**IN THE UNITED STATES BANKRUPTCY COURT**
**FOR THE DISTRICT OF DELAWARE**

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| In re: | Chapter 11 |
| AZZUR GROUP HOLDINGS LLC, *et al.*,[1] | Case No. 25-10342 (KBO) |
| Debtors. | (Joint Administration Requested) |

**MOTION OF DEBTORS AND DEBTORS IN POSSESSION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING DEBTORS TO (A) OBTAIN POSTPETITION FINANCING, (B) GRANT LIENS AND SUPERPRIORITY CLAIMS, AND (C) GRANT ADEQUATE PROTECTION, (II) MODIFYING THE AUTOMATIC STAY, (III) SCHEDULING A FINAL HEARING AND (IV) RELATED RELIEF**

Azzur Group Holdings LLC and its affiliated debtors (collectively, the "Debtors"), by and through their proposed counsel, DLA Piper LLP (US), (the "Motion") seek entry of an interim order and a final order following a final hearing, authorizing the Debtors to obtain postpetition secured financing, approving the DIP Credit Agreement (defined below), granting perfected liens to secure the DIP Obligations, granting adequate protection, granting related relief including if consent is later granted authorizing the use of cash collateral, and scheduling a final hearing on the Motion. In support of the Motion the Debtors rely upon and fully incorporate by reference the *Declaration of M. Benjamin Jones, Chief Restructuring Officer of the Debtors, in Support of the Debtors' Chapter 11 Petitions and First Day Pleadings* (the "First Day Declaration"), filed contemporaneously with this Motion,[2] and respectfully state as follows:

[1] A list of the Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, may be obtained on the website of the Debtors' proposed claims and noticing agent at https://cases.stretto.com/Azzur. The Debtors' headquarters and the mailing address for the Debtors is 330 South Warminster Road, Suite 341, Hatboro, PA 19040.

[2] Capitalized terms used but not otherwise defined in this Motion shall have the meanings ascribed to such terms in the Interim Order and the DIP Credit Agreement, as applicable.

## PRELIMINARY STATEMENT

1. By this Motion, the Debtors seek authorization to obtain postpetition secured financing under sections 364(c) and (d) (the "DIP Financing") and approval of their entry into a superpriority senior secured debtor in possession credit facility consisting of new money term loans up to the original principal amount of $8.5 million and new money revolving loans of up to $15 million in revolving commitments (the "DIP Credit Facility"), provided by the Debtors' Pre-Petition Lender (solely in such capacity under the DIP Credit Facility, the "DIP Lender"), with authority under the Interim Order to draw up to the principal amount of $4.25 million under the proposed DIP Financing.

2. As described in this Motion, the Debtors are presently obligated to the Pre-Petition Lender in the aggregate amount of approximately $62.2 million (plus accrued and unpaid interest, costs and fees).

3. The Debtors require access to the DIP Financing to fund these chapter 11 cases and effectuate one or more going-concern transactions that maximize recoveries for all stakeholders. Postpetition financing under the DIP Credit Facility is necessary for the Debtors to have access to sufficient liquidity to maintain ongoing day-to-day operations, ensure proper servicing of customers, fund working capital needs and expenses incurred administering their estates and send a positive message to the market regarding the Debtors' ample liquidity. Nonconsensual use of cash collateral would be inadequate to fund the Debtors' postpetition needs, therefore, absent postpetition financing, the Debtors would be forced to wind down their operations due to a lack of sufficient funds. Thus, entry of the Interim Order is imperative to prevented immediate and irreparable harm to the estates.

4. The Debtors have arranged with the DIP Lender debtor in possession financing in connection with the commencement of these chapter 11 cases. To effectuate the transactions

contemplated by the DIP case milestones, and to limit the risk of an enterprise-wide operational disruption, the Debtors require immediate access to capital to avoid immediate and irreparable harm to their estates. Part and parcel of the DIP financing is the DIP Lender's commitment to provide postpetition financing to allow the Debtors to conduct an in-court marketing process for all or some of the Debtors' assets as a going concern. To that end, the Debtors, with the assistance of their advisors, initiated a prepetition marketing process for a going concern sale transaction involving one more of the Debtors' business units.

5. The DIP Credit Facility provides the Debtors with necessary liquidity on terms that are reasonable under the circumstances, and the relief sought in this motion is critical for the Debtors to continue operating their businesses in the ordinary course, administer these chapter 11 cases, and effectuate value-maximizing going-concern sale transactions for the benefit of all stakeholders. As of the Petition Date, the Debtors have approximately $3.2 million in cash on hand, all of which is Cash Collateral (as defined in the Bankruptcy Code) of the Pre-Petition Lender (and which is to be turned over to the Pre-Petition Lender to pay down the Debtors' Pre-Petition Obligations). Therefore, with no access to Cash Collateral, the Debtors require immediate access to the DIP Financing to ensure that they have sufficient liquidity to operate while in chapter 11.

6. The Pre-Petition Lender would not consent to another lender providing funding and "priming" their Pre-Petition liens; accordingly, the Debtors do not believe that any other party would have provided additional funding on a junior basis. The Pre-Petition Lender has agreed to provide the DIP Credit Facility, on an arms'-length, good faith basis and on market terms, to allow the Debtors to continue post-petition running a sale process that will maximize the value of their

estates for the benefit of all stakeholders. For those reasons and the reasons set forth herein, the Debtors respectfully request that the Court grant the relief requested herein.

## JURISDICTION AND VENUE

7. The United States Bankruptcy Court for the District of Delaware (the "Court") has jurisdiction over these chapter 11 cases, the Debtors, property of the Debtors' estates and this matter under 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012. This is a core proceeding within the meaning of 28 U.S.C. § 157(b).

8. Pursuant to rule 9013-1(f) of the Local Rules for the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), the Debtors consent to the entry of a final judgment or order on this Motion if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

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

10. The statutory bases for the relief requested in this Motion are sections 105(a), 361, 362, 363, 364, 503, 506, 507 and 552 of 11 U.S.C. § 101 *et seq.* (the "Bankruptcy Code"), rules 2002, 4001, 6004, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Local Rule 4001-2.

## BACKGROUND

11. On the date hereof (the "Petition Date"), each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession, pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

12. Concurrent with the filing of this Motion, the Debtors filed a Motion requesting procedural consolidation and joint administration of these chapter 11 cases, in accordance with Bankruptcy Rule 1015(b).

13. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases, and no official committee has been appointed or designated.

14. Additional factual background regarding the Debtors, including their business operations, capital and debt structures and the events leading to the filing of these chapter 11 cases, is set forth in detail in the First Day Declaration, which is fully incorporated herein by reference.

## RELIEF REQUESTED

15. By this Motion, the Debtors request (i) entry of an interim order, substantially in the form annexed hereto as **Exhibit A** (the "Interim Order") and, (ii) following the Final Hearing (as defined herein), entry of a final order granting the relief requested herein (the "Final Order" and, together with the Interim DIP Order, the "DIP Orders") and the relief as provided therein, including:

a. authority to enter into the (a) the *Ratification and Amendment*, dated of even date herewith, by and among Debtors and DIP Lender (the "DIP Credit Agreement") substantially in the form annexed to the Interim Order as Exhibit A, and (b) the Loan Documents (as defined in the DIP Credit Agreement and, together with the DIP Credit Agreement, referred to herein as the "DIP Loan Documents"), which provide for a senior secured DIP Credit Facility consisting of (1) a new money, multi-draw term loan facility consisting of up to $8.5 million, of which $4.25 million shall be made available upon entry of the Interim Order; and (2) new money revolving loans of up to $15 million in revolving commitments on a final basis, of which $7.5 million shall be made available upon entry of the Interim Order (the "DIP Loans"); and (3) upon entry of the Interim Order, authority to repay the Pre-Petition Obligations (as defined herein) effecting a "creeping roll up" of the Pre-Petition Obligations on a dollar-for-dollar basis, and on the terms and condition set forth in the DIP Orders and the DIP Credit Agreement;

b. granting superpriority administrative claim status, pursuant to section 364(c)(1) of the Bankruptcy Code, to the DIP Lender in respect of all Obligations (subject and subordinate to the Carve-Out, including the roll up and conversion of all

Pre-Petition Obligations, other than the Remaining Pre-Petition Obligation, into DIP Obligations;

c. modification of the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the term sand provisions of the DIP Loan Documents and the DIP Orders,

d. waiver any applicable stay, including (to the extent applicable) under Bankruptcy Rule 6004, to provide for immediate effectiveness of the Interim Order;

e. scheduling a date for a hearing on this Motion to consider entry of the Final Order (the "Final Hearing"); and

f. granting related relief including authority to use Cash Collateral (if consented to by the Pre-Petition Lender at a later date) within the meaning of sections 363(a) and 363(c) of the Bankruptcy Code.

## PREPETITION CAPITAL STRUCTUREAND NEED FOR DIP FINANCING

### A. Overview

16. The Debtors comprise thirty-three (33) entities (collectively, the "Borrowers"). Non-Debtor affiliates include three (3) dormant entities.

17. As of the Petition Date, the Debtors funded debt obligations are summarized below.

| Debt Instrument | Lender(s) | Non-Default Rate | Collateral | Approximate Aggregate Principal Outstanding (exclusive of accrued and unpaid interest) |
|---|---|---|---|---|
| **Pre-Petition Credit Facility** | Manufacturers and Traders Trust Company | Line Variable Loan Rate + 7.0% | Substantially all assets – Pre-Petition Collateral | $62.2 million |

18. As discussed in the First Day Declaration, each of the Debtors has outstanding first lien secured debt obligations under that certain *Loan and Security Agreement* (the "Pre-Petition Credit Facility"), by and among Azzur Group, LLC, as lead borrower,[3] and Manufacturers and Traders Trust Company (the "Pre-Petition Lender" or "DIP Lender," as applicable), dated as of

[3] Each of the Debtors in these chapter 11 cases are Borrowers under the DIP Credit Agreement.

April 7, 2020 (as may be amended, modified, supplemented, extended renewed, restated, or replaced, the "Pre-Petition Credit Agreement"), a copy of which is attached hereto as **Exhibit A**. As of the Petition Date, the aggregate principal amount plus accrued and unpaid interest, costs and fees outstanding under the Pre-Petition Credit Agreement is approximately $62.2 million.

19. As further described in the First Day Declaration, as of the Petition Date, approximately $5.2 million is owed in the aggregate on account of three unsecured promissory notes.

20. In addition, as of the Petition Date, the Debtors estimate that they have approximately $23.5 million in general unsecured obligations on account of trade vendor and leasehold obligations.

## PROPOSED POSTPETITION FINANCING[4]

### A. The Debtors' Prepetition Restructuring Efforts

21. As further described in the First Day Declaration, ACA and BGL were originally engaged in January 2024 in connection with a targeted, prepetition marketing process in support of the Initial Capital Investment and the Recapitalization required under the Debtors' prepetition Forbearance Agreement. The Debtors' dual-tracked marketing efforts included targeted outreach by both ACA and BGL to potential junior capital providers, and structured equity partners, respectively. During this process, ACA contacted 121 potential investors and BGL contacted 63 potential structured equity investors. Despite these marketing efforts, the Debtors failed to consummate either an Initial Capital Investment or Recapitalization transaction by their respective milestone deadlines. Given the results of the first effort, the Debtors, with BGL's assistance,

[4] Capitalized terms used in this "Proposed Postpetition Financing" section but not otherwise defined shall have the meaning ascribed to such terms in the First Day Declaration.

relaunched the marketing and sale process on an accelerated timeline in the third quarter of 2024 to facilitate a sale transaction of the business as a whole or for one or any combination of their business units.

22. The relaunched process resulted in the sale of the Debtors' labs business unit (the "Azzur Labs Sale"). On January 3, 2025, the Azzur Labs Sale closed in consideration of receipt of gross proceeds of $16,000,000. All of the proceeds of the Azzur Labs Sale constituted proceeds of collateral of the Pre-Petition Lender. Upon the closing of the Azzur Labs Sale, (i) $12,000,000 was used to pay down a portion of the Term Loan Facility, (ii) $2,000,000 was used to pay down a portion of the ABL Facility, and (iii) $2,000,000 was applied to the outstanding amount of the Line Advances (all as provided for more fully in the Fourth Amendment). In connection with the Azzur Labs Sale, the Debtors entered into a transaction services agreement with purchaser for 30 days, which the purchaser has opted to extend.

23. Concurrent with the prepetition Azzur Labs Sale process, the Debtors received expressions of interest for the purchase of the Azzur Consulting business unit. The prepetition marketing process culminated in the execution of the Stalking Horse APA on March 2, 2025. As more fully described in the Stalking Horse APA, subject to higher or otherwise better bids, the Stalking Horse Bidder will purchase the Azzur Consulting business unit assets for a purchase price of $56 million including the assumption of certain Assumed Liabilities (as defined in the Stalking Horse APA). Importantly, the Stalking Horse APA also contemplates that a significant number of the Debtors' Azzur Consulting employees will transition to the Stalking Horse Bidder following consummation of the sale.

**B. The Debtors Immediate Need for Access to the DIP Financing**

24. The Debtors require immediate access to the DIP Financing to maximize the value of their estates, ensure sufficient working capital to operate their businesses and to administer their estates, conduct an in-court marketing process for all or some of the Debtors' assets, as a going concern, and timely pay administrative expenses incurred during these chapter 11 cases.

