

LOAN AGREEMENT

Dated as of November __, 2007

among

TIGHT FISTED US NATIONAL BANK

as Lender

and

BIG CO PROPERTIES, LLC,

as Borrower,

and

THE OTHER LOAN PARTIES SIGNATORY HERETO,

as Loan Parties

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This LOAN AGREEMENT (this “Agreement”), dated as of November ____ 2007 among BIG CO PROPERTIES, LLC, an Ohio limited liability company (“Borrower”); the other Loan Parties signatory hereto; and TIGHT FISTED US NATIONAL BANK, a national banking association (“Lender”).

RECITALS

WHEREAS, Borrower has requested that Lender extend a term credit facility to Borrower of up to One Million Seven Hundred and Fifty Thousand Dollars (\$1,750,000) in the aggregate for the purpose of funding the Acquisition and to provide (a) funds for Facility Improvements, (b) funds for other general corporate purposes of Borrower including, but not limited to, the transaction costs and expenses enumerated herein, and (c) funds for other purposes permitted hereunder; and for these purposes, Lender is willing to make certain loans and other extensions of credit to Borrower of up to such amount upon the terms and conditions set forth herein; and

WHEREAS, Borrower has agreed to secure all of its obligations under the Loan Documents by granting to Lender a security interest in and lien upon all of its existing and after-acquired personal and real property in connection with the Acquisition; and

WHEREAS, the Guarantor is willing to guarantee certain of the obligations of Borrower to Lender under the Loan Documents; and

WHEREAS, capitalized terms used in this Agreement shall have the meanings ascribed to them in Schedule A and, for purposes of this Agreement and the other Loan Documents, the rules of construction set forth in Schedule A shall govern. All Schedules, Disclosure Schedules, Exhibits and other attachments (collectively, “Appendices”) hereto, or expressly identified to this Agreement, are incorporated herein by reference, and taken together with this Agreement, shall constitute but a single agreement. These Recitals shall be construed as part of the Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, and for other good and valuable consideration, the parties hereto agree as follows:

1. TERMS OF CREDIT

1.1 Loan Facility.

Term Loan.

(i) Subject to the terms and conditions hereof, Lender agrees to make a term loan (collectively, the “Term Loan”) on the Closing Date to Borrower in the original principal amount of One Million Seven Hundred and Fifty Thousand Dollars (\$1,750,000) (“the Term Loan Commitment”). The Term Loan shall be evidenced by two (2) promissory notes substantially in the form of Exhibit 1.1(a) and 1.1(b) and Borrower shall execute and deliver the Term Notes to Lender. The Term Notes shall

represent the obligation of Borrower to pay the amount of the Term Loan Commitment to Lender, together with interest thereon as indicated below.

(ii) Six Hundred Thousand Dollars (\$600,000) (the "Improvements Portion") of the Term Loan shall be evidenced by a promissory note (the "Improvements Note"). Pursuant to this Section, Borrower shall pay twelve (12) consecutive monthly installments of interest only at the rate of [] on the first day of each month, commencing _____, 2008. On the first day of the thirteenth (13th) month following the Closing Date, Borrower shall repay the principal amount of the Improvements Portion to Lender in fifty-nine (59) consecutive monthly installments of principal each in an amount of \$_____together with accrued interest on the unpaid principal balance of the Improvements Portion on the first day of each month, commencing _____ with a final payment of the remaining principal balance of the Improvements Portion and all accrued interest thereon on the sixth (6th) anniversary of the Closing Date.

(iii) One Million One Hundred Fifty Thousand Dollars (\$1,150,000) (the "Acquisition Portion") of the Term Loan shall be evidenced by a promissory note (the "Acquisition Note" and together with the Improvements Note, the "Notes"). Pursuant to this Section, Borrower shall repay the principal amount of the Acquisition Portion to Lender in fifty-nine (59) consecutive monthly installments of principal each in an amount of \$_____together with accrued interest on the unpaid principal balance of the Improvements Portion on the first day of each month, commencing _____ with a final payment of the remaining principal balance of the Improvements Portion and all accrued interest thereon on the fifth (5th) anniversary of the Closing Date.

(iv) Notwithstanding Section 1.1(ii) or (iii), the aggregate outstanding principal balance of the Term Loan shall be due and payable in full in immediately available funds on the Term Loan Commitment Termination Date, if not sooner paid in full. No payment with respect to the Term Loan may be reborrowed.

1.2 Mandatory and Voluntary Prepayments.

(a) Voluntary Prepayments. Borrower may at any time on at least five (5) days' prior written notice to Lender voluntarily prepay all or part of the Term Loan. Any voluntary prepayment should be accompanied by a payment of all interest accrued on the amount prepaid to the date of each prepayment. Any partial prepayments of the Term Loan made by Borrower shall be applied to prepay the scheduled installments of the Term Loan in inverse order of maturity.

(b) Mandatory Prepayments.

(i) Immediately upon receipt by Borrower of proceeds of any Material Asset Disposition, Borrower shall prepay the Term Loan in an amount equal to all such proceeds that exceed \$10,000, net of (A) commissions and other reasonable and

customary transaction costs, fees and expenses properly attributable to such transaction and payable by Borrower in connection therewith (in each case, paid to non-Affiliates), (B) transfer taxes, and (C) an appropriate reserve for income taxes in accordance with GAAP in connection therewith. Any such prepayment shall be applied in accordance with Section 1.2(c).

(ii) Immediately upon the receipt by Borrower of the proceeds of any Material Additional Indebtedness, Borrower shall prepay the Term Loan in an amount equal to all such proceeds net of all reasonable and customary transaction costs, fees and expenses properly attributable to such transaction and payable by Borrower in connection therewith (to non-affiliates). Any such prepayment shall be applied in accordance with Section 1.2(c).

(iii) If Borrower issues Stock after the Closing Date, no later than the Business Day following the date of receipt of the proceeds thereof, Borrower shall prepay the Loan in an amount equal to 50% of all such proceeds, net of underwriting discounts and commissions and other reasonable costs paid to non-Affiliates in connection therewith. Any such prepayment shall be applied in accordance with Section 1.2(c).

(iv) Beginning with Borrower's fiscal year ending December 31, ____ and until the Termination Date, Borrower shall prepay the Term Loan on the date that is ten (10) days after the earlier of (A) the date on which Borrower's annual reviewed Financial Statements for the immediately preceding Fiscal Year are delivered pursuant to Schedule E or (B) the date on which such annual reviewed Financial Statements were required to be delivered pursuant to Schedule E, in an amount equal to fifty percent (50%) of Excess Cash Flow for the immediately preceding Fiscal Year; provided that such mandatory prepayment requirement from Excess Cash Flow shall not be required if the Leverage Ratio is lower than 2.25 to 1.00 when measured as of the four (4) quarters ending December 31, ____ or as of the four (4) quarters of any fiscal year of Borrower thereafter. Any prepayments from Excess Cash Flow paid pursuant to this clause (v) shall be applied until all Obligations in respect of the Term Loan have been paid in full, whereupon the Borrower's obligation to make prepayments under this Section 1.2(b)(v) shall terminate. Each such prepayment shall be accompanied by a certificate signed by Borrower's chief executive officer or chief financial officer certifying the manner in which Excess Cash Flow and the resulting prepayment were calculated, which certificate shall be in form and substance satisfactory to Lender.

(c) Application of Certain Mandatory Prepayments. Any prepayments made by Borrower pursuant to Sections 1.2(b)(ii), (iii) or (iv) above shall be applied as follows: first, to Fees and reimbursable expenses of Lender then due and payable pursuant to any of the Loan Documents; second, to interest then due and payable on the Term Loan; and third, to prepay the scheduled principal installments of the Term Loan in inverse order of maturity, until such Term Loan shall have been prepaid in full.

(d) Application of Prepayments from Insurance Proceeds and Condemnation Proceeds. Prepayments from insurance or condemnation proceeds shall be applied to scheduled

installments of the Term Loan in inverse order of maturity until such Term Loan shall have been repaid in full and, thereafter, to such of the other Obligations as Lender may elect. If the precise amount of insurance or condemnation proceeds allocable to Inventory, if any, as compared to Equipment, Fixtures and Real Estate are not otherwise determined, the allocation and application of those proceeds shall be determined by Lender in its sole discretion.

(e) No Implied Consent. Nothing in this Section 1.2 shall be construed to constitute Lender's consent to any transaction that is not permitted by other provisions of this Agreement or the other Loan Documents.

1.3 Use of Loan Proceeds. Borrower shall utilize \$1,150,000 of the proceeds of the Term Loan for the Acquisition (and to pay any related transaction expenses approved by Lender), and \$600,000 of the proceeds of the Term Loan for Facility Improvements.

1.4 Interest.

(a) [Borrower shall pay interest to Lender in arrears on each applicable Interest Payment Date, at the the Prime Rate plus the Applicable Term Loan Leverage Ratio Margin per annum.

As of the Closing Date, the Applicable Term Loan Ratio Margin is 2.75%

Effective _____, 200__, the Applicable Margins shall be adjusted (up or down) prospectively on a quarterly basis as determined by Borrower's consolidated financial performance, commencing with the first day of the first calendar month that occurs more than five (5) days after delivery of Borrower's quarterly Financial Statements to Lender for the Fiscal Quarter ending _____, 200__. Adjustments in Applicable Margins will be determined by reference to the following grids:

If Borrower's Leverage Ratio is	Applicable Term Loan Leverage Ratio Margin
≥ 2.5 to 1.00	2.25%
≥ 2.0 to 1.00 but < 2.5 to 1.00	2.00%
<2.0 to 1.00	1.50%

]

Concurrently with the delivery of those Financial Statements, Borrower shall deliver to Lender a certificate, signed by its chief executive officer or chief financial officer, setting forth in reasonable detail the basis for the continuance of, or any change in, the Applicable Margin. Failure to timely deliver such Financial Statements shall, in addition to any other remedy provided for in this Agreement, result in an increase in the Applicable Margin to the highest level set forth in the foregoing grid, until the first day of the first calendar month following the delivery of those Financial Statements demonstrating that such an increase is not required. If a Default or an Event of Default has occurred and is continuing at the time any

reduction in the Applicable Margin is to be implemented, that reduction shall be deferred until the first day of the first calendar month following the date on which such Default or Event of Default is waived or cured.

(b) Unless Lender shall have charged such payment to Borrower's Loan Account on the originally scheduled payment date, if any payment of principal on any Loan becomes due and payable on a day other than a Business Day, the maturity thereof will be extended to the next succeeding Business Day and, with respect to payments of principal, interest thereon shall be payable at the then applicable rate during such extension.

(c) All computations of Fees calculated on a per annum basis and interest shall be made by Lender on the basis of a 360-day year, in each case for the actual number of days occurring in the period for which such interest and Fees are payable. The Prime Rate is a floating rate determined for each day. Each determination by Lender of an interest rate and Fees hereunder shall be final, binding and conclusive on Borrower, absent manifest error.

(d) In the event an Event of Default has occurred, is continuing and has not been cured within the applicable cure period provided herein, the interest rates applicable to the Loan shall be increased by five percentage points (5%) per annum above the rates of interest or the rate of such Fees otherwise applicable hereunder ("Default Rate"), and all outstanding Obligations shall bear interest at the Default Rate applicable to such Obligations. Interest at the Default Rate shall accrue from the day following the last day the applicable cure period for such Event of Default until that Event of Default is subsequently cured or waived and shall be payable upon demand.

(e) Notwithstanding anything to the contrary set forth in this Section 1.4, if a court of competent jurisdiction determines in a final order that the rate of interest payable hereunder exceeds the highest rate of interest permissible under law (the "Maximum Lawful Rate"), then so long as the Maximum Lawful Rate would be so exceeded, the rate of interest payable hereunder shall be equal to the Maximum Lawful Rate; provided, however, that if at any time thereafter the rate of interest payable hereunder is less than the Maximum Lawful Rate, Borrower shall continue to pay interest hereunder at the Maximum Lawful Rate until such time as the total interest received by Lender, is equal to the total interest that would have been received had the interest rate payable hereunder been (but for the operation of this paragraph) the interest rate payable since the Closing Date as otherwise provided in this Agreement. Thereafter, interest hereunder shall be paid at the rate(s) of interest and in the manner provided in Sections 1.4(a) through (d), unless and until the rate of interest again exceeds the Maximum Lawful Rate, and at that time this paragraph shall again apply. In no event shall the total interest received by Lender pursuant to the terms hereof exceed the amount that Lender could lawfully have received had the interest due hereunder been calculated for the full term hereof at the Maximum Lawful Rate. If the Maximum Lawful Rate is calculated pursuant to this paragraph, such interest shall be calculated at a daily rate equal to the Maximum Lawful Rate divided by the number of days in the year in which such calculation is made. If, notwithstanding the provisions of this Section 1.4(e), a court of competent jurisdiction shall finally determine that Lender has received interest hereunder in excess of the Maximum Lawful Rate, Lender shall, to the extent permitted by

applicable law, promptly apply such excess in the order specified in Section 1.9 and thereafter shall refund any excess to Borrower or as a court of competent jurisdiction may otherwise order.

