents documenting the loan that is the subject of the DIP Motion and (b) the Interim Order.

PLEASE TAKE FURTHER NOTICE THAT upon the acceleration of the Obligations following an event of default under the applicable loan documents (the "DIP Credit Agreement") and pursuant to the procedures in the Interim DIP Order, among other things, the DIP Lenders shall have the right: (a)(i) to enter upon, occupy and use any personal property, fixtures and equipment owned or leased by the Debtors; and (ii) to use any and all trademarks, tradenames, copyrights, licenses, patents or any other similar assets of the Debtors, which are owned by or subject to a lien of any third party and which are used by Debtors in their businesses and (b) following the expiration of a five (5) business days notice period, to enter onto or into such leased premises for the purpose of removing the Collateral from the leased premises or selling such Collateral at the leased premises, in each case subject to the applicable terms of such Debtor's lease arrangements with such lessor to the extent enforceable or effective under the Bankruptcy Code.

PLEASE TAKE FURTHER NOTICE THAT copies of the Interim DIP Order, the DIP Motion and the proposed Final DIP Order (when finalized) are available at www.kccllc.net/moviegallery and upon request to Kurtzman Carson Consultants, 2335 Alaska Avenue, El Segundo, California 90245, Telephone: 888-647-1730.

PLEASE TAKE FURTHER NOTICE THAT if no objections to the DIP Motion are timely filed, served and received in accordance with the Interim DIP Order as described generally in this notice, the Bankruptcy Court may grant the relief requested in the DIP Motion on a final basis without further notice or hearing.

Richmond, Virginia
Dated: October __, 2007

KIRKLAND & ELLIS LLP

/s/ Michael A. Condyles

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