25. In consultation with their advisors, the Debtors reviewed and analyzed their projected cash flows to determine the requisite amount of debtor in possession financing needed to provide ongoing working capital. Based on management's cash-flow forecast, the Debtors compiled the Initial DIP Budget. Based on the forecasted funding requirements reflected in the Initial DIP Budget, the liquidity provided under the proposed DIP Financing will enable the Debtors to preserve their value as a going concern, provide the Debtors with sufficient liquidity to meet their ongoing day-to-day obligations, fund the operational and administrative costs of these chapter 11 cases, and satisfy working capital requirements and other operational expenses, all of which will preserve the value of the Debtors' estates for the benefit of their stakeholders.

**C. The Material Terms of the Proposed DIP Credit Facility & Roll-Up**

26. The DIP Credit Facility contemplates a postpetition senior secured superpriority debtor in possession multi-draw revolving credit facility, in an aggregate principal amount of up to $8.5 million of new money, and other revolving Advances (including with respect to Letters of Credit of approximately $1.3 million), up to a total principal amount of $23.5 million. The Debtors, their legal and financial advisors, and the DIP Lender engaged in arms'-length, good faith negotiations regarding the terms offered by the DIP Lender. Over the course of multiple weeks, the Debtors and the DIP Lender, with the assistance of their respective legal and financial advisors, worked to negotiate the most favorable terms of the DIP Financing. Given the nature of the

Debtors' business and existing secured debt, the Debtors were unable to obtain any other source of financing and such efforts would have been futile in light of the Debtors' existing capital structure.

27. The terms and conditions of the DIP Financing, including the interim partial, and final roll-up of all of the Pre-Petition Obligations, other than a portion of the Pre-Petition Obligations in the amount of $1 million (such portion, the "Remaining Pre-Petition Obligation") are fair and reasonable under the circumstances, especially in light of the Debtors' need for postpetition financing and their capital structure, among other factors. The terms and covenants contained in the DIP Loan Documents are the result of negotiation and are an integral component of the overall terms of the DIP Financing, which in turn is integral to the broader success of the chapter 11 cases and the contemplated sale process.

28. Additionally, the DIP Credit Agreement contemplates certain milestones (the "DIP Milestones") that the Debtors must meet throughout these chapter 11 cases, the failure of which would constitute an Event of Default under the DIP Loan Documents. These DIP Milestones were heavily negotiated and required by the DIP Lender as a condition to providing DIP Financing.

29. Moreover, as a condition to the extension of credit under the DIP Loan Documents, the DIP Lender and the Debtors have agreed that proceeds of any advance made under the DIP Loan Documents shall be used exclusively in a manner consistent with the Approved Budget (subject to Permitted Variances). No portion of the proceeds of any advance under the DIP Loan Documents or any Cash Collateral shall be used, directly or indirectly, to make any payment or prepayment that is prohibited under the DIP Loan Documents. The Debtors' initial budget (the "Initial Budget" and, any budget approved by the DIP Lender thereafter, a "Budget") reflecting the anticipated cash receipts and anticipated disbursements for each week during the

period from the Petition Date through and including the end of the thirteenth week following the Petition Date, is annexed to the Interim Order as Exhibit B.

30. The Debtors submit the DIP Credit Facility and Initial Budget, taken as a whole, are reasonable under the facts and circumstances, were negotiated at arms'-length and in good faith and is the Debtors' best—and in fact only—currently available option.

31. The DIP Financing will provide the Debtors with a smooth landing into these chapter 11 cases and a viable path forward that will maximize the value of the Debtors' estates for the benefit of all stakeholders. For these reasons, and for the reasons further set forth herein, the Debtors respectfully request that the Court approve the relief requested herein.

## SUMMARY OF TERMS OF DIP FINANCING[5]

32. In accordance with Bankruptcy Rules 4001(b)–(d) and Local Rule 40012(a), the below chart summarizes the significant terms of the proposed Interim Order and the DIP Loan Documents.

| SUMMARY OF MATERIAL TERMS OF DIP CREDIT FACILITY | |
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| **Borrower**<br>Bankruptcy Rule 4001(c)(1)(B) | Azzur Group Holdings LLC ("Azzur") and its borrower affiliates identified at the preamble of the DIP Credit Agreement (collectively, the "Borrowers" or the "Debtors").<br><br>*See* DIP Credit Agreement, Preamble. |
| **Guarantors**<br>Bankruptcy Rule 4001(c)(1)(B) | N/A |
| **DIP Lender**<br>Bankruptcy Rule 4001(c)(1)(B) | The DIP Lender identified at the preamble of the DIP Credit Agreement.<br><br>*See* DIP Credit Agreement, Preamble. |
| **DIP Agent**<br>Bankruptcy Rule 4001(c)(1)(B) | N/A |
| **DIP Credit Facility**<br>Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(i)(E) | A postpetition senior secured superpriority debtor in possession multi-draw revolving credit facility, in an aggregate principal amount of commitments of up to $23.5 million. |

[5] This summary is qualified in its entirety by reference to the applicable provisions of the DIP Loan Documents. To the extent there exists any inconsistency between this summary and the provisions of the DIP Loan Documents or the DIP Orders, the provisions of the DIP Loan Documents or the DIP Orders, as applicable, shall control. Any capitalized terms used but not otherwise defined in these summaries shall have the respective meanings ascribed to such terms in the DIP Loan Documents and/or the Interim Order, as applicable. The Debtors reserve the right to supplement the statements made pursuant to Bankruptcy Rule 4001 and Local Rule 4001–2 herein.

| SUMMARY OF MATERIAL TERMS OF DIP CREDIT FACILITY | |
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| | *See* DIP Credit Agreement, § 7.1 |
| **Borrowing Limits**<br>Bankruptcy Rule 4001(c)(1)(B) | The DIP Credit Facility is a secured, superpriority debtor in possession, new money multiple draw facility, consisting of new money term loans up to the original principal amount $8.5 million (including up to the principal amount of $4.25 million upon entry of the interim order) and new money revolving loans of up to $15 million in revolving commitments (including up to the principal amount of $7.5 million upon entry of the interim order), representing total commitments of $23.5 million (plus applicable interest, premiums, fees and expenses).<br><br>*See* Interim Order § 1.2; DIP Credit Agreement 1.1(k) |
| **Budget**<br>Bankruptcy Rule 4001(c)(1)(B) | The Initial Budget is attached to the Interim Order as Exhibit B.<br><br>*See* Interim Order, Exhibit B. |
| **Interest Rate**<br>Bankruptcy Rule 4001(c)(1)(B) | Interest shall accrue on the outstanding principal amount of the Supplemental DIP Line Advances, the Line Advances, and the Loan Limit Line Variable Loan Rate at a per annum rate equal to the Base Rate plus 7%; as further set forth in the Line Note.<br><br>*See* DIP Credit Agreement, §§ 7.3. |
| **Expenses and Fees**<br>Bankruptcy Rule 4001(c)(1)(B) | Borrowers shall pay to Bank a debtor in possession financing facility fee, in the amount of $255,000, on account of the financing provided by Bank to Borrowers in the chapter 11 cases, which fee shall be fully earned and due and payable on the Ratification Effective Date and which may be charged directly to the loan account of Borrowers maintained by Bank or paid by the Borrowers concurrently with the initial Loans, as provided under Section 9 of the Ratification Agreement.<br><br>*See* DIP Credit Agreement, § 6. |
| **Maturity Date**<br>Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(ii) | The earliest to occur of (a) the date that is 90 days after the commencement of the chapter 11 cases, (b) 35 days after entry of the Interim Order if the Final Order has not been entered prior to the expiration of such 35-day period, (c) the date of the substantial consummation (as defined in Section 1101 of the Bankruptcy Code and which for purposes hereof shall be no later than the "effective date") of a plan of reorganization filed in the chapter 11 cases that is confirmed pursuant to an order entered by the Bankruptcy Court, in each case, in form and substance satisfactory to Bank in its Permitted Discretion, and (d) the sale of all or a portion of the Collateral, the proceeds of which are sufficient to Pay in Full all Obligations under the DIP Credit Facility (including all the Bank Indebtedness under the Pre-Petition Loan Documents.<br><br>*See* DIP Credit Agreement, § 6. |
| **Collateral and Priority**<br>Bankruptcy Rule 4001(c)(1)(B)(i), 4001(c)(1)(B)(ii) | Effective as of the Petition Date, DIP Lender is granted valid and perfected first-priority security interests and liens, superior to all other liens, claims or security interests that any creditor of any of the Debtors' Estates may have (but subject and subordinate to the Carve-Out (as defined below) and the Permitted Liens), in and upon all of the Collateral (as defined in the DIP Credit Agreement and referred to herein as the "Collateral"); provided however, the Collateral shall not include (i) any of the Debtors' unexpired real property leases to the extent that such unexpired leases prohibit the non-consensual grant of security interests or liens in such unexpired leases (in which case, the Collateral shall include the proceeds of such unexpired leases) and (ii) prior to the entry of the Final Order, any property recovered as a result of transfers |

| SUMMARY OF MATERIAL TERMS OF DIP CREDIT FACILITY | |
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| | or obligations avoided or actions maintained or taken pursuant to sections 542, 544, 545, 547, 548, 549, 550, 551, 553(b) or 724(a) of the Bankruptcy Code ("Avoidance Actions"). In accordance with Sections 552(b) and 361 of the Bankruptcy Code, the value, if any, in any of the Collateral, in excess of the amount of DIP Obligations secured by such Collateral after satisfaction of the DIP Obligations of Debtors to DIP Lender, shall (subject to the Permitted Liens and Claims) constitute additional security for the repayment of the Pre-Petition Obligations and adequate protection for the use by Debtors, and the Diminution in Value (as defined herein), of the Collateral existing on the Petition Date.<br><br>The liens and security interests of DIP Lender granted under the DIP Loan Documents and the Interim Order in the Collateral securing all Obligations shall be first and senior in priority to all other interests and liens of every kind, nature and description, whether created consensually, by an order of the Court or otherwise, including, without limitation, liens or interests granted in favor of third parties in conjunction with sections 363, 364 or any other section of the Bankruptcy Code or other applicable law; provided, however, that DIP Lender's liens on and security interests in the Collateral shall be subject and subordinate only to (a) the Carve-Out, and (b) Permitted Liens."<br><br>*See* Interim Order ¶ 2.1 (a), (b). |
| **Covenants**<br>Bankruptcy Rule 4001(c)(1)(B) | Usual and customary covenants for debtor in possession financings of this type, including certain financial reporting.<br><br>*See* DIP Credit Agreement, §§ 5.1 – 5.3. |
| **Events of Default**<br>Bankruptcy Rule 4001(c)(1)(B) | Usual and customary events of default for financings of this type.<br><br>*See* DIP Credit Agreement, § 7.17 |
| **Milestones**<br>Bankruptcy Rule 4001(c)(1)(B)(vi) | The Borrowers shall comply with the following milestones in the chapter 11 cases (the "Milestones"):<br><br>• On the Petition Date, Debtors shall file motions, each in form and substance satisfactory to the Bank, requesting approval from the Bankruptcy Court, of the First Day Orders, including the cash management of Debtors;<br>• On the Petition Date, Debtors shall file motions, each in form and substance satisfactory to Bank, requesting approval from the Bankruptcy Court, of DIP Credit Facility under the Interim Order on the terms and conditions contemplated by the Loan Agreement, granting to Bank the security interests and liens and superpriority administrative expense claim status set forth in the DIP Credit Agreement and in the Interim Order, modifying the automatic stay and other provisions required by Bank and its counsel;<br>• On or before March 3, 2025, Debtors shall file a motion, in form and substance satisfactory to Bank, to approve the Bidding Procedures and the Bidding Procedures Order with respect to the Consulting Business Sale Transaction, the Consulting Business Purchase Agreement, and the marketing and sale of the COD Business;<br>• On or before March 6, 2025, the Bankruptcy Court shall have entered (i) the Interim Order, in form and substance satisfactory to Bank, and (ii) interim First Day Orders, each in form and substance satisfactory |