1.5 Eligible Accounts. All of the Accounts owned by Borrower and reflected in the most recent Borrowing Base Certificate delivered by Borrower to Lender shall be “Eligible Accounts” for purposes of this Agreement, except any Account to which any of the exclusionary criteria set forth below applies. Lender shall have the right to establish, modify or eliminate Reserves against Eligible Accounts from time to time in the exercise of its Permitted Discretion. In addition, Lender reserves the right, at any time and from time to time after the Closing Date, to adjust any of the criteria set forth below, to establish new criteria and to adjust advance rates with respect to Eligible Accounts in the exercise of its Permitted Discretion. Eligible Accounts shall not include any Account of Borrower:

(a) that does not arise from the sale of goods or the performance of services by Borrower in the ordinary course of its business;

(b) (i) upon which Borrower’s right to receive payment is not absolute or is contingent upon the fulfillment of any condition whatsoever, but only to the extent of the asserted contingency, or (ii) as to which Borrower is not able to bring suit or otherwise enforce its remedies against the Account Debtor through judicial process, or (iii) if the Account represents a progress billing consisting of an invoice for goods sold or used or services rendered pursuant to a contract under which the Account Debtor’s obligation to pay that invoice is subject to Borrower’s completion of further performance under such contract or is subject to the equitable lien of a surety bond issuer;

(c) to the extent that any defense, counterclaim, setoff or dispute is asserted as to such Account, but only to the extent of the asserted defense, counterclaim, setoff or dispute;

(d) that is not a true and correct statement of bona fide indebtedness incurred in the amount of the Account for merchandise sold to or services rendered and accepted by the applicable Account Debtor;

(e) with respect to which an invoice, reasonably acceptable to Lender in form and substance, has not been sent to the applicable Account Debtor;

(f) that (i) is not owned by Borrower or (ii) is subject to any right, claim, security interest or other interest of any other Person, other than Liens in favor of Lender;

(g) that arises from a sale to any director, officer, other employee or Affiliate of any Loan Party, or to any entity that has any common officer or director with any Loan Party;

(h) that is the obligation of an Account Debtor that is the United States government or a political subdivision thereof, or any state, county or municipality or department, agency or instrumentality thereof unless Lender, in its sole discretion, has agreed to the contrary in writing and Borrower, if necessary or desirable, has complied with respect to such obligation with the

Federal Assignment of Claims Act of 1940, or any applicable state, county or municipal law restricting the assignment thereof with respect to such obligation;

(i) that is the obligation of an Account Debtor located in a foreign country other than Canada (excluding the province of Newfoundland, the Northwest Territories and the Territory of Nunavut) unless payment thereof is assured by a letter of credit assigned and delivered to Lender, reasonably satisfactory to Lender as to form, amount and issuer;

(j) to the extent Borrower or any Subsidiary thereof is liable for goods sold or services rendered by the applicable Account Debtor to Borrower or any Subsidiary thereof but only to the extent of the potential offset;

(k) that arises with respect to goods that are delivered on a bill-and-hold, cash-on-delivery basis or placed on consignment, guaranteed sale or other terms by reason of which the payment by the Account Debtor is or may be conditional;

(l) that is in default; provided, that, without limiting the generality of the foregoing, an Account shall be deemed in default upon the occurrence of any of the following:

(i) the Account is not paid within ninety (90) days following its original invoice date;

(ii) the Account Debtor obligated upon such Account suspends business, makes a general assignment for the benefit of creditors or fails to pay its debts generally as they come due; or

(iii) a petition is filed by or against any Account Debtor obligated upon such Account under any bankruptcy law or any other federal, state or foreign (including any provincial) receivership, insolvency relief or other law or laws for the relief of debtors;

(m) that is the obligation of an Account Debtor if 25% or more of the Dollar amount of all Accounts owing by that Account Debtor are ineligible under the other criteria set forth in this Section 1.5;

(n) as to which Lender's Lien thereon is not a first priority perfected Lien;

(o) as to which any of the representations or warranties in the Loan Documents are untrue;

(p) to the extent such Account is evidenced by a judgment, Instrument or Chattel Paper;

(q) to the extent that such Account, together with all other Accounts owing to Borrower by such Account Debtor and its Affiliates as of any date of determination exceeds forty percent (40%) of all Eligible Accounts in the case of an Investment Grade Account Debtor, and twenty-five percent (25%) of all Eligible Accounts in the case of a non-Investment Grade Account Debtor, of all Eligible Accounts;

- (r) that is payable in any currency other than Dollars; or
- (s) that is otherwise unacceptable to Lender in the exercise of its Permitted Discretion.

1.6 Loan Account and Accounting. Lender shall maintain a loan account (the Loan Account) on its books to record: the Term Loan, all payments made by Borrower, and all other debits and credits as provided in this Agreement with respect to the Loan or any other Obligations. All entries in the Loan Account shall be made in accordance with Lender's customary accounting practices as in effect from time to time. The balance in the Loan Account, as recorded on Lender's most recent printout or other written statement, shall, absent manifest error, be presumptive evidence of the amounts due and owing to Lender by Borrower; provided that any failure to so record or any error in so recording shall not limit or otherwise affect Borrower's duty to pay the Obligations. Lender shall render to Borrower a monthly accounting of transactions with respect to the Loans setting forth the balance of the Loan Account for the immediately preceding month. Unless Borrower notifies Lender in writing of any objection to any such accounting (specifically describing the basis for such objection), within thirty (30) days after the date thereof, each and every such accounting shall, absent manifest error, be deemed final, binding and conclusive on Borrower in all respects as to all matters reflected therein. Only those items expressly objected to in such notice shall be deemed to be disputed by Borrower.

1.7 Fees.

(a) Borrower shall pay to Lender a non-refundable processing fee of \$750.00 upon execution by Borrower of this Agreement.

(b) Borrower shall pay to Lender, for Lender's sole account, all charges, costs and expenses associated with Lender's periodic audits and collateral evaluations (at Lender's standard per diem charges, plus all reasonable travel and out-of-pocket expenses) which, prior to the occurrence and continuation of an Event of Default, shall occur no more frequently than annually.

(c) Borrower shall pay to Lender all customary fees and charges in connection with any and each wire transfer of funds by Lender under this Agreement and/or the other Loan Documents.

1.8 Receipt of Payments. Borrower shall make each payment under this Agreement not later than 11:00 a.m. (Cleveland time) on the day when due in immediately available funds in Dollars to the Collection Account. For purposes of computing interest and Fees as of any date, all payments shall be deemed received on the first Business Day following the Business Day on which immediately available funds therefor are received in the Collection Account prior to 11:00 a.m. (Cleveland time). Payments received after 11:00 a.m. (Cleveland time) on any Business Day or on a day that is not a Business Day shall be deemed to have been received on the following Business Day. For purposes of determining Borrowing Availability, all payments shall be deemed received on the Business Day on which immediately available funds therefor are received in the Collection Account prior to 11:00 a.m. (Cleveland time). Payments received

after 11:00 a.m. (Cleveland time) on any Business Day or on a day that is not a Business Day shall be deemed to have been received on the following Business Day.

1.9 Application of Payments.

(a) So long as no Default or Event of Default has occurred and is continuing, (i) payments matching specific scheduled payments then due shall be applied to those scheduled payments; (ii) voluntary prepayments shall be applied as determined by Borrower, subject to the provisions of Section 1.2(a); and (iii) mandatory prepayments shall be applied as set forth in Sections 1.2(b), 1.2(c) and 1.2(d). As to any other payment, and as to all payments made when a Default or Event of Default has occurred and is continuing or following the Term Loan Commitment Termination Date, as applicable, Borrower hereby irrevocably waives the right to direct the application of any and all payments received from or on behalf of Borrower, and Borrower hereby irrevocably agrees that Lender shall have the continuing exclusive right to apply any and all such payments against the Obligations as Lender may deem advisable notwithstanding any previous entry by Lender in the Loan Account or any other books and records. In the absence of a specific determination by Lender with respect thereto, such payments shall be applied to amounts then due and payable in the following order: (1) to Fees and Lender's expenses reimbursable hereunder; (2) to interest on the Term Loan; (3) to principal payments on the Term Loan; and (4) to all other Obligations including expenses of Lender to the extent reimbursable under Section 11.3.

(b) Lender is authorized to, and at its sole election may, charge to the Term Loan balance on behalf of Borrower and cause to be paid all Fees, expenses, Charges, costs (including insurance premiums in accordance with Section 5.4(a)) and interest and principal, other than principal of the Term Loan, owing by Borrower under this Agreement or any of the other Loan Documents if and to the extent Borrower fails to pay promptly any such amounts as and when due, even if the amount of such charges would exceed Borrowing Availability at such time. At Lender's option and to the extent permitted by law, any charges so made shall constitute part of the Term Loan hereunder.

1.10 Cash Management. On or prior to the Closing Date, Borrower will establish and will maintain until the Termination Date, the cash management systems described in Schedule C (the "Cash Management Systems").

1.11 Indemnification. Each Loan Party that is a signatory hereto shall jointly and severally indemnify and hold Lender and its Affiliates, and each such Person's respective officers, directors, employees, attorneys, Lenders and representatives (each, an "Indemnified Person"), from and against any and all suits, actions, proceedings, claims, damages, losses, liabilities and expenses (including reasonable attorneys' fees and disbursements and other reasonable costs of investigation or defense, including those incurred upon any appeal) that may be instituted or asserted against or incurred by any such Indemnified Person as the result of credit having been extended, suspended or terminated under this Agreement and the other Loan Documents and the administration of such credit, and in connection with or arising out of the transactions contemplated hereunder and thereunder and any actions or failures to act in connection therewith, including any and all Environmental Liabilities and legal costs and

expenses arising out of or incurred in connection with disputes between or among any parties to any of the Loan Documents (collectively, "Indemnified Liabilities"); provided, that no such Loan Party shall be liable for any indemnification to an Indemnified Person to the extent that any such suit, action, proceeding, claim, damage, loss, liability or expense results from that Indemnified Person's gross negligence or willful misconduct. NO INDEMNIFIED PERSON SHALL BE RESPONSIBLE OR LIABLE TO ANY OTHER PARTY TO ANY LOAN DOCUMENT, ANY SUCCESSOR, ASSIGNEE OR THIRD PARTY BENEFICIARY OF SUCH PERSON OR ANY OTHER PERSON ASSERTING CLAIMS DERIVATIVELY THROUGH SUCH PARTY, FOR INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES WHICH MAY BE ALLEGED AS A RESULT OF CREDIT HAVING BEEN EXTENDED, SUSPENDED OR TERMINATED UNDER ANY LOAN DOCUMENT OR AS A RESULT OF ANY OTHER TRANSACTION CONTEMPLATED HEREUNDER OR THEREUNDER.

1.12 Access and Audit Rights. Each Loan Party that is a party hereto shall, during normal business hours, from time to time upon one (1) Business Day's prior notice as frequently as Lender reasonably determines to be appropriate: (a) provide Lender and any of its officers, employees and Lenders access to the properties, facilities, advisors and employees (including officers), as applicable, of each Loan Party and to the Collateral, (b) permit Lender, and any of its officers, employees and Lenders, to inspect, audit and make extracts from any Loan Party's books and records, permit Lender, and its officers, employees and agents, to inspect, review, evaluate and make test verifications and counts of the Accounts, and other Collateral of any Loan Party. If a Default or Event of Default has occurred and is continuing or if access is necessary to preserve or protect the Collateral as reasonably determined by Lender, each such Loan Party shall provide such access to Lender at all times and without advance notice. Furthermore, so long as any Event of Default has occurred and is continuing, Borrower shall provide Lender with access to its suppliers and customers. Each Loan Party shall make available to Lender and its counsel, as quickly as is possible under the circumstances, originals or copies of all books and records that Lender may reasonably request. Each Loan Party shall deliver any document or instrument necessary for Lender, as it may from time to time reasonably request, to obtain records from any service bureau or other Person that maintains records for such Loan Party, and shall maintain duplicate records or supporting documentation on media, including computer tapes and discs owned by such Loan Party. Any of Lender's officers, employees or agents shall have the right, at any time hereafter, in the name of Lender or any designee of Lender or in the name of Borrower, to verify the validity, amount or any other matter relating to any Accounts by mail, telephone or otherwise.

1.13 Taxes.

(a) Any and all payments by Borrower hereunder or under the Notes shall be made, in accordance with this Section 1.13, free and clear of and without deduction for any and all present or future Taxes. If Borrower shall be required by law to deduct any Taxes from or in respect of any sum payable hereunder or under the Notes, (i) the sum payable shall be increased as much as shall be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 1.13) Lender receives an amount equal to the sum it would have received had no such deductions been made, (ii) Borrower shall make

such deductions, and (iii) Borrower shall pay the full amount deducted to the relevant taxing or other authority in accordance with applicable law. Within thirty (30) days after the date of any payment of Taxes, Borrower shall furnish to Lender the original or a certified copy of a receipt evidencing payment thereof.

(b) Each Loan Party that is a signatory hereto shall indemnify and, within ten (10) days of demand therefor, pay Lender for the full amount of Taxes (including any Taxes imposed by any jurisdiction on amounts payable under this Section 1.13) paid by Lender, as appropriate, and any liability (including penalties, interest and expenses) arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally asserted.

1.14 Capital Adequacy; Increased Costs; Illegality.

(a) If Lender shall have determined that any law, treaty, governmental (or quasi-governmental) rule, regulation, guideline or order regarding capital adequacy, reserve requirements or similar requirements or compliance by Lender with any request or directive regarding capital adequacy, reserve requirements or similar requirements (whether or not having the force of law), in each case, adopted after the Closing Date, from any central bank or other Governmental Authority increases or would have the effect of increasing the amount of capital, reserves or other funds required to be maintained by Lender and thereby reducing the rate of return on Lender's capital as a consequence of its obligations hereunder, then Borrower shall from time to time upon demand by Lender pay Lender additional amounts sufficient to compensate Lender for such reduction. A certificate as to the amount of that reduction and showing the basis of the computation thereof submitted by Lender to Borrower shall, absent manifest error, be final, conclusive and binding for all purposes. Notwithstanding anything in this paragraph to the contrary, in the event Lender or any Person controlling Lender or such participant has exercised its rights pursuant to this paragraph, and subsequent thereto determines that the additional amounts paid by Borrower in whole or in part exceed the amount which Lender or any Person controlling Lender or such participant actually required to be made whole, the excess, if any, shall be returned to Borrower by such Lender or any Person controlling Lender or such participant, as applicable.

(b) If, due to either (i) the introduction of or any change in any law or regulation (or any change in the interpretation thereof) or (ii) the compliance with any guideline or request from any central bank or other Governmental Authority (whether or not having the force of law), in each case adopted after the Closing Date, there shall be any increase in the cost to Lender (other than Excluded Taxes) of agreeing to make or making, funding or maintaining any Loan, then Borrower shall from time to time, upon demand by Lender, pay to Lender additional amounts sufficient to compensate such Lender for such increased cost. A certificate as to the amount of such increased cost, submitted to Borrower and to Lender, shall be conclusive and binding on Borrower for all purposes, absent manifest error. Lender agrees that, as promptly as practicable after it becomes aware of any circumstances referred to above which would result in any such increased cost, Lender shall, to the extent not inconsistent with Lender's internal policies of general application, use reasonable commercial efforts to minimize costs and expenses incurred by it and payable to it by Borrower pursuant to this Section 1.14(b).

1.15 Single Loan. All Loans to Borrower and all of the other Obligations of Borrower arising under this Agreement and the other Loan Documents shall constitute one general obligation of Borrower secured, until the Termination Date, by all of the Collateral.

1.16 Liability of Guarantors. The liability of the Guarantor under this Agreement shall be limited as set forth in his Guaranty without duplication.

2. CONDITIONS PRECEDENT

2.1 Conditions to Initial Loans. Lender shall not be obligated to make any Loan on the Closing Date, or to take, fulfill, or perform any other action hereunder, until the following conditions have been satisfied or provided for in a manner satisfactory to Lender, or waived in writing by Lender:

(a) Loan Agreement; Loan Documents. This Agreement or counterparts hereof shall have been duly executed by, and delivered to, Borrower, the other Loan Parties and Lender; and Lender shall have received such documents, instruments, agreements and legal opinions as Lender shall reasonably request in connection with the transactions contemplated by this Agreement and the other Loan Documents, including all those referenced in the Closing Checklist attached hereto as Schedule D, each in form and substance reasonably satisfactory to Lender.

(b) Approvals. Lender shall have received (i) satisfactory evidence that the Loan Parties have obtained all required consents and approvals of all Persons including all requisite Governmental Authorities, to the execution, delivery and performance of this Agreement and the other Loan Documents and the consummation of the Related Transactions or (ii) an officer's certificate in form and substance reasonably satisfactory to Lender affirming that (A) no such consents or approvals are required and (B) no regulatory prohibitions or restrictions exist that would affect the collection, delivery and performance of this Agreement and the other Loan Documents and the consummation of the Related Transaction.

(c) Payment of Fees. Borrower shall have paid the Fees required to be paid on the Closing Date in the respective amounts specified in Section 1.7, and shall have reimbursed Lender for all fees, costs and expenses of closing presented as of the Closing Date, including, but not limited to, fees related to appraisals and audits and fees of legal counsel of Borrower.

(d) Capital Structure, Corporate Structure, Other Indebtedness. The corporate and capital structure of each Loan Party and the terms and conditions of all Indebtedness of each Loan Party shall be acceptable to Lender in its sole discretion.

(e) Due Diligence. Lender shall have completed its business and legal due diligence, including, but not limited to, a field audit exam of Borrower with results satisfactory to Lender, and shall have received an updated appraisal of the Equipment to be purchased by Borrower in the Acquisition that includes both fair market value and an orderly liquidation value for such Equipment.

(f) Consummation of Related Transactions. Lender shall have received fully executed copies of the Acquisition Agreement and each of the other Related Transactions Documents, each of which shall be in form and substance reasonably satisfactory to Lender and its counsel. The Acquisition and the other Related Transactions shall have been consummated in accordance with the terms of the Acquisition Agreement and the other Related Transactions Documents (without any waiver of any conditions precedent thereto by Borrower except for those waivers as to which Lender has provided its prior written consent) but for the payment of the portion of cash purchase price payable on the Closing Date pursuant to the Acquisition Agreement to be funded with the proceeds of the Loan to be made under this Agreement.

(g) [Equity Investment in/Subordinated Debt of Borrower. Lender shall have received evidence, in form and substance satisfactory to Lender, confirming that equity investment(s) in/subordinated loans to Borrower of an amount of not less than Three Hundred Thousand Dollars (\$300,000) and on terms deemed acceptable to Borrower.]

(h) No Material Adverse Change. Lender shall be satisfied that since September 18, 2007, no material adverse change in the business assets, operations, prospects or financial condition of the Business of Seller shall have occurred.

(i) No Material Litigation. Lender shall be satisfied that as of the Closing Date, Borrower is not a party to any material litigation.

(j) Guarantor Financials. Lender shall have received copies of executed financial statements for the periods ending December 31, 2006 or later from the Guarantor.

3. REPRESENTATIONS AND WARRANTIES

To induce Lender to make the Loans, the Loan Parties executing this Agreement, jointly and severally, make the following representations and warranties to Lender with respect to the Loan Parties enumerated within each representation and warranty, each and all of which shall survive the execution and delivery of this Agreement.

3.1 Existence; Compliance with Law

(a) Each Borrower (i) is a company as indicated in the first paragraph of this Agreement, duly organized, validly existing and in good standing under the laws of its respective jurisdiction of organization set forth in Disclosure Schedule (3.1); (ii) is duly qualified to conduct business and is in good standing in each other jurisdiction where its ownership or lease of property or the conduct of its business requires such qualification, except where the failure to be so qualified could not reasonably be expected to have a Material Adverse Effect; and (iii) is in compliance with its charter and operating agreement, as applicable; and

(b) Each Loan Party (i) has the requisite power and authority and the legal right to own, pledge, mortgage or otherwise encumber and operate its properties, to lease the property it operates under lease and to conduct its business, as applicable, as now, heretofore and proposed to be conducted; (ii) subject to specific representations regarding Environmental Laws, has all

material licenses, permits, consents or approvals from or by, and has made all material filings with, and has given all material notices to, all Governmental Authorities having jurisdiction, to the extent required for such ownership, operation and conduct; and (ii) subject to specific representations set forth herein regarding ERISA, Environmental Laws, tax and other laws, is in compliance with all applicable provisions of law, except where the failure to comply, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

3.2 Locations. As of the Closing Date, the current location of Borrower's chief executive office and the premises at which any Collateral is located are set forth in Disclosure Schedule (3.2). In addition, Disclosure Schedule (3.2) lists the federal employer identification number of each Loan Party and the organizational identification number issued by such Loan Party's state of incorporation or organization or a statement that no such number has been issued, as applicable, as well as the social security number of each Loan Party, as applicable.

3.3 Due Authorization; Enforceability. The execution, delivery and performance by each Loan Party of the Loan Documents to which it is a party and the creation of all Liens provided for therein: (a) are within such Person's power; (b) have been duly authorized by all necessary corporate, limited liability company or limited partnership action; (c) do not contravene any provision of such Party's charter, bylaws or partnership or operating agreement as applicable; (d) do not violate any law or regulation, or any order or decree of any court or Governmental Authority; (e) do not conflict with or result in the breach or termination of, constitute a default under or accelerate or permit the acceleration of any performance required by, any indenture, mortgage, deed of trust, lease, agreement or other instrument to which such Person is a party or by which such Person or any of its property is bound; (f) do not result in the creation or imposition of any Lien upon any of the collateral owned or leased by such Person other than those in favor of Lender pursuant to the Loan Documents, unless constituting Permitted Encumbrances and as reflected in Section 5.9 hereto; and (g) do not require the consent or approval of any Governmental Authority or any other Person, except those referred to in Section 2.1(b) and (l), all of which will have been duly obtained, made or complied with prior to the Closing Date. Each of the Loan Documents shall be duly executed and delivered by each Loan Party that is a party thereto and each such Loan Document shall constitute a legal, valid and binding obligation of such Loan Party enforceable against it in accordance with its terms except as such enforceability may be limited by applicable bankruptcy, moratorium, reorganization and other similar laws affecting the enforcement of creditors' rights generally.

3.4 Financial Statements Except for the Projections and the Transmittal and Certification Reports (the "Transmittal Reports") of Seller, all Financial Statements that are referred to below have been prepared in accordance with GAAP consistently applied throughout the periods covered (except as disclosed therein and except, with respect to unaudited Financial Statements, for the absence of footnotes and normal year-end audit adjustments and for the observance of the Practices and Procedures by Seller prior to giving effect to the Acquisition) and present fairly in all material respects the financial position of the Persons covered thereby as at the dates thereof and the results of their operations and cash flows for the periods then ended.

(a) Financial Statements. The following Financial Statements attached hereto as Disclosure Schedule (3.4(a)) have been delivered on the date hereof:

(i) Opening balance sheet and income statement of Borrower, prepared by _____; and

(ii) Personal financial statement of DeRodes, dated _____.

(b) Pro Forma. The Pro Forma delivered on the Closing Date and attached hereto as Disclosure Schedule (3.4(b)) was prepared by Borrower giving pro forma effect to the Related Transactions, was based on the balance sheet prepared by _____ noted in Section 3.4(a)(i) above and dated as of the Closing Date and was prepared in accordance with GAAP, with only such adjustments thereto as would be required in accordance with GAAP.

(c) Projections. The Projections delivered on the date hereof and attached hereto as Disclosure Schedule (3.4(c)) have been prepared by Borrower in light of the past operations of the Business as operated by Seller and reflect projections for the stub-year period ending on December 31, 2003 on a month-by-month basis. The Projections are based upon estimates and assumptions stated therein, all of which Borrower believes to be reasonable and fair in light of current conditions and current facts known to Borrower and, as of the Closing Date, reflect Borrower's good faith and reasonable estimates of the future financial performance of Borrower and of the other information projected therein for the period set forth therein.

3.5 Solvency. Both before and after giving effect to (a) the Loan, (b) the disbursement of the proceeds of the Loan pursuant to the instructions of Borrower, (c) the Acquisition and the consummation of the other Related Transactions and (d) the payment and accrual of all transaction costs in connection with the foregoing, each Loan Party is and will be Solvent.