| SUMMARY OF MATERIAL TERMS OF DIP CREDIT FACILITY | |
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| | to Bank, approving the "first day" applications and motions of the Debtors, including the cash management of Debtors;<br>• On or before March 28, 2025, the Bankruptcy Court shall have entered, each in form and substance acceptable to Bank (i) the Bidding Procedures Order and (ii) any interim First Day Orders not yet approved as final First Day Orders;<br>• If there is one or more "Qualified Bids" (as defined in the Bidding Procedures Order) for the Consulting Business received by the "Bid Deadline" (as defined in the Bidding Procedures Order) in accordance with the Bidding Procedures Order, on or before April 3, 2025, an auction shall be conducted for the Consulting Business Sale Transaction (the "Auction"), unless otherwise ordered by the Bankruptcy Court;<br>• On or before April 7, 2025, the Bankruptcy Court shall have entered, in form and substance acceptable to Bank, the Final Order;<br>• On or before April 9, 2025, a sale hearing before the Bankruptcy Court shall be conducted to approve the highest and best bid produced at the Auction and/or in accordance with the Bidding Procedures Order with respect to the Consulting Business Sale Transaction pursuant to the Consulting Business Purchase Agreement (collectively, the Winning Bid"), unless otherwise ordered by the Bankruptcy Court;<br>• On or before April 12, 2025, Consulting Business Sale Order approving the Winning Bid shall have been entered by the Bankruptcy Court approving the sale of the Consulting Business;<br>• On or before May 14, 2025, the Consulting Business Sale Transaction pursuant to the Consulting Business Purchase Agreement shall have been consummated on terms and conditions acceptable to Bank, with net proceeds from the closing of Consulting Business Sale Transaction to be remitted to Bank for application to the Obligations in accordance with the Ratification Agreement unless otherwise provided by the Consulting Business Sale Order.<br><br>*See* DIP Credit Agreement, §5.3. |
| **Roll-Up**<br>Local Rule<br>4001-2(a)(i)(O) | The Debtors are hereby authorized to enter into, execute, deliver, perform, and comply with all of the terms, conditions and covenants of the DIP Credit Agreement and the other DIP Loan Documents, pursuant to which, subject to Section 4.1 of the DIP Credit Agreement, *inter alia*, each Debtor ratifies, reaffirms, extends, assumes, adopts, amends, and restates the Pre-Petition Loan Agreement and the other Pre-Petition Loan Documents to which it is a party, and the Pre-Petition Obligations, which include, without limitation, all Pre-Petition (i) Advances under the Line, (ii) Letters of Credit, (iii) Advances under the Loan Limit Line, (iv) Advances under the Supplemental Line, and (v) all other financial accommodations provided to Debtors by the Lenders, pursuant to the Pre-Petition Loan Documents (each term as defined in the Pre-Petition Loan Documents), will, as funds are borrowed and repaid, subject to Section 4.1 of the of the DIP Credit Agreement, be gradually rolled into, and deemed for all purposes a part of, the DIP Obligations and shall be deemed to have been incurred under the DIP Credit Agreement; provided, that subject to Section 4.1 of the DIP Credit Agreement, (i) upon entry of the Interim Order, all Letters of Credit issued under the Pre-Petition Credit Agreement shall be automatically deemed to have been issued under the DIP Credit Agreement and constitute DIP Obligations; and (ii) subject to the entry of the Final Order, |

| SUMMARY OF MATERIAL TERMS OF DIP CREDIT FACILITY | |
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| | all remaining Pre-Petition Obligations other than the Remaining Pre-Petition Obligation shall, to the extent not having already been rolled up and converted into DIP Obligations in accordance with the Interim Order, shall be automatically rolled up and converted into DIP Obligations. Upon execution and delivery of the DIP Credit Agreement and the other DIP Loan Documents, such agreements and documents shall constitute valid and binding obligations of the Debtors, enforceable against each Debtor in accordance with the terms of such agreements, documents and the Interim Order. No obligation, payment, transfer or grant of security under the DIP Credit Agreement, the other DIP Loan Documents or the Interim Order shall be stayed, restrained, voidable, or recoverable under the Bankruptcy Code or under any applicable state, federal or foreign law (including, without limitation, under chapter 5 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or foreign law) or be subject to any defense, reduction, setoff, counterclaim, recoupment, offset, recharacterization, subordination (whether equitable, contractual or otherwise), cross-claims or any other challenge under the Bankruptcy Code or any applicable law, rule or regulation by any person or entity.<br><br>*See* Interim Order, ¶ 1.3(a). |
| **Carve Out**<br>Bankruptcy Rule 4001(b)(1)(B)(iii) | The relative priority of all amounts owed under the DIP Credit Facility and any Replacement Liens, the DIP Loan Superpriority Claim, the Superpriority Claim, and any other form of adequate protection lien, or claims securing the DIP Obligations or the Prepetition Obligations will be subject and subordinate to a carve-out for (collectively, the "Carve-Out"):<br>(i) the payment of fees pursuant to 28 U.S.C. § 1930;<br>(ii) the costs and administrative expenses permitted to be incurred by any Chapter 7 trustee under Section 726(b) of the Bankruptcy Code pursuant to an order of the Bankruptcy Court following any conversion of the Chapter 11 Cases pursuant to section 1112 of the Bankruptcy Code in an amount not to exceed $25,000;<br>(iii) the (a) fees and expenses incurred by the professionals of the Debtors' and any Committee, if any, prior to the Trigger Date and allowed at any time by the Bankruptcy Court, plus (b) up to $500,000 in the aggregate to pay any allowed fees and expenses incurred by the Debtors' professionals per the Interim Budget and any subsequent approved Budget, following occurrence of an Event of Default, plus (c) up to $25,000 in the aggregate to pay any allowed fees and expenses incurred by any Committee, if any, following notice of the occurrence of an Event of Default.<br><br>*See* Interim Order, ¶ 2.3(a), (b). |
| **Prepayments**<br>Bankruptcy Rule 4001(c)(1)(B); Local Rule 4001-2(a)(i)(I) | Voluntary Prepayments: N/A<br><br>Mandatory Prepayments: Upon the closing of the sale or sales of substantially all of the Debtors' assets and properties of any business unit in accordance with the terms of the DIP Loan Documents.<br><br>*See* Interim Order, ¶ H (vi) |
| **Repayment Features**<br>Bankruptcy Rule 4001-2(a)(i)(E) | Notwithstanding anything to the contrary contained in DIP Credit Agreement or any of the other DIP Loan Documents, any such payments or proceeds shall be applied first, to the Pre-Petition Obligations until such Pre-Petition |

| SUMMARY OF MATERIAL TERMS OF DIP CREDIT FACILITY | |
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| | Obligations are Paid in Full and second, to the Post-Petition Obligations until such Post-Petition Obligations are Paid in Full; provided, that, unless otherwise agreed to by Lender in its sole discretion and in accordance with the DIP Orders, upon the consummation of either the Consulting Business Sale Transaction or the COD Business Sale Transaction, the net proceeds of each such transaction shall be applied first to Pre-Petition Obligations consisting of the Loan Limit Line Advances until such Pre-Petition Obligations are Paid in Full (other than the Remaining Pre-Petition Obligation), second to the Pre-Petition Obligations consisting of Line Advances and then to the Supplemental Line Advances, until such Pre-Petition Obligations (other than the Remaining Pre-Petition Obligation) are Paid in Full, and third, to the DIP Obligations until such DIP Obligations are Paid in Full."<br><br>*See* DIP Credit Agreement, § 7.6. |
| **Conditions to Closing**<br>Bankruptcy Rule 4001(c)(1)(B) | Usual and customary for financings of this type.<br><br>*See* DIP Credit Agreement, §§ 9, 10. |
| **Superpriority Expense Claims**<br>Bankruptcy Rule 4001(c)(1)(B)(i) | Subject to the Carve-Out in all respects, the DIP Lender is granted superpriority administrative expense claim status against each Debtor jointly and severally in the Chapter 11 Cases (the "DIP Superpriority Claim")<br><br>*See* Interim Order, ¶ 2.2. |
| **Parties with an Interest in Cash Collateral**<br>Bankruptcy Rule 4001(b)(1)(B)(i) | The Pre-Petition Lender has not consented to the use Cash Collateral.<br><br>No other parties hold an interest in the Debtors' Cash Collateral.<br><br>*See* Interim Order, ¶ H(iii). |
| **Adequate Protection**<br>Bankruptcy Rule 4001(b)(1)(B)(iv) | Adequate Protection Liens. As adequate protection for the diminution in value of its interests in the Pre-Petition Collateral on account of the Debtors' use of such Collateral, the imposition of the automatic stay and the subordination to the Carve-Out on a dollar-for-dollar basis (collectively, "Diminution in Value"), the Pre-Petition Lender is hereby granted, pursuant to sections 361 and 363 of the Bankruptcy Code, and solely to the extent of the Diminution in Value, valid, binding, enforceable and perfected replacement liens upon and security interests in all Collateral (the "Replacement Lien"), which security interests and liens shall be subject and subordinate to the Carve-Out. The Replacement Lien shall be junior and subordinate only to (A) the Carve-Out, (B) the Permitted Liens, and (C) DIP Lender's liens on the Collateral to secure the DIP Obligations, and shall otherwise be senior to all other security interests in, liens on, or claims against any of the Collateral.<br><br>Adequate Protection Superpriority Claim. As adequate protection for the Diminution in Value, the Pre-Petition Lender is hereby granted as and to the extent provided by section 507(b) of the Bankruptcy Code, and solely to the extent of the Diminution in Value, an allowed superpriority administrative expense claim in each of the Chapter 11 Cases and any successor bankruptcy cases (the "Superpriority Claim"). The Superpriority Claim shall be junior only to (A) the Carve-Out and (B) the DIP Loan Superpriority Claim, and shall otherwise have priority over all administrative expense claims, including administrative expenses of the kinds specified in or ordered pursuant to sections 503(b) and 507(b) of the Bankruptcy Code, and unsecured claims |

| SUMMARY OF MATERIAL TERMS OF DIP CREDIT FACILITY | |
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| | against Debtors and their Estates now existing or hereafter arising, of any kind or nature whatsoever.<br><br>Payment of Prepetition Secured Parties' Fees and Expenses. The Pre-Petition Lender and DIP Lender, without duplication, shall receive monthly reimbursement of their reasonable and documented fees and expenses including any professional fees (in each case, without the need for the filing of formal fee applications), including as to any amounts arising before or after the Petition Date, incurred in connection with the Chapter 11 Cases, subject to typical review and objection procedures.<br><br>Financial Reporting. Debtors and their advisors shall promptly provide the DIP Lender with all required financial reporting and other periodic reporting that is required to be provided to the DIP Lender under the DIP Loan Documents.<br><br>Interim Order, ¶¶ 2.5 (b), (c) and (e); ¶ 5.12(e). |
| **Determination Regarding Prepetition Claims**<br>Bankruptcy Rule 4001(c)(1)(B)(iii) | The Interim Order contains stipulations of fact by the Debtors, including those related to the extent, validity, perfection and enforceability of the Pre-Petition Obligations, subject to Challenge.<br><br>*See* Interim Order, ¶¶ G(i)-(ii). |
| **Liens on Avoidance Actions**<br>Bankruptcy Rule 4001(c)(1)(B)(xi) | The DIP Lender will receive a lien on avoidance actions under chapter 5 of the Bankruptcy Code and the proceeds thereof upon entry of a Final Order providing such relief.<br><br>*See* Interim Order, ¶ 2.1(a). |
| **Effect of Debtors' Stipulations on Third Parties**<br>Bankruptcy Rule 4001(c)(1)(B)(iii), (viii) | The "Challenge Period" shall be the earliest of (i) the date that is seventy-five (75) calendar days after the entry of the Interim Order, and (ii) subject to entry of the Final Order, the date that is five (5) business days prior to the closing of one or more sales of substantially all of the Debtors' assets (collectively, the "Challenge Period"), provided however, with respect to any chapter 11 trustee appointed in the Chapter 11 Cases, or any chapter 7 trustee appointed in any Successor Case, prior to the expiration of the Challenge Period, the Challenge Period for such trustee shall be extended to a date that is no later than fourteen (14) days after the appointment of such trustee.<br><br>As to (x) any parties in interest, including any Committee, who fail to file a Challenge within the Challenge Period, or if any such Challenge is filed and overruled or otherwise finally resolved or adjudicated in favor of the Pre-Petition Lender or (y) any and all matters that are not expressly the subject of a timely Challenge: (1) any and all such Challenges by any party (including, without limitation, any Committee, any chapter 11 trustee, any examiner or any other estate representative appointed in the Debtors' Chapter 11 Cases, or any chapter 7 trustee, any examiner or any other estate representative appointed in any Successor Case), shall be deemed to be forever waived and barred, (2) all of the findings, Stipulations, waivers, releases, affirmations, and other stipulations shall be of full force and effect and forever binding upon the Debtors' bankruptcy estates and all creditors, interest holders, and other parties in interest in the Chapter 11 Cases and any Successor Cases, and (3) any and all claims or causes of action against the Pre-Petition Lender shall be released by the Debtors' estates, all creditors, interest holders, and other parties in interest in the Chapter 11 Cases and any Successor Cases. |