3.6 Ownership of Property; Liens. As of the Closing Date, the real estate listed in Disclosure Schedule (3.6) constitutes all of the real property owned, leased, subleased, or used by Borrower ("Real Estate"). Borrower owns good and marketable fee simple title to all of its owned Real Estate, and valid and marketable leasehold interests in all of its leased Real Estate, all as described on Disclosure Schedule (3.6), and copies of all such leases or a summary of terms thereof reasonably satisfactory to Lender have been delivered to Lender. Disclosure Schedule (3.6) further describes any Real Estate with respect to which Borrower is a lessor, sublessor or assignor as of the Closing Date. Borrower also has good and marketable title to, or valid leasehold interests in, all of its personal property and assets. As of the Closing Date, none of the properties and assets of Borrower are subject to any Liens other than Permitted Encumbrances, and there are no facts, circumstances or conditions known to Borrower that may result in any Liens (including Liens arising under Environmental Laws) other than Permitted Encumbrances. Borrower has received all deeds, assignments, waivers, consents, nondisturbance and attornment or similar agreements, bills of sale and other documents, and has duly effected all recordings, filings and other actions necessary to establish, protect and perfect Borrower's right, title and interest in and to all such Real Estate and other properties and assets. Disclosure Schedule (3.6) also describes any purchase options, rights of first refusal or other

similar contractual rights pertaining to any Real Estate. As of the Closing Date, no portion of Borrower's Real Estate has suffered any material damage by fire or other casualty loss that has not heretofore been repaired and restored in all material respects to its original condition or otherwise remedied. To the best of Borrower's knowledge, as of the Closing Date, all material permits required to have been issued or appropriate to enable the Real Estate to be lawfully occupied and used for all of the purposes for which it is currently occupied and used have been lawfully issued and are in full force and effect.

3.7 Labor Issues. As of the Closing Date (a) no strikes or other material labor disputes against Borrower are pending or, to Borrower's knowledge, threatened; (b) hours worked by and payment made to employees of Borrower comply with the Fair Labor Standards Act and each other federal, state, local or foreign law applicable to such matters; (c) all payments due from Borrower for employee health and welfare insurance have been paid or accrued as a liability on the books of Borrower; (d) except as set forth in Disclosure Schedule (3.7), Borrower is not a party to or bound by any collective bargaining agreement, management agreement, consulting agreement, employment agreement, bonus, restricted stock, stock option, or stock appreciation plan or agreement or any similar plan, agreement or arrangement (and true and complete copies of any agreements described on Disclosure Schedule (3.7) have been delivered to Lender); (e) there is no organizing activity involving any Loan Party pending or, to Borrower's knowledge, threatened by any labor union or group of employees; (f) there are no representation proceedings pending or, to Borrower's knowledge, threatened with the National Labor Relations Board, and no labor organization or group of employees of Borrower has made a pending demand for recognition; and (g) except as set forth in Disclosure Schedule (3.7), there are no material complaints or charges against Borrower pending or, to the knowledge of Borrower, threatened to be filed with any Governmental Authority or arbitrator based on, arising out of, in connection with, or otherwise relating to the employment or termination of employment by Borrower of any individual.

3.8 Subsidiaries and Affiliates; Outstanding Stock and Indebtedness. Except as set forth in Disclosure Schedule (3.8), as of the Closing Date and as applicable, Borrower has no Subsidiaries, is not engaged in any joint venture or partnership with any other Person, nor is an Affiliate of any other Person. All of the issued and outstanding Stock of Borrower is owned by each of the Stockholders and in the amounts set forth in Disclosure Schedule (3.8). Except as set forth in Disclosure Schedule (3.8), there are no outstanding rights to purchase, options, warrants or similar rights or agreements pursuant to which Borrower may be required to issue, sell, repurchase or redeem any of its Stock or other equity securities or any Stock or other equity securities of its Subsidiaries. All outstanding Indebtedness and Guaranteed Indebtedness of Borrower as of the Closing Date is described in Section 6.3 (including Disclosure Schedule (6.3)). As of the Closing Date, Borrower has no assets (except initial capital contributions made by its Stockholders and assets acquired in the Acquisition) or any Indebtedness (except the Subordinated Debt, if applicable, the Loans, the Indebtedness under the Assumed Contracts, as defined in the Acquisition Agreement, and the trade payables set forth on Schedule 2.1(a)(ii) of the Acquisition Agreement.

3.9 Governmental Regulation. Borrower is not an “investment company” or an “affiliated person” of, or “promoter” or “principal underwriter” for, an “investment company,” as such terms are defined in the Investment Company Act of 1940. Borrower is not subject to regulation under the Public Utility Holding Company Act of 1935, the Federal Power Act, or any other federal or state statute that restricts or limits its ability to incur Indebtedness or to perform its obligations hereunder. The making of the Loans by Lender to Borrower, the application of the proceeds thereof and repayment thereof and the consummation of the Related Transactions will not violate any provision of any such statute or any rule, regulation or order issued by the Securities and Exchange Commission.

3.10 Taxes. Except as set forth in Disclosure Schedule 3.10, all tax returns, reports and statements, including information returns, required by any Governmental Authority to be filed by any Loan Party have been filed with the appropriate Governmental Authority and all Charges have been paid prior to the date on which any fine, penalty, interest or late charge may be added thereto for nonpayment thereof (or any such fine, penalty, interest, late charge or loss has been paid), excluding Charges or other amounts being contested in accordance with Section 5.2(b). Proper and accurate amounts have been withheld by Borrower from its respective employees for all periods in full and complete compliance with all applicable federal, state, local and foreign laws and such withholdings have been timely paid to the respective Governmental Authorities. Disclosure Schedule (3.10) sets forth as of the Closing Date those taxable years for which any Loan Party’s tax returns are currently being audited by the IRS or any other applicable Governmental Authority and any assessments or threatened assessments in connection with such audit, or otherwise currently outstanding. Except as described in Disclosure Schedule (3.10), no Loan Party has executed or filed with the IRS or any other Governmental Authority any agreement or other document extending, or having the effect of extending, the period for assessment or collection of any Charges. None of the Loan Parties and their respective predecessors are liable for any Charges: (a) under any agreement (including any tax sharing agreements) or (b) to each Loan Party’s knowledge, as a transferee. As of the Closing Date, no Loan Party has agreed or been requested to make any adjustment under IRC Section 481(a), by reason of a change in accounting method or otherwise, which would have a Material Adverse Effect.

3.11 ERISA.

(a) Disclosure Schedule (3.11) lists all Plans of Borrower, if any, and separately identifies all Pension Plans, including Title IV Plans, Multiemployer Plans, ESOPs and Welfare Plans, including all Retiree Welfare Plans. Copies of all such listed Plans, together with a copy of the latest form IRS/DOL 5500-series for each such Plan have been delivered to Lender. Except with respect to Multiemployer Plans, each Qualified Plan has been determined by the IRS to qualify under Section 401 of the IRC, the trusts created thereunder have been determined to be exempt from tax under the provisions of Section 501 of the IRC, and nothing has occurred that would cause the loss of such qualification or tax-exempt status. Each Plan is in compliance with the applicable provisions of ERISA and the IRC, including the timely filing of all reports required under the IRC or ERISA, including the statement required by 29 CFR Section 2520.104-23. Neither Borrower nor ERISA Affiliate has failed to make any contribution or pay

any amount due as required by either Section 412 of the IRC or Section 302 of ERISA or the terms of any such Plan. Neither Borrower nor ERISA Affiliate has engaged in a “prohibited transaction,” as defined in Section 406 of ERISA and Section 4975 of the IRC, in connection with any Plan, that would subject Borrower to a material tax on prohibited transactions imposed by Section 502(i) of ERISA or Section 4975 of the IRC.

(b) Except as set forth in Disclosure Schedule (3.11): (i) no Title IV Plan has any Unfunded Pension Liability; (ii) no ERISA Event or event described in Section 4062(e) of ERISA with respect to any Title IV Plan has occurred or is reasonably expected to occur; (iii) there are no pending, or to the knowledge of Borrower, threatened claims (other than claims for benefits in the normal course), sanctions, actions or lawsuits, asserted or instituted against any Plan or any Person as fiduciary or sponsor of any Plan; (iv) neither Borrower nor any ERISA Affiliate has incurred or reasonably expects to incur any liability as a result of a complete or partial withdrawal from a Multiemployer Plan; (v) within the last five (5) years no Title IV Plan of Borrower or ERISA Affiliate has been terminated, whether or not in a “standard termination” as that term is used in Section 404(b)(1) of ERISA, nor has any Title IV Plan of Borrower or ERISA Affiliate (determined at any time within the past five (5) years) with Unfunded Pension Liabilities been transferred outside of the “controlled group” (within the meaning of Section 4001(a)(14) of ERISA) of Borrower or ERISA Affiliate; (vi) except in the case of any ESOP, Stock of Borrower and its ERISA Affiliates makes up, in the aggregate, no more than 10% of fair market value of the assets of any Plan measured on the basis of fair market value as of the latest valuation date of any Plan; and (vii) no liability under any Title IV Plan has been satisfied with the purchase of a contract from an insurance company that is not rated AAA by the Standard & Poor’s Corporation or an equivalent rating by another nationally recognized rating agency.

3.12 Litigation. No action, claim, lawsuit, demand, investigation or proceeding is now pending or, to the knowledge of any Loan Party, threatened against any Loan Party, before any Governmental Authority or before any arbitrator or panel of arbitrators (collectively, “Litigation”), (a) that challenges any Loan Party’s right or power to enter into or perform any of its obligations under the Loan Documents to which it is a party, or the validity or enforceability of any Loan Document or any action taken thereunder, or (b) that has a reasonable risk of being determined adversely to any Loan Party and that, if so determined, could reasonably be expected to have a Material Adverse Effect. As of the Closing Date there is no Litigation pending or threatened against, or alleges criminal misconduct of, any Loan Party.

3.13 No Brokers. No broker or finder acting on behalf of any Loan Party or Affiliate thereof brought about the obtaining, making or closing of the Loans or the Related Transactions, and no Loan Party or Affiliate thereof has any obligation to any Person in respect of any finder’s or brokerage fees in connection therewith.

3.14 Intellectual Property. As of the Closing Date, Borrower owns or has rights to use all Intellectual Property necessary to continue to conduct its business as now or heretofore conducted by it or proposed to be conducted by it, and each Patent, Trademark, Copyright and License is listed, together with application or registration numbers, as applicable, in Disclosure Schedule (3.14). Borrower conducts its business and affairs without infringement of or

interference with any Intellectual Property of any other Person in any material respect. Except as set forth in Disclosure Schedule (3.14), Borrower is not aware of any infringement claim by any other Person with respect to any Intellectual Property.

3.15 Full Disclosure. No information contained in this Agreement, any of the other Loan Documents, any Projections, Financial Statements or Collateral Reports or other written reports from time to time delivered hereunder or any written statement furnished by or on behalf of any Loan Party to Lender pursuant to the terms of this Agreement contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements contained herein or therein not misleading in light of the circumstances under which they were made. The Liens granted to Lender pursuant to the Collateral Documents will at all times be fully perfected first priority Liens in and to the Collateral described therein, subject, as to priority, only to Permitted Encumbrances.

3.16 Environmental Issues.

(a) Except as set forth in Disclosure Schedule (3.16), as of the Closing Date: (i) the Real Estate is free of contamination from any Hazardous Material; (ii) no Loan Party has caused or suffered to occur any Release of Hazardous Materials on, at, in, under, above, to, from or about any of its Real Estate; (iii) the Loan Parties are and have been in compliance with all Environmental Laws, as they relate to the Real Estate; (iv) the Loan Parties have obtained, and are in compliance with, all Environmental Permits required by Environmental Laws, as they relate to the Real Estate, for the operations of their respective businesses as presently conducted or as proposed to be conducted, and all such Environmental Permits are valid, uncontested and in good standing; (v) no Loan Party is involved in operations or knows of any facts, circumstances or conditions, including any Releases of Hazardous Materials, that are likely to result in any Environmental Liabilities, as they relate to the Real Estate, of such Loan Party, and no Loan Party has permitted any current or former tenant or occupant of the Real Estate to engage in any such operations; (vi) there is no Litigation arising under or related to any Environmental Laws, Environmental Permits or Hazardous Material against, or that alleges criminal misconduct by, any Loan Party; (vii) no notice has been received by any Loan Party identifying it as a “potentially responsible party” or requesting information under CERCLA or analogous state statutes, and to the knowledge of the Loan Parties, there are no facts, circumstances or conditions that may result in any Loan Party being identified as a “potentially responsible party” under CERCLA or analogous state statutes; and (viii) the Loan Parties have provided to Lender copies of all existing environmental reports, reviews and audits and all written information pertaining to actual or potential Environmental Liabilities, as they relate to the Real Estate, in each case relating to any Loan Party.

(b) Each Loan Party hereby acknowledges and agrees that Lender (i) is not now, and has not ever been, in control of any of the Real Estate or any Loan Party’s affairs, and (ii) does not have the capacity through the provisions of the Loan Documents or otherwise to influence any Loan Party’s conduct with respect to the ownership, operation or management of any of its Real Estate or compliance with Environmental Laws or Environmental Permits.

3.17 Insurance. Disclosure Schedule (3.17) lists all insurance policies of any nature maintained, as of the Closing Date, for current occurrences by Borrower, as well as a summary of the terms of each such policy, and all insurance policies the proceeds of which shall be pledged by a Guarantor under the Collateral Documents.

3.18 Bank Accounts. Disclosure Schedule (3.18) lists all banks and other financial institutions at which Borrower maintains deposit or other accounts as of the Closing Date, including any Disbursement Accounts, and such Schedule correctly identifies the name, address and telephone number of each depository, the name in which the account is held, a description of the purpose of the account, and the complete account number therefor.

3.19 Government Contracts. Except as set forth in Disclosure Schedule (3.19), as of the Closing Date, Borrower is not party to any contract or agreement with any Governmental Authority and Borrower's Accounts are not subject to the Federal Assignment of Claims Act (31 U.S.C. Section 3727) or any similar state or local law.

3.20 Margin Requirements. Borrower is not engaged, nor will it engage, principally or as one of its important activities, in the business of extending credit for the purpose of "purchasing" or "carrying" any "margin stock" as such terms are defined in Regulation U of the Federal Reserve Board as now and from time to time hereafter in effect (such securities being referred to herein as "Margin Stock"). Borrower owns no Margin Stock, and none of the proceeds of the Loans or other extensions of credit under this Agreement will be used, directly or indirectly, for the purpose of purchasing or carrying any Margin Stock, for the purpose of reducing or retiring any Indebtedness that was originally incurred to purchase or carry any Margin Stock or for any other purpose that might cause any of the Loans or other extensions of credit under this Agreement to be considered a "purpose credit" within the meaning of Regulations T, U or X of the Federal Reserve Board. No Loan Party will knowingly take or permit to be taken any action that might cause any Loan Document to violate any regulation of the Federal Reserve Board.

3.21 Agreements and Other Documents. As of the Closing Date, Borrower has provided to Lender, accurate and complete copies (or summaries) of all of the following agreements or documents to which it is subject and each of which is listed in Disclosure Schedule (3.21): supply agreements and purchase agreements not terminable by Borrower within sixty (60) days following written notice issued by Borrower and involving transactions in excess of \$50,000 per annum; leases of Equipment having a remaining term of one year or longer and requiring aggregate rental and other payments in excess of \$25,000 per annum; licenses and permits held by Borrower, the absence of which could be reasonably likely to have a Material Adverse Effect; instruments and documents evidencing any Indebtedness or Guaranteed Indebtedness of Borrower and any Lien granted by Borrower with respect thereto; and instruments and agreements evidencing the issuance of any equity securities, warrants, rights or options to purchase equity securities of Borrower.

3.22 Material Adverse Effect. Prior to the Closing Date, (a) Borrower has not incurred any obligations, contingent or noncontingent liabilities, liabilities for Charges, long-term leases or unusual forward or long-term commitments that are not reflected in the Pro Forma

and that, alone or in the aggregate, could reasonably be expected to have a Material Adverse Effect, (b) no contract, lease or other agreement or instrument has been entered into by Borrower or has become binding upon Borrower's assets and no law or regulation applicable to Borrower has not been adopted that has had or could reasonably be expected to have a Material Adverse Effect, and (c) Borrower is not in default and to the best of Borrower's knowledge no third party is in default under any material contract, lease or other agreement or instrument, that alone or in the aggregate could reasonably be expected to have a Material Adverse Effect. Prior to the Closing Date no event has occurred, that alone or together with other events, could reasonably be expected to have a Material Adverse Effect.

3.23 Acquisition Agreement. As of the Closing Date, Borrower has delivered to Lender a complete and correct copy of the Acquisition Agreement (including all schedules, exhibits, amendments, supplements, modifications, assignments and all other documents delivered pursuant thereto or in connection therewith). Borrower is not and, to Borrower's knowledge, no other Person party thereto is in default in the performance or compliance with any provisions thereof. The Acquisition Agreement complies with, and the Acquisition has been consummated in accordance with, all applicable laws. The Acquisition Agreement and its ancillary documents are in full force and effect as of the Closing Date and has not been terminated, rescinded or withdrawn. All requisite approvals by Governmental Authorities having jurisdiction over Seller, Borrower and other Persons referenced therein, with respect to the transactions contemplated by the Acquisition Agreement and its ancillary documents, have been obtained, and no such approvals impose any conditions to the consummation of the transactions contemplated by the Acquisition Agreement and its ancillary documents or to the conduct by any Loan Party of its business thereafter. To the best of Borrower's knowledge, none of the Seller's representations or warranties in the Acquisition Agreement and its ancillary documents contain any untrue statement of a material fact or omit any fact necessary to make the statements therein not misleading. Each of the representations and warranties given by Borrower in the Acquisition Agreement and its ancillary documents is true and correct in all material respects.

3.24 Status of Borrower. Prior to the Closing Date, Borrower will not have engaged in any business or incurred any Indebtedness or any other liabilities (except in connection with its corporate formation, the Related Transactions Documents and this Agreement).

4. FINANCIAL INFORMATION

4.1 Reports and Notices.

(a) Each Loan Party executing this Agreement hereby agrees that from and after the Closing Date and until the Termination Date, it shall deliver to Lender, as required, the Financial Statements, notices, Projections and other information at the times, to the Persons and in the manner set forth in Schedule E.

(b) Borrower hereby agrees that from and after the Closing Date and until the Termination Date, it shall deliver to Lender, as required, the various Collateral Reports (including Borrowing Base Certificates in the form of Exhibit 4.1(b)) at the times, to the Persons and in the manner set forth in Schedule F.

4.2 Communication with Accountants. Borrower authorizes Lender to communicate directly with its independent certified public accountants, including _____, and authorizes and, at Lender's request, shall instruct those accountants and advisors to disclose and make available to Lender any and all Financial Statements and other supporting financial documents, schedules and information relating to any Loan Party (including copies of any issued management letters) with respect to the business, financial condition and other affairs of any Loan Party.

5. AFFIRMATIVE COVENANTS. Each Loan Party executing this Agreement jointly and severally agrees as to all Loan Parties that from and after the date hereof and until the Termination Date:

5.1 Legal Existence and Maintenance of Property. Each Borrower shall do or cause to be done all things necessary to preserve and keep in full force and effect its existence and its rights and franchises; and transact business only in such corporate and trade names as are set forth in Disclosure Schedule (5.1). Each Borrower shall, as applicable, continue to conduct its business substantially as now conducted or as otherwise permitted hereunder; at all times maintain, preserve and protect all of its assets and properties used or useful in the conduct of its business, and keep the same in good repair, working order and condition in all material respects (taking into consideration ordinary wear and tear) and from time to time make, or cause to be made, all necessary or appropriate repairs, replacements and improvements thereto consistent with industry practices.

5.2 Payment of Charges.

(a) Subject to Section 5.2(b), Borrower shall pay and discharge or cause to be paid and discharged promptly all Charges payable by it, including (i) Charges imposed upon it, its income and profits, or any of its property (real, personal or mixed) and all Charges with respect to tax, social security and unemployment withholding with respect to its employees, (ii) lawful claims for labor, materials, supplies and services or otherwise, and (iii) all future storage or rental charges payable to warehousemen and bailees, in each case, before any thereof shall become past due.

(b) Borrower may in good faith contest, by appropriate proceedings, the validity or amount of any Charges, Taxes or claims described in Section 5.2(a); provided, that (i) adequate reserves with respect to such contest are maintained on the books of Borrower, in accordance with GAAP; (ii) no Lien shall be imposed to secure payment of such Charges (other than payments to warehousemen and/or bailees) that is superior to any of the Liens securing the payment of the Obligations and such contest is maintained and prosecuted continuously and with diligence and operates to suspend collection or enforcement of such Charges, (iii) none of the Collateral becomes subject to forfeiture or loss as a result of such contest, (iv) Borrower shall promptly pay or discharge such contested Charges, Taxes or claims and all additional charges, interest, penalties and expenses, if any, and shall deliver to Lender evidence reasonably acceptable to Lender of such compliance, payment or discharge, if such contest is terminated or discontinued adversely to Borrower or the conditions set forth in this Section 5.2(b) are no longer

met, and (v) Lender has not advised Borrower in writing that Lender reasonably believes that nonpayment or nondischarge thereof could have or result in a Material Adverse Effect.

5.3 Books and Records. Borrower shall keep adequate books and records with respect to its business activities in which proper entries, reflecting all financial transactions, are made in accordance with GAAP and on a basis consistent with the Financial Statements attached as Disclosure Schedule (3.4(a)).

5.4 Insurance and Casualty Losses, Assignment of Insurance Policies.

(a) Each Borrower, as applicable, shall, at its sole cost and expense, obtain or maintain the policies of insurance described on Disclosure Schedule (3.17) as in effect on the date hereof or otherwise in form and amounts and with insurers reasonably acceptable to Lender. Such policies of insurance (or the loss payable and additional insured endorsements delivered to Lender) shall contain provisions pursuant to which the insurer agrees to provide thirty (30) days prior written notice to Lender in the event of any non-renewal, cancellation or amendment of any such insurance policy. If Borrower at any time or times hereafter shall fail to obtain or maintain any of the policies of insurance required above or to pay all premiums relating thereto, Lender may at any time or times thereafter obtain and maintain such policies of insurance and pay such premiums and take any other action with respect thereto that Lender deems advisable. Lender shall have no obligation to obtain insurance for Borrower or pay any premiums therefor. By doing so, Lender shall not be deemed to have waived any Default or Event of Default arising from Borrower's failure to maintain such insurance or pay any premiums therefor. All sums so disbursed, including reasonable attorneys' fees, court costs and other charges related thereto, shall be payable on demand by Borrower to Lender and shall be additional Obligations hereunder secured by the Collateral.

(b) Lender reserves the right at any time upon any change in Borrower's risk profile (including any change in the product mix maintained by Borrower or any laws affecting the potential liability of such Borrower) to require additional forms and limits of insurance to, in Lender's opinion, adequately protect Lender's interests in all or any portion of the Collateral and to ensure that Borrower is protected by insurance in amounts and with coverage customary for its industry. If reasonably requested by Lender, Borrower shall deliver to Lender from time to time a report of a reputable insurance broker, reasonably satisfactory to Lender, with respect to its insurance policies.

(c) Borrower shall deliver to Lender, in form and substance reasonably satisfactory to Lender, endorsements to (i) all "All Risk" and business interruption insurance naming Lender, as loss payee, and (ii) all general liability and other liability policies naming Lender as additional insured. Borrower irrevocably makes, constitutes and appoints Lender (and all officers, employees or Lenders designated by Lender), so long as any Default or Event of Default has occurred and is continuing or the anticipated insurance proceeds exceed \$25,000, as each Loan Party's true and lawful Lender and attorney-in-fact for the purpose of making, settling and adjusting claims under such "All Risk" policies of insurance, endorsing the name of each Loan Party on any check or other item of payment for the proceeds of such "All Risk" policies of insurance and for making all determinations and decisions with respect to such "All Risk"

policies of insurance. Lender shall have no duty to exercise any rights or powers granted to it pursuant to the foregoing power-of-attorney. Borrower shall promptly notify Lender of any loss, damage, or destruction to the Collateral in the amount of \$25,000 or more, whether or not covered by insurance. After deducting from such proceeds the expenses, if any, incurred by Lender in the collection or handling thereof, Lender may, at its option, apply such proceeds to the reduction of the Obligations in accordance with Section 1.2(d), provided that in the case of insurance proceeds pertaining to any Loan Party other than Borrower, such insurance proceeds shall be applied to the Loans owing by Borrower, or permit or require Borrower or such Loan Party to use such money, or any part thereof, to replace, repair, restore or rebuild the Collateral in a diligent and expeditious manner with materials and workmanship of substantially the same quality as existed before the loss, damage or destruction. Notwithstanding the foregoing, if the casualty giving rise to such insurance proceeds could not reasonably be expected to have a Material Adverse Effect and such insurance proceeds do not exceed \$25,000 in the aggregate, Lender shall permit Borrower to replace, restore, repair or rebuild the property; provided that if Borrower has not completed or entered into binding agreements to complete such replacement, restoration, repair or rebuilding within one hundred and eighty (180) days of such casualty, Lender may apply such insurance proceeds to the Obligations in accordance with Section 1.2(d). To the extent not used to replace, repair, restore or rebuild the Collateral, such insurance proceeds shall be applied in accordance with Section 1.2(d).