| SUMMARY OF MATERIAL TERMS OF DIP CREDIT FACILITY | |
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| | *See* Interim Order, ¶ 4.1(b). |
| **Waiver or Modification of the Automatic Stay**<br>Bankruptcy Rule 4001(c)(1)(B)(iv) | The automatic stay provisions of section 362 of the Bankruptcy Code and any other restrictions imposed by an order of the Court or applicable law are hereby modified without further notice, application or order of the Court to the extent necessary to permit the DIP Lender to perform, immediately upon entry of the Interim Order and at any time thereafter, any act authorized or permitted under or by virtue of the Interim Order or the DIP Loan Documents, as applicable, including, without limitation, (a) to implement the post-petition financing arrangements authorized by the Interim Order and pursuant to the terms of the DIP Loan Documents, (b) to take any act to create, validate, evidence, attach or perfect any lien, security interest, right or claim in the Collateral, and (c) to assess, charge, collect, advance, deduct and receive payments with respect to the Pre-Petition Obligations or the Obligations, as applicable, including, without limitation, all interest, fees, costs and expenses permitted under the DIP Loan Documents (subject to Section 5.12 of the Interim Order) and apply such payments to the Pre-Petition Obligations or Obligations pursuant to the DIP Loan Documents and the Interim Order, as applicable.<br><br>Without limiting the foregoing, upon the occurrence of an Event of Default and the DIP Lender providing five (5) business days (the "Default Notice Period") prior written notice (the "Enforcement Notice") to (i) counsel for the Debtors, (ii) counsel for the Committee (if appointed), and (iii) the U.S. Trustee, the DIP Lender shall be entitled without further notice, application or order of the Court to take any action and exercise all other rights and remedies provided to it by the Interim Order, the DIP Loan Documents or applicable law that DIP Lender may deem appropriate in its sole discretion to proceed against and realize upon the Collateral or any other assets or properties of Debtors' Estates upon which the DIP Lender has been or may hereafter be granted liens or security interests to obtain the indefeasible repayment in full of all Obligations.<br><br>*See* Interim Order, ¶ 3.4. |
| **Waiver or Modification of Authority to File a Plan, Extend Time to File Plan, Request Use of Cash Collateral, or Request Authority to Obtain Credit**<br>Bankruptcy Rule 4001(c)(1)(B)(v) | Certain provisions of the Interim Order limit the Debtors ability to file a plan, request an extension of exclusivity, request non-consensual use of Cash Collateral, or request authority to obtain credit.<br><br>*See* Interim Order ¶ 5.7. |
| **Waiver or Modification of Applicability of Non-Bankruptcy Law Relating to the Perfection or Enforcement of a Lien**<br>Bankruptcy Rule 4001(c)(1)(B)(vii) | The Debtors stipulate the liens and security interest granted to the Pre-Petition Lender are valid, binding, enforceable, non-avoidable, and properly perfected.<br><br>The DIP Lender's liens on the Collateral to secure the DIP Obligations are valid, binding, enforceable, non-avoidable, and automatically and properly perfected.<br><br>*See* Interim Order ¶ G(iv), ¶ 2.1(a), (b). |

| SUMMARY OF MATERIAL TERMS OF DIP CREDIT FACILITY | |
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| **Release, Waivers or Limitation on any Claim or Cause of Action** Bankruptcy Rule 4001(c)(1)(B)(viii) | The Interim Order provides for customary releases, subject to Challenge and entry of the Final Order, if provided for therein.<br><br>*See* Interim Order, ¶ 4.5. |
| **Provision Limiting the Court's Power or Discretion to Enter Future Orders** Local Rule 4001-2(a)(i)(C) | N/A |
| **Joint Liability of Debtors** Local Rule 4001-2(a)(i)(J) | The Debtors are jointly and severally liable for the DIP Obligations.<br><br>*See* Interim Order, ¶ 5.16. |
| **Release, Waivers, or Limitation on any Claim or Cause of Action** Bankruptcy Rule 4001(c)(1)(B)(ix) | N/A |
| **Waiver/Modification of the Automatic Stay** Bankruptcy Rule 4001(c)(1)(B)(iv) | The automatic stay of section 362 of the Bankruptcy Code shall be modified and vacated to the extent necessary to permit the Debtors, the DIP Lender, and/or the Pre-Petition Lender to accomplish the transactions contemplated by the Interim Order, including modification to permit the implementation of the Roll-Up and exercise of remedies, subject to the Default Notice Period.<br><br>See Interim Order, ¶3.4. |
| **Indemnification** Bankruptcy Rule 4001 (c)(1)(B)(ix) | As set forth in the DIP Loan Documents, the Debtors shall indemnify and hold harmless the DIP Lender in accordance with the terms and conditions thereof.<br><br>*See* Pre-Petition Credit Agreement § 18.2. |
| **No Marshaling** Local Rule 4001-2(a)(i)(X) | Subject to entry of the Final Order granting such relief, in no event shall DIP Lender be subject to the equitable doctrine of "marshalling" or any similar doctrine with respect to the Collateral. DIP Lender shall each be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code, and, subject to entry of the Final Order, the "equities of the case" exception under section 552(b) of the Bankruptcy Code shall not apply to the Pre-Petition Lender with respect to proceeds, products, offspring or profits of any of the Collateral, as applicable.<br><br>*See* Interim Order, ¶ 5.9. |

## BASIS FOR RELIEF

### A. Entry into the DIP Credit Facility is an Exercise of the Debtors' Sound Business Judgment.

33. The Court should authorize the Debtors, as an exercise of their sound business judgment, to enter into the DIP Loan Documents, obtain access to the proceeds of the DIP Credit Facility, and grant the liens, superpriority administrative claims and adequate protection

contemplated in the DIP Credit Agreement and proposed Interim Order and, following the Final Hearing, the Final Order.

34. Section 364 of the Bankruptcy Code authorizes a debtor to obtain secured or superpriority financing under certain circumstances discussed in detail below. Courts grant debtors considerable deference in acting in accordance with their business judgment in obtaining postpetition secured credit, so long as the agreement to obtain such credit does not run afoul of the provisions of, and policies underlying, the Bankruptcy Code. *See, e.g.*, *In re L.A. Dodgers LLC*, 457 B.R. 308, 313 (Bankr. D. Del. 2011) ("[C]ourts will almost always defer to the business judgment of a debtor in the selection of the lender."); *In re Barbara K. Enters., Inc.*, No. 08-11474 (MG), 2008 WL 2439649, at *14 (Bankr. S.D.N.Y. June 16, 2008) (explaining that courts defer to a debtor's business judgment "so long as a request for financing does not 'leverage the bankruptcy process' and unfairly cede control of the reorganization to one party in interest"); *In re Trans World Airlines, Inc.*, 163 B.R. 964, 974 (Bankr. D. Del. 1994) (approving a postpetition loan and receivables facility because such facility "reflect[ed] sound and prudent business judgment").

35. Bankruptcy courts generally will not second-guess a debtor's business decisions when those decisions involve "a business judgment made in good faith, upon a reasonable basis, and within the scope of [its] authority under the [Bankruptcy] Code." *In re Curlew Valley Assocs.*, 14 B.R. 506, 513-514 (Bankr. D. Utah. 1981) (noting that courts should not second guess a debtor's business decision when that decision involves "a business judgment made in good faith, upon a reasonable basis, and within the scope of [the debtor's] authority under the [Bankruptcy] Code").

36. In determining whether the Debtors have exercised sound business judgment in seeking approval to enter into the DIP Loan Documents, courts consider the totality of the circumstances of a DIP financing. *In re Elingsen McLean Oil Co., Inc.*, 65 B.R. 358, 365 n.7

(W.D. Mich. 1986) (recognizing that a debtor may have to enter into "hard" bargains to acquire funds for its reorganization). Moreover, the Court may appropriately take into consideration noneconomic benefits to the debtors offered under the proposed postpetition facility. For example, in *In re ION Media Networks, Inc.*, the Bankruptcy Court for the Southern District of New York held that:

> Although all parties, including the Debtors and the Committee, are naturally motivated to obtain financing on the best possible terms, a business decision to obtain credit from a particular lender is almost never based purely on economic terms. Relevant features of the financing must be evaluated, including non-economic elements such as the timing and certainty of closing, the impact on creditor constituencies and the likelihood of a successful reorganization. This is particularly true in a bankruptcy setting where cooperation and established allegiances with creditor groups can be a vital part of building support for a restructuring that ultimately may lead to a confirmable reorganization plan. That which helps foster consensus may be preferable to a notionally better transaction that carries the risk of promoting unwanted conflict.

No. 09-13125 (JMP), 2009 WL 2902568, at *4 (Bankr. S.D.N.Y. July 6, 2009).

37. The Debtors' decision to enter into the DIP Credit Facility is an appropriate exercise of their sound business judgment. As further discussed in the First Day Declaration, the DIP Credit Facility reflects the Debtors' operational challenges and prepetition capital structure and was the product of arms'-length, good faith negotiations and no other financing was offered or otherwise available.

38. Keeping in mind the advantages and disadvantages of the proposed DIP Financing, the Debtors ultimately decided that moving forward with the proposed DIP Financing was appropriate and in the Debtors' best interests. Given the Debtors' current cash position and the lack of alternatives, the Debtors and their advisors determined that entry into the DIP Credit

Facility was the best path forward under the totality of the circumstances, and the Debtors believe that they have obtained the best terms available under the circumstances.

39. Accordingly, the Debtors submit that entry into the DIP Credit Facility is in the best interests of the Debtors' estates and is necessary to preserve the value of their estates and is a reasonable exercise of their business judgment.

**B. <u>The Debtors Should Be Authorized to Grant Liens and Superpriority Claims</u>.**

40. The Debtors propose to obtain DIP Financing by providing security interests and liens as set forth in the DIP Loan Documents and the proposed Interim Order. The Debtors satisfy the requirements for relief under section 364 of the Bankruptcy Code, which authorizes a debtor to incur secured debt under certain circumstances. Specifically, section 364(c) of the Bankruptcy Code provides that:

> If the trustee is unable to obtain unsecured credit allowable under section 503(b)(1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt—
>
> (1) with priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of this title;
>
> (2) secured by a lien on property of the estate that is not otherwise subject to a lien; or
>
> (3) secured by a junior lien on property of the estate that is subject to a lien.

11 U.S.C. § 364(c).

41. To satisfy the requirements of section 364(c) of the Bankruptcy Code, a debtor need only demonstrate "by a good faith effort that credit was not available" to the debtor on an unsecured or administrative expense basis. *In re Crouse Grp., Inc.*, 71 B.R. 544, 549 (Bankr. E.D. Pa. 1987) (finding that secured credit under section 364(c) of the Bankruptcy Code is authorized, after notice and hearing, upon a showing that unsecured credit cannot be obtained). "The statute

imposes no duty to seek credit from every possible lender before concluding that such credit is unavailable." *Bray v. Shenandoah Fed. Savs. & Loan Ass'n* (*In re Snowshoe Co.*), 789 F.2d 1085, 1088 (4th Cir. 1986). When few lenders are likely to be willing to extend the necessary credit to a debtor, "it would be unrealistic and unnecessary to require [the debtor] to conduct such an exhaustive search for financing." *In re Sky Valley, Inc.*, 100 B.R. 107, 113 (Bankr. N.D. Ga. 1988); *In re Ames Dep't Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) (approving financing facility and finding that debtor made reasonable efforts to satisfy the requirements of section 364(c) by approaching four lending institutions, two of which refused to provide financing, and selecting the most favorable of the two offers it received).

42. Courts have articulated a three-part test to determine whether a debtor is entitled to enter into financing under section 364(c) of the Bankruptcy Code. Specifically, courts look to whether:

- the debtor is unable to obtain unsecured credit under section 364(b) of the Bankruptcy Code (*i.e.*, by allowing an administrative claim);
- the credit transaction is necessary to preserve the assets of the estate; and
- the terms of the transaction are fair, reasonable, and adequate, given the circumstances of the debtor-borrower and proposed lenders.

*In re Crouse Grp., Inc.*, 71 B.R. at 549; *see also L.A. Dodgers LLC*, 457 B.R. at 312–13; *In re Aqua Assocs.*, 123 B.R. 192, 195–96 (Bankr. E.D. Pa. 1991); *In re Ames Dep't Stores*, 115 B.R. at 37–40.

43. In the event that a debtor is unable to obtain unsecured credit allowable as an administrative expense under section 503(b)(1) of the Bankruptcy Code, section 364(c) provides that a court "may authorize the obtaining of credit or the incurring of debt (1) with priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of [the

Bankruptcy Code]; (2) secured by a lien on property of the estate that is not otherwise subject to a lien; or (3) secured by a junior lien on property of the estate that is subject to a lien." 11 U.S.C. § 364(c). The Debtors are unable to obtain unsecured credit due to their lack of unencumbered assets. Thus, the Debtors determined that the DIP Credit Facility provided the best— and, in fact, the *only*— opportunity available to the Debtors under the circumstances to fund these chapter 11 cases. No junior financing is available. Therefore, approving superpriority claims in favor of the DIP Lender is reasonable and appropriate

44. Here, the Pre-Petition Lender has affirmatively consented to the DIP Financing. Moreover, as set forth more fully in the Interim Order, the Debtors propose to provide an adequate protection package to protect the interests of the Pre-Petition Lender. Therefore, the relief requested pursuant to section 364(d)(1) of the Bankruptcy Code is appropriate.

**C. Interests of Pre-Petition Lender Are Adequately Protected**.

45. Parties with an interest in collateral, including Cash Collateral, are entitled to adequate protection. *See* 11 U.S.C. § 363(e). Adequate protection may be provided in various forms, including, among other things, payment of adequate protection, payment of interest, or granting of replacement liens or administrative claims. Thus, what constitutes adequate protection is decided on a case-by-case basis. *See, e.g.*, *In re Swedeland Dev. Grp., Inc.*, 16 F.3d 552, 564 (3d Cir. 1994); *In re Satcon Tech. Corp.*, No. 12-12869 (KG), 2012 WL 6091160, at *6 (Bankr. D. Del. Dec. 7, 2012).