5.5 Intellectual Property. Borrower will conduct its business and affairs without infringement of or interference with any Intellectual Property of any other Person in any material respect.

5.6 Additional Disclosure. From time to time as may be reasonably requested by Lender, the Loan Parties shall supplement each Disclosure Schedule hereto, or any representation herein or in any other Loan Document, with respect to any matter hereafter arising that, if existing or occurring at the date of this Agreement, would have been required to be set forth or described in such Disclosure Schedule or as an exception to such representation or that is necessary to correct any information in such Disclosure Schedule or representation which has been rendered inaccurate thereby (and, in the case of any supplements to any Disclosure Schedule, such Disclosure Schedule shall be appropriately marked to show the changes made therein); provided that (a) no such supplement to any such Disclosure Schedule or representation shall amend, supplement or otherwise modify any Disclosure Schedule or representation, or be or be deemed a waiver of any Default or Event of Default resulting from the matters disclosed therein, except as consented to by Lender in writing, and (b) no supplement shall be required or permitted as to representations and warranties that relate solely to the Closing Date.

5.7 Compliance with Laws. Borrower shall comply with all federal, state, local and foreign laws and regulations applicable to it, including those relating to ERISA and labor matters and Environmental Laws and Environmental Permits, as applicable, except to the extent that the failure to comply, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

5.8 Environmental Matters. Borrower shall and shall cause each Person within its control to: (a) conduct its operations and keep and maintain its Real Estate in compliance with all

Environmental Laws and Environmental Permits other than noncompliance that could not reasonably be expected to have a Material Adverse Effect; (b) implement any and all investigation, remediation, removal and response actions that are appropriate or necessary to maintain the value and marketability of the Real Estate or to otherwise comply with Environmental Laws and Environmental Permits pertaining to the presence, generation, treatment, storage, use, disposal, transportation or Release of any Hazardous Material on, at, in, under, above, to, from or about any of its Real Estate; (c) notify Lender promptly after Borrower becomes aware of any violation of Environmental Laws or Environmental Permits or any Release on, at, in, under, above, to, from or about any Real Estate that is reasonably likely to result in Environmental Liabilities in excess of \$20,000; and (d) promptly forward to Lender a copy of any order, notice, request for information or any communication or report received by Borrower in connection with any such violation or Release or any other matter relating to any Environmental Laws or Environmental Permits that could reasonably be expected to result in Environmental Liabilities in excess of \$20,000 each case whether or not the Environmental Protection Agency or any Governmental Authority has taken or threatened any action in connection with any such violation, Release or other matter. If Lender at any time has a reasonable basis to believe that there may be a violation of any Environmental Laws or Environmental Permits by Borrower or any Environmental Liability arising thereunder, or a Release of Hazardous Materials on, at, in, under, above, to, from or about any of its Real Estate, that, in each case, could reasonably be expected to have a Material Adverse Effect, then Borrower shall, upon Lender's written request (i) cause the performance of such environmental audits including subsurface sampling of soil and groundwater, and preparation of such environmental reports, at Borrower's expense, as Lender may from time to time reasonably request, which shall be conducted by reputable environmental consulting firms reasonably acceptable to Lender and shall be in form and substance reasonably acceptable to Lender, and (ii) permit Lender or its representatives to have access to all Real Estate for the purpose of conducting such environmental audits and testing as Lender deems appropriate, including subsurface sampling of soil and groundwater. Borrower shall reimburse Lender for the costs of such audits and tests and the same will constitute a part of the Obligations secured hereunder.

5.9 Mortgagee, Bailee and Landlord Agreements; Purchased Real Estate.

(a) Except as noted on Schedule 5.9 hereto and in Section 5.9(b), Borrower shall obtain a landlord's agreement or mortgagee agreement, as applicable, from the lessor of each leased property and mortgagee of owned property where Collateral is stored or located, which agreement or letter shall contain a waiver or subordination of all Liens or claims that the landlord or mortgagee may assert against the Collateral at that location, and shall otherwise be reasonably satisfactory in form and substance to Lender. As of the Closing Date, Borrower does not lease or own any warehouse space or have any relationship with a bailee with respect to any warehouse, processor or converter facility or other location where Collateral is stored or held. After the Closing Date, no real property or warehouse space shall be leased by Borrower and no Inventory shall be shipped to a processor or converter under arrangements established after the Closing Date without the prior written consent of Lender or, unless and until a reasonably satisfactory landlord agreement or bailee letter, as appropriate, shall first have been obtained with respect to such location. Borrower shall timely and fully pay and perform its obligations under all leases

and other agreements with respect to each leased location or public warehouse where any Collateral is or may be located. To the extent permitted hereunder, if Borrower proposes to acquire a fee ownership interest in Real Estate after the Closing Date, it shall first provide to Lender a mortgage or deed of trust granting Lender a first priority Lien on such Real Estate, together with environmental audits, mortgage title insurance commitment, real property survey, local counsel opinion(s), and, if required by Lender, supplemental casualty insurance and flood insurance, and such other documents, instruments or agreements reasonably requested by Lender, in each case, in form and substance reasonably satisfactory to Lender.

5.10 Further Assurances. Borrower agrees that it shall and shall cause each other Loan Party to, at Borrower's expense and upon request of Lender, duly execute and deliver, or cause to be duly executed and delivered, to Lender such further instruments and do and cause to be done such further acts as may be necessary or proper in the reasonable opinion of Lender to carry out more effectively the provisions and purposes of this Agreement or any other Loan Document.

6. NEGATIVE COVENANTS. EACH LOAN PARTY EXECUTING THIS AGREEMENT JOINTLY AND SEVERALLY AGREES AS TO ALL LOAN PARTIES THAT FROM AND AFTER THE DATE HEREOF UNTIL THE TERMINATION DATE:

6.1 Mergers, Subsidiaries, Etc. Borrower shall not directly or indirectly, by operation of law or otherwise, (a) form or acquire any Subsidiary, or (b) merge with, consolidate with, acquire all or substantially all of the assets or Stock of, or otherwise combine with or acquire, any Person without prior consent of Lender.

6.2 Investments; Loans and Advances. Except as otherwise expressly permitted by this Section 6, Borrower shall not make or permit to exist any investment in, or make, accrue or permit to exist loans or advances of money to, any Person, through the direct or indirect lending of money, holding of securities or otherwise, except that Borrower may hold investments comprised of notes payable, or stock or other securities issued by Account Debtors to Borrower pursuant to negotiated agreements with respect to settlement of such Account Debtor's Accounts in the ordinary course of business, so long as the aggregate amount of such Accounts so settled by Borrower does not exceed \$50,000.

6.3 Indebtedness.

(a) Borrower shall not create, incur, assume or permit to exist any Indebtedness, except (without duplication) (i) Indebtedness secured by purchase money security interests and Capital Leases in favor of Lender or as otherwise permitted in Section 6.7(b), (ii) the Loans and the other Obligations, (iii) unfunded pension fund and other employee benefit plan obligations and liabilities to the extent they are permitted to remain unfunded under applicable law and (iv) the Subordinated Debt.

(b) Borrower shall not directly or indirectly, voluntarily purchase, redeem, defease or prepay any principal of, premium, if any, interest or other amount payable in respect of any Indebtedness, other than (i) the Obligations; and (ii) as otherwise permitted in Section 6.14.

6.4 Affiliate Transactions.

(a) Except as otherwise expressly permitted in this Section 6 with respect to Affiliates, Borrower shall not enter into or be a party to any transaction with any other Loan Party or any Affiliate thereof except in the ordinary course of and pursuant to the reasonable requirements of Borrower's business and upon fair and reasonable terms that are no less favorable to Borrower than would be obtained in a comparable arm's length transaction with a Person not an Affiliate of such Loan Party. All such transactions existing as of the date hereof are described in Disclosure Schedule (6.4(a)).

(b) Borrower shall not enter into any lending or borrowing transaction with any of its employees except for de minimus advances to employees in the ordinary course of business, such advances not to exceed \$10,000 during any fiscal year.

6.5 Sale-Leaseback Transactions. Borrower shall not engage in any sale-leaseback, synthetic lease or similar transaction involving any of its assets.

6.6 Guaranteed Indebtedness. Neither Borrower nor DeRodes shall create, incur, assume or permit to exist any Guaranteed Indebtedness except guarantees of the Obligations.

6.7 Liens. Borrower shall not create, incur, assume or permit to exist any Lien on or with respect to its Accounts or any of its other properties or assets that constitute Collateral (whether now owned or hereafter acquired) except for (a) Permitted Encumbrances; and (b) Liens created after the date hereof by conditional sale or other title retention agreements (including Capital Leases) or in connection with purchase money Indebtedness with respect to Equipment and Fixtures acquired by Borrower in the ordinary course of business, involving the incurrence of an aggregate amount of purchase money Indebtedness and Capital Lease Obligations of not more than \$25,000 outstanding at any one time for all such Liens (provided that such Liens attach only to the assets subject to such purchase money debt and such Indebtedness is incurred within twenty (20) days following such purchase and does not exceed 100% of the purchase price of the subject assets). In addition, Borrower shall not become a party to any agreement, note, indenture or instrument, or take any other action, that would prohibit the creation of a Lien on any of its properties or other assets in favor of Lender as additional collateral for the Obligations.

6.8 Sale of Stock and Assets. Borrower shall not sell, transfer, convey, assign or otherwise dispose of any of its properties or other assets, including the Stock of any of its Subsidiaries (whether in a public or a private offering or otherwise) or any of its Accounts, other than the sale, transfer, conveyance or other disposition by Borrower of Equipment, and Fixtures that have a book value not exceeding \$60,000 in the aggregate in any Fiscal Year. With respect to any disposition of assets or other properties permitted above, subject to Section 1.2(b), Lender agrees on reasonable prior written notice to release its Lien on such assets or other properties in order to permit the applicable Loan Party to effect such disposition and shall execute and deliver to Borrower, at Borrower's expense, appropriate UCC-3 termination statements and other releases as reasonably requested by Borrower.

6.9 ERISA Compliance. Borrower shall not, nor shall cause or permit any ERISA Affiliate to, cause or permit to occur an event that could result in the imposition of a Lien under Section 412 of the IRC or Section 302 or 4068 of ERISA or cause or permit to occur an ERISA Event to the extent such ERISA Event could reasonably be expected to have a Material Adverse Effect.

6.10 Financial Covenants. Borrower shall not breach or fail to comply with any of the Financial Covenants set forth in Schedule G.

6.11 Environmental Laws. Borrower shall not cause or permit a Release of any Hazardous Material on, at, in, under, above, to, from or about any of the Real Estate where such Release would (a) violate in any respect, or form the basis for any Environmental Liabilities under, any Environmental Laws or Environmental Permits or (b) otherwise adversely impact the value or marketability of any of the Real Estate or any of the Collateral, other than such violations or Environmental Liabilities that could not reasonably be expected to have a Material Adverse Effect.

6.12 Capital Structure and Business. Borrower shall not (a) make any changes in any of its business objectives, purposes or operations that could in any way adversely affect the repayment of the Loans or any of the other Obligations or could reasonably be expected to have or result in a Material Adverse Effect, (b) make any change in its capital structure as described in Disclosure Schedule (3.8), including the issuance or sale of any shares of Stock, warrants or other securities convertible into Stock or any revision of the terms of its outstanding Stock; provided, that (i) Borrower may create Subsidiaries as and when permitted under Section 6.1, or (c) amend its charter or bylaws in a manner that would adversely affect Lender or Borrower's duty or ability to repay the Obligations. Borrower shall not engage in any business other than the businesses currently engaged in by it. Notwithstanding the foregoing, Borrower may redeem ownership interests from a member of Borrower in accordance with the provisions of Section 13 of Borrower's Operating Agreement upon the death of such member of Borrower and provided that such redemption (i) does not include the prepayment of such member's respective Subordinated Debt and (ii) shall not result in an Event of Default.

6.13 Cancellation of Debt. Borrower shall not cancel any claim or debt owing to it, except for reasonable consideration negotiated on an arm's-length basis and in the ordinary course of its business consistent with past practices.

6.14 Restricted Payments. Borrower shall not make any Restricted Payment, except (a) dividends and distributions by Subsidiaries of Borrower paid to Borrower; (b) Tax Distributions; and (c) scheduled payments by Borrower with respect to the Subordinated Note Documents and reimbursements of reasonable expenses of Subordinated Lenders (as defined in the Subordination Agreement) to the extent not prohibited or blocked by the terms of the Subordination Agreement; and; and (d) payments to a member of Borrower or its designee for a redemption of ownership interests by Borrower permitted under Section 6.12.

6.15 Certain Changes. Borrower shall not (a) change its name as it appears in official filings in the state of its incorporation or other organization (b) change its chief executive office,

principal place of business, corporate offices or warehouses or locations at which Collateral is held or stored, or the location of its records concerning the Collateral, (c) change the type of entity that it is, (d) change its organization identification number, if any, issued by its state of incorporation or other organization, or (e) change its state of incorporation or organization, in each case without at least thirty (30) days prior written notice to Lender and after Lender's written acknowledgment that any reasonable action requested by Lender in connection therewith, including to continue the perfection of any Liens in favor of Lender in any Collateral, has been completed or taken, and provided that any such new location shall be in the continental United States. Borrower shall also not change its Fiscal Year.

6.16 No Impairment of Intercompany Transfers. Borrower shall not directly or indirectly enter into or become bound by any agreement, instrument, indenture or other obligation (other than this Agreement and the other Loan Documents) that could directly or indirectly restrict, prohibit or require the consent of any Person with respect to the payment of dividends or distributions or the making or repayment of intercompany loans by a Subsidiary of Borrower to Borrower.

6.17 No Speculative Transactions. Borrower shall not engage in any transaction involving commodity options, futures contracts or similar transactions, except solely to hedge against fluctuations in the prices of commodities owned or purchased by it and the values of foreign currencies receivable or payable by it and interest swaps, caps or collars.

6.18 Leases; Real Estate Purchases. Borrower shall not enter into any operating lease for Equipment or Real Estate, if the aggregate of all such operating lease payments payable in any year for all Loan Parties on a consolidated basis would exceed \$400,000. Borrower shall not purchase a fee simple ownership interest in Real Estate without prior consent of Lender.

6.19 Changes Relating to Subordinated Debt; Material Contracts. Borrower shall not change or amend the terms of any Subordinated Note Documents in a manner not permitted by the Subordination Agreement.

7. TERM

7.1 Termination. The Term Loan shall be in effect until the Term Loan Commitment Termination Date and the Obligations due thereunder shall be automatically due and payable in full on such date.

7.2 Survival of Obligations Upon Termination of Financing Arrangements. Except as otherwise expressly provided for in the Loan Documents, no termination or cancellation (regardless of cause or procedure) of any financing arrangement under this Agreement shall in any way affect or impair the obligations, duties and liabilities of the Loan Parties or the rights of Lender relating to any unpaid portion of the Loans or any other Obligations, due or not due, liquidated, contingent or unliquidated or any transaction or event occurring prior to such termination, or any transaction or event, the performance of which is required after the Term Loan Commitment Date, as applicable. Except as otherwise expressly provided herein or in any other Loan Document, all undertakings, agreements, covenants,

warranties and representations of or binding upon the Loan Parties, and all rights of Lender, all as contained in the Loan Documents, shall not terminate or expire, but rather shall survive any such termination or cancellation and shall continue in full force and effect until the Termination Date; provided, that the provisions of Section 11, the payment obligations under Sections 1.13 and 1.14, and the indemnities contained in the Loan Documents shall survive the Termination Date.

8. EVENTS OF DEFAULT; RIGHTS AND REMEDIES

8.1 Events of Default. The occurrence of any one or more of the following events (regardless of the reason therefor) shall constitute an “Event of Default” hereunder:

(a) Borrower (i) fails to make any payment of principal of, or interest on, or Fees owing in respect of, the Loans or any of the other Obligations when due and payable or within five (5) days thereafter, or (ii) fails to pay or reimburse Lender for any expense reimbursable hereunder or under any other Loan Document within five (5) days following Lender’s demand for such reimbursement or payment of expenses.

(b) Any Loan Party fails or neglects to perform, keep or observe any of the provisions of Sections 1.11, 3 or 6, as applicable, or any of the provisions set forth in Schedules C or G, respectively.

(c) Borrower fails or neglects to perform, keep or observe any of the provisions of Section 4 or any provisions set forth in Schedules E or F, respectively, and the same shall remain unremedied for five (5) days or more.

(d) Any Loan Party fails or neglects to perform, keep or observe any other provision of this Agreement or of any of the other Loan Documents (other than any provision embodied in or covered by any other clause of this Section 8.1) and the same shall remain unremedied for thirty (30) days or more.

(e) A default or breach occurs under any other agreement, document or instrument to which Borrower is a party that is not cured within any applicable grace period therefor, and such default or breach (i) involves the failure to make any payment when due in respect of any Indebtedness (including (x) undrawn committed or available amounts and (y) amounts owing to all creditors under any combined or syndicated credit arrangements), or (ii) causes, or permits any holder of such Indebtedness or Guaranteed Indebtedness or a trustee to cause, Indebtedness or Guaranteed Indebtedness or a portion thereof in the aggregate to become due prior to its stated maturity or prior to its regularly scheduled dates of payment, or cash collateral to be demanded in respect thereof, in each case, regardless of whether such default is waived, or such right is exercised, by such holder or trustee.

(f) Any information contained in any Borrowing Base Certificate is untrue or incorrect in any respect or any representation or warranty herein or in any Loan Document or in any written statement, report, financial statement or certificate made or delivered to Lender by

any Loan Party is untrue or incorrect in any material respect as of the date when made or deemed made.

(g) Assets of Borrower with a fair market value of \$20,000 or more are attached, seized, levied upon or subjected to a writ or distress warrant, or come within the possession of any receiver, trustee, custodian or assignee for the benefit of creditors of any Loan Party and such condition continues for thirty (30) days or more.

(h) A case or proceeding is commenced against any Loan Party seeking a decree or order in respect of such Loan Party (i) under the Bankruptcy Code or any other applicable federal, state or foreign bankruptcy or other similar law, (ii) appointing a custodian, receiver, liquidator, assignee, trustee or sequestrator (or similar official) for such Loan Party or for any substantial part of any such Loan Party's assets, or (iii) ordering the winding-up or liquidation of the affairs of such Loan Party, and such case or proceeding shall remain undismissed or unstayed for sixty (60) days or more or a decree or order granting the relief sought in such case or proceeding by a court of competent jurisdiction.

(i) Any Loan Party (i) files a petition seeking relief under the Bankruptcy Code or any other applicable federal, state or foreign bankruptcy or other similar law, (ii) consents to or fails to contest in a timely and appropriate manner to the institution of proceedings thereunder or to the filing of any such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee or sequestrator (or similar official) for such Loan Party or for any substantial part of any such Loan Party's assets, (iii) makes an assignment for the benefit of creditors, or (iv) takes any action in furtherance of any of the foregoing, or (v) admits in writing its inability to, or is generally unable to, pay its debts as such debts become due.

(j) A final judgment or judgments for the payment of money in excess of \$20,000 in the aggregate at any time are outstanding against one or more of Borrower and the same are not, within thirty (30) days after the entry thereof, discharged or execution thereof stayed or bonded pending appeal, or such judgments are not discharged prior to the expiration of any such stay.

(k) Any material provision of any Loan Document for any reason ceases to be valid, binding and enforceable in accordance with its terms (or any Loan Party shall challenge the enforceability of any Loan Document or shall assert in writing, or engage in any action or inaction based on any such assertion, that any provision of any of the Loan Documents has ceased to be or otherwise is not valid, binding and enforceable in accordance with its terms), or any Lien created under any Loan Document ceases to be a valid and perfected first priority Lien (except as otherwise permitted herein or therein) in any of the Collateral purported to be covered thereby.

(l) Any Change of Control occurs.

(m) Any event occurs, whether or not insured or insurable, as a result of which revenue-producing activities cease or are substantially curtailed at any facility of Borrower generating more than 10% of Borrower's revenues for the Fiscal Year preceding such event and such cessation or curtailment continues for more than fifteen (15) days.

(n) Any default or breach by Borrower occurs and is continuing under any of the following agreements or any of the following agreements shall be terminated for any reason without the prior written consent of Lender: (i) any Subordinated Note Document and (ii) the Acquisition Agreement.

(o) Any event shall occur that gives any holder of Subordinated Debt a mandatory right of redemption or other right to prepayment with respect thereto or a right to exercise any put, redemption or similar right or option with respect to any equity interests of Borrower prior to repayment and satisfaction in full of the Term Loan, except as otherwise permitted by Sections 6.12 and 6.14.

(p) Borrower's insurer shall suspend property or casualty insurance coverage with respect to any material aspect of any of Borrower's operating facilities pursuant to the suspension clause under any applicable policy of issuance.

8.2 Remedies.

(a) If any Event of Default has occurred and is continuing, Lender may without notice except as otherwise expressly provided herein, increase the rate of interest applicable to the Term Loan to the Default Rate.

(b) If any Event of Default has occurred and is continuing, Lender may, without notice: (i) declare all or any portion of the Obligations, including all or any portion of the Term Loan to be forthwith due and payable, all without presentment, demand, protest or further notice of any kind, all of which are expressly waived by Borrower and each other Loan Party; or (ii) exercise any rights and remedies provided to Lender under the Loan Documents or at law or equity, including all remedies provided under the Code; provided, that upon the occurrence of an Event of Default specified in Sections 8.1(h) or (i), all of the Obligations, shall become immediately due and payable without declaration, notice or demand by any Person.

8.3 Waivers by Loan Parties. Except as otherwise provided for in this Agreement or by applicable law, each Loan Party waives: (a) presentment, demand and protest and notice of presentment, dishonor, notice of intent to accelerate, notice of acceleration, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any or all commercial paper, accounts, contract rights, documents, instruments, chattel paper and guaranties at any time held by Lender on which any Loan Party may in any way be liable, and hereby ratifies and confirms whatever Lender may do in this regard, (b) all rights to notice and a hearing prior to Lender's taking possession or control of, or to Lender's replevy, attachment or levy upon, the Collateral or any bond or security that might be required by any court prior to allowing Lender to exercise any of its remedies, and (c) the benefit of all valuation, appraisal, marshaling and exemption laws.

9. [INTENTIONALLY OMITTED]

10. SUCCESSORS AND ASSIGNS

10.1 Successors and Assigns. This Agreement and the other Loan Documents shall be binding on and shall inure to the benefit of each Loan Party, Lender, and their respective successors and assigns (including, in the case of any Loan Party, a debtor-in-possession on behalf of such Loan Party), except as otherwise provided herein or therein. No Loan Party may assign, transfer, hypothecate or otherwise convey its rights, benefits, obligations or duties hereunder or under any of the other Loan Documents without the prior express written consent of Lender. Any such purported assignment, transfer, hypothecation or other conveyance by any Loan Party without the prior express written consent of Lender shall be void. The terms and provisions of this Agreement are for the purpose of defining the relative rights and obligations of each Loan Party and Lender with respect to the transactions contemplated hereby and no Person shall be a third party beneficiary of any of the terms and provisions of this Agreement or any of the other Loan Documents.

11. MISCELLANEOUS

11.1 Complete Agreement; Modification of Agreement. The Loan Documents constitute the complete agreement between the parties with respect to the subject matter thereof and may not be modified, altered or amended except as set forth in Section 11.2. Any letter of interest, proposal letter or commitment letter between any Loan Party and Lender or any of their respective Affiliates, predating this Agreement and relating to a financing of substantially similar form, purpose or effect shall be superseded by this Agreement.

11.2 Amendments and Waivers.

(a) Except for actions expressly permitted to be taken by Lender, no amendment, modification, termination or waiver of any provision of this Agreement or any other Loan Document, or any consent to any departure by any Loan Party therefrom, shall in any event be effective unless the same shall be in writing and signed by Lender and Borrower.

(b) Each amendment, modification, termination or waiver shall be effective only in the specific instance and for the specific purpose for which it was given. No amendment, modification, termination or waiver shall be required for Lender to take additional Collateral pursuant to any Loan Document. No notice to or demand on any Loan Party in any case shall entitle such Loan Party or any other Loan 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 11.2 shall be binding upon the holder of the Notes at the time outstanding and each future holder of the Notes.

(c) Upon payment in full in cash and performance of all of the Obligations (other than indemnification Obligations), termination of the Commitments and a release of all claims against Lender, and so long as no suits, actions proceedings, or claims are pending or threatened against any Indemnified Person asserting any damages, losses or liabilities that are Indemnified Liabilities, Lender shall deliver to Borrower termination statements, mortgage releases and other documents necessary or appropriate to evidence the termination of the Liens securing payment of the Obligations.