46. The adequate protection package provided to the Pre-Petition Lender, as described above and set forth in the DIP Orders, is consensual and appropriately safeguards the Pre-Petition Lender from Diminution in Value (if any) of its interests in the Prepetition Collateral. The Debtors submit that their provision of adequate protection to the Pre-Petition Lender is fair and reasonable and is sufficient to satisfy the requirements of section 364(d)(1)(B) of the Bankruptcy Code. The

Pre-Petition Lender does not object to the adequacy of the proposed adequate protection at this time, but reserves rights to seek additional adequate protection should the current package prove insufficient.

**D. The Roll-Up Is Appropriate**.

47. Section 363(b) of the Bankruptcy Code permits a debtor to use, sell, or lease property, other than in the ordinary course of business, with court approval. It is well settled in the Third Circuit that such transactions should be approved when they are supported by a sound business purpose. *See In re Abbots Dairies, Inc.*, 788 F.2d 143 (3d Cir. 1986) (holding that in the Third Circuit, a debtor's use of assets outside the ordinary course of business under section 363(b) of the Bankruptcy Code should be approved if the debtor can demonstrate a sound business justification for the proposed transaction). The business judgment rule shields a debtor's management from judicial second-guessing. *In re Johns-Manville Corp.*, 60 B.R. 612, 615–16 (Bankr. S.D.N.Y. 1986) ("[T]he [Bankruptcy] Code favors the continued operation of a business by a debtor and a presumption of reasonableness attaches to a debtor's management decisions.").

48. Repaying prepetition debt with funds borrowed postpetition (often referred to as a "roll-up") is a common feature in debtor in possession financing arrangements. The importance of "roll-up" features in DIP facilities has been repeatedly recognized by courts in this district and others, and such courts have granted relief similar to the relief requested herein. See, e.g., *In re Franchise Group, Inc*., Case No. 24-12480 (JTD) (Bankr. D. Del. December 11, 2024) (approving a $750 million DIP Credit Facility with a 2:1 ratio consisting of $500 million of prepetition debt and $250 million of new money); *In re Restoration Forest Products Group, LLC*, Case No. 24-10120 (KBO) (Bankr. D. Del. Feb. 1, 2024) (authorizing an approximately $93 million DIP Credit Facility, including a $64 million roll-up of the prepetition bridge facility on an interim basis); *In re DeCurtis Holdings LLC*, Case No. 23- 10548 (JKS) (Bankr. D. Del. June 23, 2023) (authorizing

an approximate $27 million DIP Credit Facility, including a $20.5 million roll-up of prepetition loans); *In re SiO2 Medical Prods., Inc.*, Case No. 23-10366 (JTD) (Bankr. D. Del. Apr. 26, 2023) [Docket No. 216] (authorizing an approximately $120 million DIP Credit Facility, including a $60 million roll-up of the prepetition term loan); *In re Phoenix Servs. Topco LLC*, Case No. 22-10906 (MFW) (Bankr. D. Del. Sept. 29, 2022) [Docket No. 73] (approving a $100 million interim DIP Credit Facility with a 3:1 roll-up ratio consisting of $75 million of prepetition debt and $25 million of new money); *In re TPC Group Inc.*, Case No. 22- 10493 (CTG) (Bankr. D. Del. June 3, 2022) [Docket No. 147] (authorizing an approximately $323 million DIP Credit Facility, including a $238 million roll-up of prepetition secured notes, of which approximately $59 million rolled up on an interim basis); *In re Nine Point Energy Holdings, Inc.*, Case No. 21-10570 (MFW) (Bankr. D. Del. Mar. 17, 2021) [Docket No. 100] (approving a $13 million interim DIP Credit Facility with a 3:1 ratio consisting of $39 million of prepetition debt and $13 million of new money); *In re Blackhawk Mining LLC*, Case No. 19-11595 (LSS) (Bankr. D. Del. July 23, 2019) [Docket No. 81] (authorizing DIP facilities in the aggregate amount of $240 million, including a $100 million roll-up of the prepetition term loan and an additional $140 million in incremental liquidity, pursuant to interim order); *In re Charlotte Russe Holding, Inc.*, Case No. 19-10210 (LSS) (Bankr. D. Del. Feb. 5, 2019) [Docket No. 92] (approving a $50 million interim DIP Credit Facility with a 2.57:1 roll-up ratio consisting of $36 million of prepetition debt and $14 million of new money).

49. As set forth above, the DIP Loan Document provides that the DIP Financing will be used to roll up, subject to entry of the Final Order, all Pre-Petition Obligations, other than the Remaining Pre-Petition Obligation. This repayment is a sound exercise of the Debtors' business judgment and is a material component of the structure of the DIP Financing. Without continued

access to the additional liquidity provided under the DIP Financing, the Debtors will be unable to fund the administration of these chapter 11 cases and effectuate a successful sale process.

50. As discussed in the First Day Declaration, the Roll-Up was the subject of arms'-length good faith negotiations between the Debtors and the DIP Lender and is an integral component of the overall terms of the DIP Financing and is subject to the Carve-Out. Additionally, the Roll-Up was a necessary and integral condition for the DIP Lender to agree to the DIP Financing. Further, upon information and belief, the Debtors believe the Pre-Petition Obligations are secured by perfected, first priority liens. For these reasons and because no other party has put forward an actionable financing proposal, the Roll-Up is reasonable, appropriate, a sound exercise of the Debtors' business judgment, and ultimately in the best interests of all stakeholders given the alternatives.

**E. <u>The Carve-Out is Appropriate</u>.**

51. The liens granted pursuant to the DIP Credit Facility, replacement liens on account of adequate protection, and the superpriority claims are subject and subordinate to the Carve Out. The Prepetition Liens of the Pre-Petition Lender are not subject to the Carve Out, but the DIP Liens, Adequate Protection Liens and superpriority administrative claims are subject to the Carve Out. The Carve Out contains similar terms to others that have been found to be reasonable and necessary to ensure that estate professionals can retain assistance from counsel.

52. Without the Carve Out, the Debtors' estates may be deprived of possible rights and powers if the services for which professionals may be compensated is restricted. *See In re Ames Dep't Stores*, 115 B.R. at 38 (observing that courts insist on carve outs for professionals representing parties in interest because "[a]bsent such protection, the collective rights and expectations of all parties-in-interest are sorely prejudiced"). Additionally, the Carve Out protects against administrative insolvency during the course of these cases by the funding of reserves to

ensure that assets remain for the payment of U.S. Trustee fees and professional fees, notwithstanding the grant of superpriority claims and replacement liens as part of the adequate protection of the Pre-Petition Lender's interests in the Pre-Petition Collateral and the funding of a reserve.

**F. The DIP Lender Should Be Deemed A Good Faith Lender Under Section 364(e).**

53. Section 364(e) of the Bankruptcy Code protects a good faith lender's right to collect on loans extended to a debtor, and its right in any lien securing those loans, even if the authority of the debtor to obtain such loans or to grant such liens is later reversed or modified on appeal.

54. Section 364(e) provides that:

> The reversal or modification on appeal of an authorization under this section [364 of the Bankruptcy Code] to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal

11 U.S.C. § 364(e).

55. Here, the Debtors believe the DIP Financing embodies the most favorable terms on which the Debtors could obtain postpetition financing. As described in the First Day Declaration, the negotiations of the terms of the DIP Financing with the DIP Lender were conducted in good faith and at arms' length. Under the circumstances, the terms and conditions of the DIP Loan Documents are fair and reasonable, and the proceeds of the DIP Credit Facility will be used only for purposes that are permissible under the Bankruptcy Code, in accordance with the DIP Orders and the DIP Loan Documents and in accordance with the Budget (subject to permitted variances). Further, no consideration is being provided to any party to the DIP Documents other than as described herein and in the First Day Declaration. Accordingly, the Court should find that the DIP

Lender is a "good faith" lender within the meaning of 364(e) of the Bankruptcy Code and the DIP Lender is thus entitled to all of the protections afforded by that section.

**G. Modification of Automatic Stay is Warranted**.

56. The relief requested herein contemplates a modification of the automatic stay to permit the Debtors to, among other things, (a) grant the security interests, liens, and superpriority claims described above and to perform such acts as may be requested to assure the perfection and priority of such security interests and liens; (b) upon the occurrence of an Event of Default (as defined in the DIP Loan Documents), subject to the "Default Notice Period" as set forth in the proposed DIP Orders, for the DIP Lender to exercise any remedies available to them; and (c) implement the terms of the proposed DIP Orders, including payment of all amounts referred to in the DIP Loan Documents. In the Debtors' business judgment, such relief is reasonable and fair under the present circumstances.

57. Stay modifications of this kind are ordinary and standard features for postpetition financings, and in the Debtors' business judgment, are reasonable and fair under the present circumstances. *See, e.g.*, *In re PGX Holdings, Inc.*, Case No. 23-10718 (CTG) (Bankr. D. Del. Aug. 4, 2023) (modifying automatic stay as necessary to effectuate the terms of the order and following occurrence of an Event of Default); *In re SiO2 Medical Prods., Inc.*, Case No. 23-10366 (JTD) (Bankr. D. Del. Apr. 26, 2023) (same); *In re Carestream Health, Inc.*, Case No. 22-10778 (JKS) (Bankr. D. Del. Aug. 24, 2022) (same); *In re Town Sports Int'l, LLC*, Case No. 12-12168 (CTG) (Bankr. D. Del. Oct. 2, 2020) (same); *In re Extraction Oil & Gas, Inc.*, Case No. 20-11548

(CSS) (Bankr. D. Del. Jun. 15, 2020) (same); *In re Akorn, Inc.*, Case No. 20-11177 (KBO) (Bankr. D. Del. May 22, 2020) (same).[6]

**H. Debtors Require Immediate Access to DIP Financing.**

58. The Court may grant interim relief in respect of a motion filed pursuant to section 363(c) or 364 of the Bankruptcy Code if, as here, interim relief is "necessary to avoid immediate and irreparable harm to the estate pending a final hearing." Fed. R. Bankr. P. 4001(b)(2), (c)(2). In examining requests for interim relief under this rule, Courts generally apply the same business judgment standard applicable to other business decisions. *See Ames Dep't Stores*, 115 B.R. at 36.

59. As of the Petition Date, the Debtors will only have approximately $3.2 million in cash on hand, all of which constitutes Cash Collateral of the Pre-Petition Lender and is to be paid to the Pre-Petition Lender. In any event, even if use of Cash Collateral was consented to by the Pre-Petition Lender it is not in sufficient amount to fund the estates and would be exhausted within the first twenty-one (21) days of these chapter 11 cases. Absent authority to enter into and access the proceeds of the DIP Financing, even for a limited period of time, the Debtors will be unable to continue operating their businesses, resulting in a deterioration of value and immediate and irreparable harm to the Debtors' estates. Thus, the Debtors require immediate access to the proceeds of the DIP Financing, as well as authority to use Cash Collateral (if consented to by the Pre-Petition Lender at a later date), to finance their operations and continue operating as a going concern during the pendency of these chapter 11 cases.

**BANKRUPTCY RULE 6003(b) HAS BEEN SATISFIED**

60. Bankruptcy Rule 6003(b) provides that, "[e]xcept to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 21 days after the

[6] Because of the voluminous nature of the orders cited herein, such orders have not been attached to this Motion. Copies of these orders are available upon request of the Debtors' proposed counsel.

filing of the petition, issue an order granting…a motion to…pay all or part of a claim that arose before the filing of a petition." Fed R. Bankr. P. 6003. Immediate and irreparable harm exists where the absence of relief would impair a debtor's ability to maximize value or threaten the debtor's future as a going concern. *See e.g., In re Bayou Steel BD Holdings, L.L.C.,* Case No. 19-12153 (KBO) [D.I. 46] (Bankr. D. Del. Oct. 3, 2019) (providing that the debtors satisfied the requirements of Bankruptcy Code Rule 6003(b), as relief requested was necessary to avoid immediate and irreparable harm); *see also Genco Shipping & Trading Ltd.,* 509 B.R. 455, 469 (Bankr. S.D.N.Y. 2014).

61. For the reasons discussed above, the Debtors believe an immediate and orderly transition into chapter 11 is critical, and the failure to receive the requested relief during the first twenty-one (21) days of these chapter 11 cases could impact the Debtors' operations at this important juncture. As described in this Motion and in the First Day Declaration, the Debtors would suffer immediate and irreparable harm if the relief sought herein were not promptly granted and if the Debtors were therefore unable to access the proceeds of the DIP Financing or use Cash Collateral. Based on the foregoing, the Debtors submit that the relief requested in this Motion is necessary to avoid immediate and irreparable harm, and therefore, Bankruptcy Rule 6003(b) is satisfied.

**REQUEST FOR BANKRUPTCY RULES 6004(a) AND (h) WAIVERS**

62. To implement the foregoing successfully, and given the emergent nature of the relief requested in this Motion, the Debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the fourteen (14) day stay of an order authorizing the use, sale or lease of property under Bankruptcy Rule 6004(h). As explained above and in the First Day Declaration, the relief requested in this Motion is necessary to avoid immediate and irreparable harm to the Debtors. Accordingly, ample cause exists to justify the waiver of the notice

requirements under Bankruptcy Rule 6004(a) and the fourteen (14) day stay imposed by Bankruptcy Rule 6004(h), to the extent such notice requirements and such stay apply. The Debtors further submit that waiver is appropriate as part of any Final Order, because the incremental funding that will be made available will be necessary to avoid immediate and irreparable harm at such time.