11.3 Fees, Costs and Expenses. Borrower shall reimburse Lender for all fees, costs and expenses, including the reasonable fees and expenses of all of its counsel, advisors, consultants, auditors or other advisors (including environmental and management consultants and appraisers) incurred in connection with the negotiation and preparation and filing and/or recordation of the Loan Documents and incurred in connection with:

(a) the forwarding to Borrower or any other Person on behalf of Borrower by Lender of the proceeds of any Loan (including all wire transfer fees);

(b) any amendment, modification or waiver of, or consent with respect to, or termination of, any of the Loan Documents or Related Transactions Documents or advice in connection with the syndication and administration of the Loans made pursuant hereto or its rights hereunder or thereunder;

(c) any litigation, contest, dispute, suit, proceeding or action (whether instituted by Lender, Borrower or any other Person and whether as a party, witness or otherwise) in any way relating to the Collateral, any of the Loan Documents or any other agreement to be executed or delivered in connection herewith or therewith, including any litigation, contest, dispute, suit, case, proceeding or action, and any appeal or review thereof, in connection with a case commenced by or against Borrower or any other Person that may be obligated to Lender by virtue of the Loan Documents, including any such litigation, contest, dispute, suit, proceeding or action arising in connection with any work-out or restructuring of the Loans during the pendency of one or more Events of Default; provided, that no Person shall be entitled to reimbursement under this clause (c) in respect of any litigation, contest, dispute, suit, proceeding or action to the extent any of the foregoing results from such Person's gross negligence or willful misconduct;

(d) any attempt to enforce any remedies of Lender against any or all of the Loan Parties or any other Person that may be obligated to Lender by virtue of any of the Loan Documents, including any such attempt to enforce any such remedies in the course of any work-out or restructuring of the Loans during the pendency of one or more Events of Default;

(e) any workout or restructuring of the Loans during the pendency of one or more Events of Default; and

(f) efforts to (i) monitor the Loans or any of the other Obligations, (ii) evaluate, observe or assess any of the Loan Parties or their respective affairs, and (iii) verify, protect, evaluate, assess, appraise, collect, sell, liquidate or otherwise dispose of any of the Collateral;

including, as to each of clauses (a) through (f) above, all reasonable attorneys' and other professional and service providers' fees arising from such services and other advice, assistance or other representation, including those in connection with any appellate proceedings, and all expenses, costs, charges and other fees incurred by such counsel and others in connection with or relating to any of the events or actions described in this Section 11.3, all of which shall be payable, on demand, by Borrower to Lender. Without limiting the generality of the foregoing, such expenses, costs, charges and fees may include: fees, costs and expenses of accountants, environmental advisors, appraisers, investment bankers, management and other consultants and

paralegals; court costs and expenses; photocopying and duplication expenses; court reporter fees, costs and expenses; long distance telephone charges; air express charges; telegram or telecopy charges; secretarial overtime charges; and expenses for travel, lodging and food paid or incurred in connection with the performance of such legal or other advisory services.

11.4 Conflict of Terms. Except as otherwise provided in this Agreement or any of the other Loan Documents by specific reference to the applicable provisions of this Agreement, if any provision contained in this Agreement conflicts with any provision in any of the other Loan Documents, the provision contained in this Agreement shall govern and control.

11.5 Severability. Wherever possible, each provision of this Agreement and the other Loan Documents shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement or any other Loan Document shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement or such other Loan Document.

11.6 No Waiver. Lender's failure, at any time or times, to require strict performance by the Loan Parties of any provision of this Agreement or any other Loan Document shall not waive, affect or diminish any right of Lender thereafter to demand strict compliance and performance herewith or therewith. Any suspension or waiver of an Event of Default shall not suspend, waive or affect any other Event of Default whether the same is prior or subsequent thereto and whether the same or of a different type. Subject to the provisions of Section 11.2, none of the undertakings, agreements, warranties, covenants and representations of any Loan Party contained in this Agreement or any of the other Loan Documents and no Default or Event of Default by any Loan Party shall be deemed to have been suspended or waived by Lender, unless such waiver or suspension is by an instrument in writing signed by an officer of or other authorized employee of Lender and directed to Borrower specifying such suspension or waiver.

11.7 Remedies. Lender's rights and remedies under this Agreement shall be cumulative and nonexclusive of any other rights and remedies that Lender may have under any other agreement, including the other Loan Documents, by operation of law or otherwise. Recourse to the Collateral shall not be required.

11.8 Confidentiality. Lender agrees to use commercially reasonable efforts (equivalent to the efforts Lender applies to maintain the confidentiality of its own confidential information) to maintain as confidential all confidential information provided to them by the Loan Parties and designated as confidential for a period from receipt thereof until two (2) years following the Termination Date, except that Lender may disclose such information (a) to Persons employed or engaged by Lender in evaluating, approving, structuring or administering the Loans and the Commitments; (b) to any bona fide assignee or participant or potential assignee or participant that has agreed to comply with the covenant contained in this Section 11.8 (and any such bona fide assignee or participant or potential assignee or participant may disclose such information to Persons employed or engaged by them as described in clause (a) above); (c) as required or requested by any Governmental Authority or reasonably believed by Lender to be compelled by any court decree, subpoena or legal or administrative order or process; (d) as, on

the advise of Lender's counsel, is required by law; (e) in connection with the exercise of any right or remedy under the Loan Documents or in connection with any Litigation to which Lender is a party; or (f) that ceases to be confidential through no fault of Lender.

11.9 Counterparts. This Agreement may be executed in any number of separate counterparts, each of which shall collectively and separately constitute one agreement.

11.10 Notices. Except as otherwise provided herein, whenever it is provided herein that any notice, demand, request, consent, approval, declaration or other communication shall or may be given to or served upon any of the parties by any other parties, or whenever any of the parties desires to give or serve upon any other parties any communication with respect to this Agreement, each such notice, demand, request, consent, approval, declaration or other communication shall be in writing and shall be deemed to have been validly served, given or delivered (a) upon the earlier of actual receipt and three (3) Business Days after deposit in the United States Mail, registered or certified mail, return receipt requested, with proper postage prepaid, (b) upon transmission, when sent by telecopy or other similar facsimile transmission (with such telecopy or facsimile promptly confirmed by delivery of a copy by personal delivery or United States Mail as otherwise provided in this Section 11.10); (c) one (1) Business Day after deposit with a reputable overnight courier with all charges prepaid or (d) when delivered, if hand-delivered by messenger, all of which shall be addressed to the party to be notified and sent to the address or facsimile number indicated in Schedule I or to such other address (or facsimile number) as may be substituted by notice given as herein provided. The giving of any notice required hereunder may be waived in writing by the party entitled to receive such notice. Failure or delay in delivering copies of any notice, demand, request, consent, approval, declaration or other communication to any Person (other than Borrower or Lender) designated in Schedule I to receive copies shall in no way adversely affect the effectiveness of such notice, demand, request, consent, approval, declaration or other communication.

11.11 Section Titles. The Section titles and Table of Contents contained in this Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the parties hereto.

11.12 GOVERNING LAW. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN ANY OF THE LOAN DOCUMENTS, IN ALL RESPECTS, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THE LOAN DOCUMENTS AND THE OBLIGATIONS SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF OHIO APPLICABLE TO CONTRACTS MADE AND PERFORMED IN THAT STATE AND ANY APPLICABLE LAWS OF THE UNITED STATES OF AMERICA. EACH LOAN PARTY HEREBY CONSENTS AND AGREES THAT THE STATE OR FEDERAL COURTS LOCATED IN CUYAHOGA COUNTY, CITY OF CLEVELAND, OHIO SHALL HAVE EXCLUSIVE JURISDICTION TO HEAR AND DETERMINE ANY CLAIMS OR DISPUTES BETWEEN THE LOAN PARTIES AND LENDER PERTAINING TO THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS OR TO ANY MATTER ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS;

PROVIDED, THAT LENDER AND THE LOAN PARTIES ACKNOWLEDGE THAT ANY APPEALS FROM THOSE COURTS MAY HAVE TO BE HEARD BY A COURT LOCATED OUTSIDE OF CUYAHOGA COUNTY AND; PROVIDED, FURTHER THAT NOTHING IN THIS AGREEMENT SHALL BE DEEMED OR OPERATE TO PRECLUDE LENDER FROM BRINGING SUIT OR TAKING OTHER LEGAL ACTION IN ANY OTHER JURISDICTION TO REALIZE ON THE COLLATERAL OR ANY OTHER SECURITY FOR THE OBLIGATIONS, OR TO ENFORCE A JUDGMENT OR OTHER COURT ORDER IN FAVOR OF LENDER. EACH LOAN PARTY EXPRESSLY SUBMITS AND CONSENTS IN ADVANCE TO SUCH JURISDICTION IN ANY ACTION OR SUIT COMMENCED IN ANY SUCH COURT, AND EACH LOAN PARTY HEREBY WAIVES ANY OBJECTION THAT SUCH LOAN PARTY MAY HAVE BASED UPON LACK OF PERSONAL JURISDICTION, IMPROPER VENUE OR FORUM NON CONVENIENS AND HEREBY CONSENTS TO THE GRANTING OF SUCH LEGAL OR EQUITABLE RELIEF AS IS DEEMED APPROPRIATE BY SUCH COURT. EACH LOAN PARTY HEREBY WAIVES PERSONAL SERVICE OF THE SUMMONS, COMPLAINT AND OTHER PROCESS ISSUED IN ANY SUCH ACTION OR SUIT AND AGREES THAT SERVICE OF SUCH SUMMONS, COMPLAINTS AND OTHER PROCESS MAY BE MADE BY REGISTERED OR CERTIFIED MAIL ADDRESSED TO SUCH LOAN PARTY AT THE ADDRESS SET FORTH IN SCHEDULE I OF THIS AGREEMENT AND THAT SERVICE SO MADE SHALL BE DEEMED COMPLETED UPON THE EARLIER OF SUCH LOAN PARTY'S ACTUAL RECEIPT THEREOF OR THREE (3) DAYS AFTER DEPOSIT IN THE UNITED STATES MAELS, PROPER POSTAGE PREPAID.

11.13 WAIVER OF JURY TRIAL. BECAUSE DISPUTES ARISING IN CONNECTION WITH COMPLEX FINANCIAL TRANSACTIONS ARE MOST QUICKLY AND ECONOMICALLY RESOLVED BY AN EXPERIENCED AND EXPERT PERSON AND THE PARTIES WISH APPLICABLE STATE AND FEDERAL LAWS TO APPLY (RATHER THAN ARBITRATION RULES), THE PARTIES DESIRE THAT THEIR DISPUTES BE RESOLVED BY A JUDGE APPLYING SUCH APPLICABLE LAWS. THEREFORE, TO ACHIEVE THE BEST COMBINATION OF THE BENEFITS OF THE JUDICIAL SYSTEM AND OF ARBITRATION, THE PARTIES HERETO WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING BROUGHT TO RESOLVE ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, AMONG LENDER AND ANY LOAN PARTY ARISING OUT OF, CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE RELATIONSHIP ESTABLISHED AMONG THEM IN CONNECTION WITH, THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS RELATED THERETO.

11.14 Reinstatement. This Agreement shall remain in full force and effect and continue to be effective should any petition be filed by or against Borrower for liquidation or reorganization, should Borrower become insolvent or make an assignment for the benefit of any creditor or creditors or should a receiver or trustee be appointed for all or any significant part of Borrower's assets, and shall continue to be effective or to be reinstated, as the case may be, if at

any time payment and performance of the Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Obligations, whether as a “voidable preference,” “fraudulent conveyance,” or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

11.15 Advice of Counsel. Each of the parties represents to each other party hereto that it has discussed this Agreement and, specifically, the provisions of Sections 11.2 and 11.13, with its counsel.

11.16 No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

11.17 Counterparts. This Agreement may be executed in any number of counterparts, and by the parties hereto on the same or separate counterparts, and each such counterpart, when executed and delivered, shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Loan Agreement has been duly executed as of the date first written above.

BORROWER

BIG CO PROPERTIES, LLC, an Ohio limited liability company

By: _____

Name: _____

Title: _____

LENDER

TIGHT FISTED US NATIONAL BANK

By: _____

Name: _____

Title: _____

Each of the following Persons is a signatory to this Loan Agreement in its capacity as Loan Party and not as a Borrower.

LOAN PARTIES

_____, individually

EXHIBIT 1.1 (i)

Form of Improvements Note

[Attached]

EXHIBIT 1.1 (ii)

Form of Acquisition Note

[Attached]

EXHIBIT 4.1(b)

Form of Borrowing Base Certificate

[Attached]

EXHIBIT 5.9(b)(i)

Form of Landlord's Waiver

[Attached]

EXHIBIT 5.9(b)(i)

Form of Landlord's Consent to Leasehold Mortgage

[Attached]