## NOTICE

63. Notice of this Motion will be provided to: (a) the Office of the United States Trustee for Region 3; (b) the Office of the United States Attorney for the District of Delaware; (c) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (d) the Internal Revenue Service; (e) counsel to the DIP Lender and Pre-Petition Lender; (f) the attorney general for each state in which the Debtors operate; (g) any party that has requested notice pursuant to Bankruptcy Rule 2002; and (h) any other party entitled to notice under Local Rule 9013-1. As this Motion is seeking "first day" relief, notice of this Motion and any order entered in connection herewith will be served on all parties required by Local Rule 9013-1(m). The Debtors respectfully submit that such notice is sufficient, and no other further notice of this Motion is required.

[*Remainder of page intentionally left blank*]

**WHEREFORE,** the Debtors respectfully request entry of the Interim Order and Final Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: March 3, 2025
Wilmington, Delaware

**DLA PIPER LLP (US)**

Respectfully submitted,

*/s/ Stuart M. Brown*

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-and-

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*Proposed Counsel for the Debtors*

# Exhibit A

## Pre-Petition Credit Agreement

**[Conformed Copy of Loan Agreement as amended through Amendment No. 4 to Forbearance Agreement]**

# LOAN AND SECURITY AGREEMENT

By and Among

**AZZUR GROUP, LLC,**

**THE OTHER BORROWERS PARTY HERETO,**

**and**

**MANUFACTURERS AND TRADERS TRUST COMPANY**

Dated: April 7, 2020

**TABLE OF CONTENTS**

**Page**


1. DEFINITIONS. 2

1.1 Defined Terms 2
1.2 Accounting Terms 23
1.3 UCC Terms 23
1.4 Time References 23

2. THE LINE; THE EQUIPMENT LINE; LOAN LIMIT LINE; USE OF PROCEEDS. 23

2.1 Line of Credit 23
2.2 Supplemental Line 23
2.3 Loan Limit Line 24
2.4 Use of Proceeds 24
2.5 Method of Advances 24
2.6 Letters of Credit 26

3. INTEREST RATE. 27

3.1 Interest on the Line 27
3.2 Interest on the Equipment Line 27
3.3 Interest on the Loan Limit Line 28
3.4 Default Interest 28
3.5 Post Judgment Interest 28
3.6 Calculation 28
3.7 Limitation of Interest to Maximum Lawful Rate 28
3.8 Interest on the Supplemental Line 29

4. PAYMENTS AND FEES. 29

4.1 Principal and Interest Payments on the Line 29
4.2 Principal Payments on the Line 29
4.3 Principal and Interest Payments on Equipment Line 29
4.4 Principal and Interest Payments on Loan Limit Line 29
4.5 Letter of Credit Fees 29
4.6 Loan Fees 30
4.7 Usage Fee 30
4.8 Termination of Line; Prepayment of Loans 30
4.9 Payment Method 30
4.10 Loan Account 30
4.11 Anti-Cash Hoarding 30

5. SECURITY; COLLECTION OF RECEIVABLES AND PROCEEDS OF COLLATERAL. 31

5.1 Personal Property 31
5.2 General 32
5.3 Special Flood Zone Loan 32

6. REPRESENTATIONS AND WARRANTIES. Each Borrower represents and warrants as follows: ..... 33

6.1 Valid Organization, Good Standing and Qualification ..... 33
6.2 Licenses ..... 33
6.3 Ownership Interests ..... 33
6.4 Subsidiaries ..... 33
6.5 Financial Statements ..... 33
6.6 No Material Adverse Change in Financial Condition ..... 33
6.7 Pending Litigation or Proceedings ..... 33
6.8 Due Authorization; No Legal Restrictions ..... 33
6.9 Enforceability ..... 34
6.10 No Default Under Other Obligations, Orders or Governmental Regulations ..... 34
6.11 Governmental Consents ..... 34
6.12 Taxes ..... 34
6.13 Title to Collateral ..... 34
6.14 Names; Addresses ..... 34
6.15 Current Compliance ..... 35
6.16 Pension Plans ..... 35
6.17 Material Contracts ..... 35
6.18 Intellectual Property ..... 35
6.19 Reserved ..... 35
6.20 Eligible Receivables Warranties ..... 35
6.21 Commercial Tort Claims ..... 36
6.22 Deposit Accounts ..... 36
6.23 Solvency ..... 36
6.24 Investment Company Act ..... 36
6.25 O.S.H.A. and Environmental Compliance ..... 36
6.26 Accuracy of Representations and Warranties ..... 36
6.27 Interrelatedness of Borrowers ..... 37

7. GENERAL COVENANTS. Each Borrower shall comply with the following: ..... 37

7.1 Payment of Principal, Interest and Other Amounts Due ..... 37
7.2 Limitation on Sale and Leaseback ..... 37
7.3 Limitation on Indebtedness ..... 37
7.4 Investments and Loans ..... 37
7.5 Guaranties ..... 38
7.6 Disposition of Assets ..... 38
7.7 Merger; Consolidation; Business Acquisitions; Subsidiaries ..... 38
7.8 Taxes; Claims for Labor and Materials ..... 38
7.9 Liens ..... 38
7.10 Existence; Approvals; Qualification; Business Operations; Compliance with Laws ..... 39
7.11 Maintenance of Properties ..... 39
7.12 Insurance ..... 39
7.13 Inspections; Examinations ..... 40
7.14 Default Under Other Indebtedness ..... 41
7.15 Pension Plans ..... 41
7.16 Bank of Account ..... 41
7.17 Reserved ..... 41
7.18 Amendment to Organizational Documents ..... 41

7.19 Dividends ..... 42
7.20 Transactions with Affiliates ..... 42
7.21 Reserved ..... 42
7.22 Name; Address or State of Organization Change ..... 42
7.23 Notices ..... 42
7.24 Additional Documents and Future Actions ..... 42
7.25 Title to Equipment ..... 42
7.26 Accounts Receivable ..... 43
7.27 Reserved ..... 44
7.28 Material Adverse Contracts ..... 44
7.29 Restrictions on Use of Proceeds ..... 44
7.30 Commercial Tort Claims ..... 44
7.31 Possessory Collateral ..... 44
7.32 Electronic Chattel Paper ..... 44
7.33 Environmental Matters ..... 44
7.34 Restrictions on Permitted Transactions ..... 46

8. FINANCIAL COVENANTS. ..... 47

8.1 [Reserved ..... 47
8.2 Minimum Liquidity ..... 47
8.3 Minimum EBITDA ..... 47
8.4 Net Capital Expenditures. ..... 48

9. ACCOUNTING RECORDS, REPORTS AND FINANCIAL STATEMENTS. ..... 48

9.1 Annual Statements ..... 48
9.2 Projections and Cash Flow ..... 49
9.3 Quarterly Statements ..... 49
9.4 Borrowing Base Certifications; Accounts Receivable and Accounts Payable Statements 49
9.5 Reports to Governmental Bodies and Other Creditors ..... 49
9.6 Compliance Certificates ..... 49
9.7 Requested Information ..... 50

10. Additional Covenants and Agreements ..... 50

10.1 Financial Advisor ..... 50
10.2 Budget. ..... 51
10.3 Reports, Additional Information and Notices ..... 52
10.4 Initial Capital Investment Advisor. ..... 53
10.5 Initial Capital Investment ..... 54
10.6 Investment Banker. ..... 55
10.7 Repayment of Credit Facility; Milestones. ..... 56
10.8 Updates to Schedules ..... 56
10.9 Confidentiality; Attorney Client Privilege ..... 57
10.10 Further Assurances ..... 57

11. CONDITIONS OF CLOSING ..... 57

11.1 Loan Documents ..... 57
11.2 Representations and Warranties ..... 57

11.3 No Default ..... 57
11.4 Proceedings and Documents ..... 57
11.5 Waiver Agreements ..... 57
11.6 Delivery of Other Documents ..... 58
11.7 Non-Waiver of Rights ..... 58

12. CERTAIN CONDITIONS TO SUBSEQUENT ADVANCES ..... 58

12.1 Representations and Warranties ..... 58
12.2 No Default ..... 59
12.3 Other Requirements ..... 59

13. DEFAULT AND REMEDIES. ..... 59

13.1 Events of Default ..... 59
13.2 Remedies ..... 61
13.3 Sale or Other Disposition of Collateral ..... 61
13.4 Actions with Respect to Accounts ..... 62
13.5 Set-Off ..... 63
13.6 Reserved ..... 63
13.7 Delay or Omission Not Waiver ..... 63
13.8 Remedies Cumulative; Consents ..... 64
13.9 Certain Fees, Costs, Expenses, Expenditures and Indemnification ..... 64
13.10 Time is of the Essence ..... 65
13.11 Acknowledgement of Confession of Judgment Provisions ..... 65

14. COMMUNICATIONS AND NOTICES. ..... 65

14.1 Communications and Notices ..... 65

15. WAIVERS. ..... 66

15.1 Waivers ..... 66
15.2 Forbearance ..... 66
15.3 Limitation on Liability ..... 67

16. SUBMISSION TO JURISDICTION. ..... 67

16.1 Submission to Jurisdiction ..... 67

17. USA Patriot Act Provisions. ..... 67

17.1 USA Patriot Act Notice ..... 67
17.2 Collateral Provisions ..... 67
17.3 OFAC Compliance ..... 68

18. BORROWING AGENCY PROVISIONS. ..... 68

18.1 Appointment of Borrowing Agent ..... 68
18.2 Indemnification ..... 68
18.3 Obligations Joint and Several ..... 68

19. MISCELLANEOUS. ..... 68

19.1 Brokers ..... 68
19.2 Use of Bank' s Name ..... 69
19.3 No Joint Venture ..... 69
19.4 Survival ..... 69
19.5 No Assignment by Borrowers ..... 69
19.6 Assignment or Sale by Bank ..... 69
19.7 Binding Effect ..... 69
19.8 Severability ..... 69
19.9 No Third Party Beneficiaries ..... 69
19.10 Modifications ..... 69
19.11 Holidays ..... 69
19.12 Law Governing ..... 69
19.13 Integration ..... 69
19.14 Exhibits and Schedules ..... 70
19.15 Headings ..... 70
19.16 Counterparts ..... 70
19.17 Waiver of Right to Trial by Jury ..... 70
19.18 Marketing Release ..... 70
19.19 Credit Inquiries ..... 70

**LOAN AND SECURITY AGREEMENT**

THIS **LOAN AND SECURITY AGREEMENT** (the "**Agreement**") is made effective the 7th day of April, 2020, presently by and among **AZZUR GROUP HOLDINGS LLC**, a Delaware limited liability company ("**Azzur Holdings**"), **AZZUR GROUP, LLC**, a Pennsylvania limited liability company ("**Azzur Group**"), **AZZUR OF CA, LLC**, a California limited liability company ("**ACA**"), **AZZUR CLEANROOMS-ON-DEMAND-BOSTON LLC**, a Massachusetts limited liability company ("**Azzur Boston**"), **AZZUR OF NE LLC**, a Massachusetts limited liability company ("**ANE**"), **AZZUR NORTH CAROLINA, LLC,** a Pennsylvania limited liability company ("**ANC**"), **AZZUR PRINCETON LLC**, a Pennsylvania limited liability company ("**Azzur Princeton**"), **AZZUR SAN DIEGO LLC**, a Pennsylvania limited liability company ("**Azzur San Diego**"), **AZZUR SAN FRANCISCO LLC**, a Pennsylvania limited liability company ("**Azzur SF**"), **AZZUR SOLUTIONS LLC**, a Pennsylvania limited liability company ("**Solutions**"), **AZZUR IT LLC**, a Pennsylvania limited liability company ("**AIT**"), **AZZUR TECHNICAL SERVICES – BOSTON LLC**, a Massachusetts limited liability company ("**ATS Boston**"), **AZZUR WASHINGTON DC LLC**, a Pennsylvania limited liability company ("**Azzur DC**"), **AZZUR WORCESTER LLC**, a Pennsylvania limited liability company ("**Azzur Worcester**"), **COBALT LLC**, a Pennsylvania limited liability company ("**Cobalt**"), **AZZUR LABS, LLC**, a Pennsylvania limited liability company ("**Azzur Labs**"), **AZZUR LABS NC, LLC**, a North Carolina limited liability company ("**Labs NC**"), **AZZUR LABS – BOSTON LLC**, a Pennsylvania limited liability company ("**Labs Boston**"), **AZZUR LABS – SAN FRANCISCO LLC**, a Pennsylvania limited liability company ("**Labs SF**"), **AZZUR AUSTIN LLC**, a Pennsylvania limited liability company ("**Azzur Austin**"), **AZZUR CHICAGO LLC**, a Pennsylvania limited liability company ("**Azzur Chicago**"), **AZZUR CLEANROOMS-ON-DEMAND BURLINGTON LLC**, a Massachusetts limited liability company ("**Azzur COD Burlington**"), **AZZUR CLEANROOMS-ON-DEMAND SAN DIEGO LLC**, a California limited liability company ("**Azzur COD San Diego**"), **AZZUR DENVER LLC**, a Pennsylvania limited liability company ("**Azzur Denver**"), **AZZUR LABS – CHICAGO LLC**, a Pennsylvania limited liability company ("**Labs Chicago**"), **AZZUR LABS – DALLAS LLC**, a Pennsylvania limited liability company ("**Labs Dallas**"), **AZZUR LABS – SAN DIEGO LLC**, a Pennsylvania limited liability company ("**Labs San Diego**") and **AZZUR TRAINING CENTER – RALEIGH LLC**, a Pennsylvania limited liability company ("**ATC Raleigh**"), **AZZUR CLEANROOMS-ON-DEMAND – DEVENS LLC**, a Massachusetts limited liability company ("**Azzur COD Devens**"), **AZZUR CLEANROOMS-ON-DEMAND – SAN FRANCISCO LLC**, a California limited liability company ("**Azzur COD San Francisco**"), **AZZUR CLEANROOMS-ON-DEMAND – SERVICES LLC**, a Pennsylvania limited liability company ("**Azzur COD Services**"), **AZZUR CLEANROOMS-ON-DEMAND-RALEIGH LLC**, a North Carolina limited liability company ("**Azzur COD Raleigh**") and **AZZUR CONSULTING LLC**, a Pennsylvania limited liability company ("**Azzur Consulting**"; and, together with Azzur Holdings, Azzur Group, ACA, Azzur Boston, ANE, ANC, Azzur Princeton, Azzur San Diego, Azzur SF, Solutions, AIT, ATS Boston, Azzur DC, Azzur Worcester, Cobalt, Azzur Labs, Labs NC, Labs Boston, Labs SF, Azzur Austin, Azzur Chicago, Azzur COD Burlington, Azzur COD San Diego, Azzur Denver, Labs Chicago, Labs Dallas and Labs San Diego, ATC Raleigh, Azzur COD Devens, Azzur COD San Francisco, Azzur COD Services and Azzur COD Raleigh, each, a "**Borrower**" and, collectively, "**Borrowers**"), and **MANUFACTURERS AND TRADERS TRUST COMPANY** ("**Bank**").

**BACKGROUND**

A. Borrowers have requested that Bank extend certain credit facilities to Borrowers, which Bank is willing to do on the terms set forth herein.

B. Capitalized terms used herein will have the meanings set forth therefor in **Section 1** of this Agreement.

NOW, THEREFORE, in consideration of the terms and conditions contained herein, and of any extensions of credit now or hereafter made to or for the benefit of Borrowers by Bank, the parties hereto, intending to be legally bound hereby, agree as follows:

1. **DEFINITIONS**.

1.1 **Defined Terms.** The following words and phrases as used in capitalized form in this Agreement, whether in the singular or plural, shall have the meanings indicated:

(a) "**Accelerated Expedited Sales Milestones**" means the milestones as set forth and defined in Section 6.8(a) of Amendment No. 3 to Forbearance Agreement.

(b) "**Acceptable Investment**" means, to the extent Borrowers do not consummate the Initial Capital Investment in accordance with the Forbearance Agreement, an investment in Azzur Group in the amount equal to cash proceeds or other immediately available funds to pay in full all of the Bank Indebtedness, either in the form of an equity investment or a loan or a combination of an equity investment and a loan pursuant to the Acceptable Investment Documents in accordance with the terms of the Forbearance Agreement.

(c) "**Acceptable Investment Documents**" means, collectively, (i) the equity contribution agreements, documents or instruments in respect of an Acceptable Investment in the form of an equity interest and (ii) the loan or financing agreements, documents or instruments in respect of an Acceptable Investment in the form of Indebtedness, as all of the same may exist if ever executed and delivered and as the same may thereafter be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms of the Forbearance Agreement, each of the foregoing documents in clauses (i) and (ii) sometimes being referred to herein individually as an "Acceptable Investment Document".

(d) "**Acceptable Sale**" means, to the extent Borrowers do not consummate the Initial Capital Investment in accordance with the Forbearance Agreement, a sale to one or more Persons of (i) one or more segments or divisions of the Borrowers and their Subsidiaries or (ii) all or substantially all of the Borrowers' and their Subsidiaries' business and assets in one or more of a series of transactions for a purchase price in cash or other immediately available funds sufficient to pay in full all of the Bank Indebtedness, pursuant to the Acceptable Sale Documents in accordance with the terms of the Forbearance Agreement.

(e) "**Acceptable Sale Documents**" means, collectively, a definitive purchase agreement and other agreements, documents and instruments related to an Acceptable Sale, as all of the same may exist if ever executed and delivered and as the same may thereafter be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms of the Forbearance Agreement, each of the foregoing agreements, documents and instruments sometimes being referred to herein individually as an "Acceptable Sale Document".

(f) "**Adjusted EBITDA**" means, for any period, an amount equal to (a) Borrowers' EBITDA for such period, minus (b) cash distributions made by Borrowers during such period, minus (c) Unfunded Capital Expenditures of Borrowers during such period, plus (d) the amount, to be agreed upon by Borrowers and Bank, of reasonable one-time, non-recurring expenses incurred by Borrowers (or any of them) during such period, each as determined on a consolidated basis in accordance with GAAP.

(g) **"Advance"** means any loan or extension of credit by Bank to any Borrower including, without limitation, Line Advances, Equipment Line Advances, Loan Limit Line Advances, Supplemental Line Advances and the undrawn face amount of any letter of credit issued by Bank or any Affiliate of Bank for the account of any Borrower.

(h) **"Affiliate"** means, with respect to any Person: (i) each other Person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the Person in question; and (ii) any individual who is an officer, director, member, manager or partner of (A) such Person, (B) any Subsidiary of such Person, or (C) any Person described in the preceding **clause (i)**.

(i) "**Amendment No. 1 to Forbearance Agreement**" means this Amendment No. 1 to Forbearance Agreement, dated as of August 13, 2024, by and among Borrowers and Bank, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms and conditions contained therein.

(j) "**Amendment No. 1 to Forbearance Agreement Effective Date**" means the date on which all of the conditions precedent set forth in Section 6 of the Amendment No. 1 to Forbearance Agreement have been either satisfied or waived in accordance with Section 6.

(k) "**Amendment No. 2 to Forbearance Agreement**" means Amendment No. 2 to Forbearance Agreement and Eighth Amendment to Loan and Security Agreement, dated as of August 23, 2024, by and among Borrowers and Bank, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms and conditions contained therein.

(l) "**Amendment No. 2 to Forbearance Agreement Effective Date**" means the date on which all of the conditions precedent set forth in Section 6 of Amendment No. 2 to Forbearance Agreement have been either satisfied or waived in accordance with Section 6 thereof.

(m) "**Amendment No. 3 to Forbearance Agreement**" means Amendment No. 3 to Forbearance Agreement and Ninth Amendment to Loan and Security Agreement, dated as of August 30, 2024, by and among Borrowers and Bank, as the same exists on the execution date thereof or may thereafter be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms and conditions contained therein.

(n) "**Amendment No. 3 Forbearance Effective Date**" means the date on which all of the conditions precedent set forth in Section 9 of Amendment No. 3 to Forbearance Agreement have been either satisfied or waived in accordance with Section 9.

(o) "**Amendment No. 3 Forbearance Fee**" shall have the meaning specified therefor in Section 7.2 of Amendment No. 3 to Forbearance Agreement.

(p) "**Amendment No. 4 to Forbearance Agreement**" means the Amendment No. 4 to Forbearance Agreement and Tenth Amendment to Loan and Security Agreement, dated as of January 6, 2025, by and among Borrowers and Bank, as the same exists on the execution and delivery date thereof or may thereafter be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms and conditions contained therein.

(q) "**Amendment No. 4 Forbearance Effective Date**" means the date on which all of the conditions precedent set forth in Section 9 of Amendment No. 4 to Forbearance Agreement have been either satisfied or waived in accordance with Section 9.

(r) "**Anti-Terrorism Laws**" shall mean Applicable Laws relating to terrorism, trade sanctions programs and embargoes, import/export licensing, money laundering or bribery, and any regulation, order, or directive promulgated, issued or enforced pursuant to such Applicable Laws, all as amended, supplemented or replaced from time to time.

(s) "**Applicable Law**" means all laws, rules and regulations applicable to any Person, conduct, transaction, covenant, or contract in question, including all applicable common law and equitable principles, all provisions of all applicable state, federal and foreign constitutions, statutes, rules, regulations, treaties, directives and orders of any Governmental Body, and all orders, judgments and decrees of all courts and arbitrators, and includes, without limitation, all Environmental Laws.

(t) "**Azzur Holdings**" means Azzur Group Holdings LLC, a Delaware limited liability company.

(u) "**Azzur Lab**" or "**Azzur Labs**" means one or more laboratories constructed (or to be constructed) by a Borrower.

(v) "**Azzur Labs Net Purchase Price**" means, if the Azzur Labs Sale has been consummated pursuant to the Consent to Azzur Labs Sale, the net amount equal to not less than $14,053,400.31 as set forth in the Consent to Azzur Labs Sale.

(w) "**Azzur Labs Sale**" means the sale by Azzur Labs, Azzur Group Holdings, LLC and Azzur Group of the assets and properties of Azzur Labs to the extent provided in, and subject to the forms and conditions of, the Consent to Azzur Labs Sale.

(x) **"Bank"** shall have the meaning given such term in the introductory paragraph of this Agreement and shall include all permitted successors and assigns of such Person.

(y) **"Bank Indebtedness"** means all obligations, liabilities and Indebtedness of Borrowers to Bank or any Affiliate of Bank, whether now or hereafter owing or existing, including, without limitation, all obligations under the Loan Documents, all obligations to reimburse Bank or any Affiliate of Bank for payments made by Bank or any such Affiliate pursuant to any letter of credit issued for the account or benefit of Borrowers by Bank or any Affiliate of Bank, all Hedging Obligations, all other obligations to Bank or any Affiliate of Bank under any Hedging Agreements, all Cash Management Obligations, all other obligations to Bank or any Affiliate of Bank under any Cash Management Agreement, all other obligations or undertakings now or hereafter made by or for the benefit of Borrowers to or for the benefit of Bank or any Affiliate of Bank under any other agreement, promissory note or undertaking now existing or hereafter entered into by any Borrower with Bank or any such Affiliate, including, without limitation, all obligations of any Borrower to Bank or any Affiliate of Bank under any guaranty or surety agreement and all obligations of Borrowers to immediately pay to Bank or any Affiliate of Bank the amount of any overdraft on any deposit account maintained with Bank or any Affiliate of Bank, together with all interest and other sums payable in connection with any of the foregoing; provided, that, Bank Indebtedness shall not include any Excluded Hedge Liabilities. For the avoidance of doubt, "Bank Indebtedness" shall include (i) all Advances (including, without limitation, all Line Advances, Equipment Line Advances, Loan Limit Line Advances, and Out-Of-Formula Advances), (ii) all obligations under any letters of credit issued hereunder, (iii) all reimbursement obligations, fees, expenses, indemnification and reimbursement payments, costs and expenses (including all fees and expenses of counsel to Bank incurred and payable

pursuant to this Agreement or any other Loan Document), whether direct or indirect, absolute or contingent, liquidated or unliquidated, now existing or hereafter arising hereunder or thereunder, together with all renewals, extensions, modifications or refinancings thereof, and (iv) all interest and other amounts accruing subsequent to the commencement of, or which would have accrued but for the commencement of, any Insolvency Proceeding in accordance with and at the rate (including the Default Rate to the extent lawful) specified herein or in another applicable Loan Document, whether or not such interest is an allowable claim in such Insolvency Proceeding. The term "Bank Indebtedness" includes, without limitation, the Supplemental Line Advances.

(z) **"Borrower"** and "**Borrowers**" shall have the meanings given such terms in the introductory paragraph of this Agreement and shall include all permitted successors and assigns of such Person.

(aa) "**Borrowing Agent**" means Azzur Group.

(bb) **"Borrowing Base Amount"** means, at any time, an amount up to eighty percent (80%) of the aggregate amount of Borrowers' Eligible Receivables.

(cc) "**Borrowing Base Certificate**" means a borrowing base certificate in the form of **Exhibit "A"** attached hereto.

(dd) "**Budget**" means the budget delivered to Bank in accordance with Section 6.2(a) of the Forbearance Agreement, together with any subsequent or amended budget(s) delivered to Bank, in each case in form and substance satisfactory to Bank, setting forth on a weekly basis as of the end of each week for the periods covered thereby (i) the projected cash flow showing cash receipts and cash expenditures of Borrowers and their Subsidiaries, and (ii) the projected Revolver Availability, showing the Borrowing Base Amount, the outstanding amount of Advances of Borrowers and the cash balances of Borrowers, as such Budget may be supplemented from time to time in accordance with the terms and conditions of Section 6.2 of the Forbearance Agreement. The term "Budget" includes, without limitation, (x) the Revised Budget, (y) the Liquidation Budget and (z) the Updated Revised Budget.

(ee) "**Budget Measurement Period**" shall have the meaning specified therefor in in Section 6.2(b) of the Forbearance Agreement.

(ff) "**Budget Report**" shall have the meaning specified therefor in Section 6.2(b) of the Forbearance Agreement. The term "Budget Report" includes, without limitation, (x) the Revised Budget Reports and (y) the Updated Revised Budget Reports.

(gg) "**Business Assessment Report**" means a comprehensive written report by Financial Advisor that provides a detailed review of the finances, business operations and strategic alternatives of the Borrowers and their Subsidiaries, including an analysis of the projected balance sheets, income statements, statements of cash flow and liquidity of Borrowers through the fiscal year ending December 31, 2025, and shall include specific recommendations to improve or enhance the prospects for business success of the Borrowers and their Subsidiaries.

(hh) "**Business Plan**" means a multi-year, detailed review of the finances, business operations and strategic alternatives of the Borrowers and their Subsidiaries, and shall include the projected balance sheets, income statements, statements of cash flow and Revolver Availability of the Borrowers through the fiscal year ending 2025, which projections shall be on a monthly basis for the fiscal year ending December 31, 2024 and on a quarterly basis for the fiscal year ending December 31, 2025.

(ii) **"Business Day"** means any day except a Saturday, Sunday or other day on which banks in Philadelphia, Pennsylvania are authorized by law to close.

(jj) **"Capital Expenditures"** means any expenditure that would be classified as a capital expenditure on a statement of cash flow of Borrowers prepared in accordance with GAAP.

(kk) "**Capitalized Lease**" means a lease obligation of a Borrower (other than a lease of real property) that is required under GAAP to be capitalized on such Borrower' s balance sheet.

(ll) **"Capitalized Lease Obligations"** means all amounts payable with respect to a Capitalized Lease.

(mm) "**Cash Collateral**" and "**cash collateral**" or "**Cash Collateralize**" and "cash collateralize" means the pledge and deposit with Bank, (i) for the benefit of Bank as collateral for any Bank Indebtedness arising under letters of credit, at the option of Bank, either (A) cash in an amount equal to 105% of the Bank Indebtedness arising under the then outstanding letters of credit as set forth in documentation in form and substance satisfactory to Bank, or (B) a standby letter of credit, in form and substance satisfactory to Bank, from a commercial bank acceptable to Bank, in an amount equal to 105% of the Bank Indebtedness arising under the then outstanding letters of credit, (ii) cash for the benefit of Bank or one of its Affiliates that provides cash management services in an amount determined by Bank as sufficient to satisfy the reasonably estimated credit exposure, operational risk or processing risk with respect to the then existing Cash Management Obligations as set forth in documentation in form and substance satisfactory to Bank, (iii) cash for the benefit of Bank with respect to any Bank Indebtedness arising under any Hedging Obligations that are permitted to remain outstanding without being repaid in full in cash as set forth in documentation in form and substance satisfactory to Bank, and (iv) cash for the benefit of Bank as collateral for any Bank Indebtedness in accordance with the terms of this Agreement or the other Loan Documents.

(nn) "**Cash Management Agreement**" means an agreement by Bank or an Affiliate of Bank providing for cash management services to any Borrower, including treasury, depository, overdraft, credit or debit card, electronic funds transfers, cash concentration and other cash management services.

(oo) "**Cash Management Obligations**" means all obligations, liabilities, reimbursement obligations, fees, or expenses owing by each Borrower and its Subsidiaries to Bank pursuant to or evidenced by a Cash Management Agreement, and irrespective of whether for the payment of money, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising.

(pp) "**CEA**" means the Commodity Exchange Act (7 U.S.C. § 1, et seq.), as amended from time to time, and any successor statute.

(qq) "**CERCLA**" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§9601 et seq.

(rr) "**CFTC**" means the Commodity Futures Trading Commission.

(ss) "**Change in Law**" means the occurrence, after the date hereof, of any of the following: (a) the adoption or taking effect of any Applicable Law; (b) any change in any Applicable Law or in the administration, implementation, interpretation or application thereof by any Governmental Body; or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Body; provided that notwithstanding anything herein to the contrary,

(x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, regulations, guidelines, interpretations or directives thereunder or issued in connection therewith (whether or not having the force of law) and (y) all requests, rules, regulations, guidelines, interpretations or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities (whether or not having the force of law), in each case pursuant to Basel III, shall in each case be deemed to be a Change in Law regardless of the date enacted, adopted, issued, promulgated or implemented.

(tt) "**Change of Control**" means any of the following: (i) any change in the legal or beneficial ownership of the Equity Interests of Yotomachi, or in the capital structure or Organizational Documents of Yotomachi, which would result in any Person acquiring 49% or more of any class of Equity Interests in Yotomachi or which would result in the Equity Owners of Yotomachi as of the Second Amendment Effective Date not having the power to direct the management or affairs of Yotomachi; (ii) any change in the legal or beneficial ownership of the Equity Interests of Azzur Holdings, or in the capital structure or Organizational Documents of Azzur Holdings, which would result in Yotomachi owning less than 51% or more of the Equity Interests in Azzur Holdings (on a fully diluted basis); (iii) Azzur Holdings fails to be the sole Equity Owner of Azzur Group; (iv) with respect to any Person: (A) any pledge, assignment or hypothecation of or lien, security interest or encumbrance on any of the legal or beneficial Equity Interests in the applicable Person; or (B) any change in the legal or beneficial ownership or control of the outstanding voting Equity Interests of the applicable Person necessary at all times to elect a majority of the board of directors (or similar governing body) of each such Person and to direct the management policies and decisions of such Person; and (v) if Michael Khavinson fails to be the Chief Executive Officer of any Borrower.

(uu) "**Chief Restructuring Officer**" means M. Benjamin Jones, Senior Managing Director of Ankura Consulting Group, LLC, or such other chief restructuring advisor selected by Borrowers and acceptable to Bank.

(vv) "**COD**" means a cleanroom on-demand constructed (or to be constructed) by any Borrower.

(ww) "**COD/Azzur Lab and Capital Projects Reports**" shall have the meaning specified therefor in Section 6.3(e) of the Forbearance Agreement.

(xx) "**COD/Azzur Lab Advance Period**" means, with respect to any COD or Azzur Lab, as applicable, the one-year period commencing on the date of the first Loan Limit Line Advance with respect to such COD and ending one (1) year thereafter.

(yy) **"Collateral"** shall have the meaning given such term in **Section 5.2**.

(zz) "**Compliance Certificate**" means a certificate in the form of Exhibit B to this Agreement, as amended and replaced by the Exhibit B attached to the Forbearance Agreement, as the same may be amended, modified or supplemented with the written approval of Bank.

(aaa) "**Confidentiality Agreement**" means the Confidentiality Agreement, dated as of January 17, 2024, between Bank and Azzur Group, as may be amended, modified, supplemented, extended, renewed, restated or replaced.

(bbb) "**Consent to Azzur Labs Sale**" means the Consent to Azzur Labs Sale, dated as of January 6, 2025 (or such later date as may be agreed to be Bank), by Bank in favor of Azzur Labs and the other Borrowers, as the same exists on the execution and delivery date thereof or may

thereafter be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms and conditions contained therein.

(ccc) **"Contract Period"** means the period of time commencing on the date hereof and continuing through and including February 28, 2025.

(ddd) "**Contractor**" means any contractor, sub-contractor, or other Person engaged by or on behalf of any Borrower in connection with any COD.

(eee) "**Contractor Settlement Payments**" means the amounts due and owing by Borrowers to third party contractors who have completed work required under the lease and other agreements between Borrowers and the owners of the premises that are the subject of such leases.

(fff) "**Contractor Settlement Payments Schedule**" means the Contractor Settlement Payments in the amounts and for the periods through the fiscal year ending December 31, 2024 as set forth on Schedule A to Amendment No. 3 to Forbearance Agreement.

(ggg) **"Corporation"** means a corporation, partnership, limited liability company, trust, unincorporated organization, association, joint stock company or joint venture.

(hhh) "**CRO Engagement Agreement**" means the letter agreement, dated May 11, 2024, between Azzur Group on behalf of itself and its Subsidiaries and Ankura Consulting Group LLC, as may be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms of Amendment No. 3 to Forbearance Agreement.

(iii) **"Default"** means any event which with the giving of notice, passage of time or both, could constitute an Event of Default.

(jjj) **"Default Rate"** shall have the meaning given such term in **Section 3.4**.

(kkk) **"EBITDA"** means, for any period, Net Income of Borrowers for such period, plus the aggregate amounts deducted in determining such Net Income in respect of (i) Interest Expense for such period, (ii) income taxes for such period, (iii) depreciation for such period, and (iv) amortization for such period, all as determined on a consolidated basis in accordance with GAAP.

(lll) "**Eligible Contract Participant**" means an "eligible contract participant" as defined in the CEA and regulations thereunder.

(mmm) **"Eligible Receivables"** means accounts receivable of any Borrower in which Bank has a prior, perfected first priority lien, which have been outstanding no more than sixty (60) days from the original due date therefor, are not subject to offset, deduction, counterclaim, discount, credit, charge back, freight claim, allowance or adjustment, comply in all material respects with the representations set forth in **Section 6.20** and meet all specifications established by Bank in its sole discretion from time to time. Eligible Receivables shall not include: (i) non-trade receivables; (ii) foreign accounts receivable other than those fully secured by a letter of credit issued by a financial institution acceptable to Bank in its sole discretion or covered by credit insurance acceptable to Bank in its sole discretion in each case assigned to Bank or with respect to which Bank has been named loss payee, as applicable; (iii) contra-accounts; (iv) intercompany accounts or accounts from other affiliated corporations, organizations or individuals; (v) accounts receivable from the United States government or any of its agencies which have not been assigned to Bank under the Assignment of Claims Act; (vi) finance charges; (vii) [reserved]; (viii) accounts receivable owed by a Person if forty percent (40%) or more of such Person' s accounts receivable owed to

a Borrower have been outstanding more than sixty (60) days from the original due date therefor; (ix) accounts receivable of poor credit quality as determined by Bank in its sole discretion; (x) that portion of accounts receivable concentrated in individual account debtors in excess of thirty-five percent (35%) (or in such other amounts or percentages as may be established by Bank from time to time) of all Eligible Receivables; (xi) [reserved]; and (xii) any account where the account debtor is a Sanctioned Person. Borrowers shall immediately notify Bank if any account receivable previously scheduled, listed or referred to in any certificate, statement or report by Borrowers and upon which Borrowers are basing availability under the Line ceases to be an Eligible Receivable.

(nnn) "**Eligibility Date**" means, with respect to any Borrower and each Hedging Agreement, the date on which this Agreement or any of the other Loan Documents becomes effective with respect to such Hedging Agreement (for the avoidance of doubt, the Eligibility Date shall be the date on which the Hedging Agreement becomes effective if this Agreement or any other of the Loan Documents is then in effect with respect to any Borrower, and otherwise it shall be date on which this Agreement or such other Loan Document to which any Borrower is party becomes effective).

(ooo) "**Environmental Complaint**" has the meaning given such term in **Section 7.33(d)**.

(ppp) "**Environmental Laws**" means all Applicable Laws relating to the environment, land use, zoning, health, chemical use, safety and sanitation, relating to the protection of the environment and/or governing the use, storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Substances.

(qqq) **"Equipment Line"** has the meaning given such term in **Section 2.2**.

(rrr) **"Equipment Line Advances"** means advances under the Equipment Line Documents.

(sss) **"Equipment Line Documents"** means the documents evidencing the Equipment Line, copies of which are attached hereto as **Exhibit "C"** and made a part hereof.

(ttt) "**Equity Interests**" means, with respect to any Person, any and all shares, rights to purchase, options, warrants, general, limited or limited liability partnership interests, member interests, participation or other equivalents of or interest in (regardless of how designated) equity of such Person, whether voting or nonvoting, including common stock, preferred stock, convertible securities or any other "equity security" (as such term is defined in Rule 3a11-1 of the General Rules and Regulations promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934), including in each case all of the following rights relating to such Equity Interests: (i) all economic rights (including all rights to receive dividends and distributions) relating to such Equity Interests; (ii) all voting rights and rights to consent to any particular action(s) by the applicable issuer; (iii) all management rights with respect to such issuer; (iv) in the case of any Equity Interests consisting of a general partner interest in a partnership, all powers and rights as a general partner with respect to the management, operations and control of the business and affairs of the applicable issuer; (v) in the case of any Equity Interests consisting of the membership/limited liability company interests of a managing member in a limited liability company, all powers and rights as a managing member with respect to the management, operations and control of the business and affairs of the applicable issuer; (vi) all rights to designate or appoint or vote for or remove any officers, directors, manager(s), general partner(s) or managing member(s) of such issuer and/or any members of any board of members/managers/partners/directors that may at any time have any rights to manage and direct the business and affairs of the applicable issuer under its Organizational Documents as in effect from time to time or under Applicable Law; (vii) all rights to amend the Organizational Documents

of such issuer, (viii) in the case of any Equity Interests in a partnership or limited liability company, the status of the holder of such Equity Interests as a "partner", general or limited, or "member" (as applicable) under the applicable Organizational Documents and/or Applicable Law; and (ix) all certificates evidencing such Equity Interests.

(uuu) "**Equity Owner**" has the meaning given such term in **Section 7.19**.

(vvv) **"ERISA"** has the meaning given such term in **Section 6.16**.

(www) **"Event of Default"** has the meaning given such term in **Section 13.1**.

(xxx) "**Excluded Hedge Liability or Liabilities**" means, with respect to any Borrower, each of its Hedging Obligations if, and only to the extent that, all or any portion of this Agreement or any other Loan Document that relates to such Hedging Obligation is or becomes illegal under the CEA, or any rule, regulation or order of the CFTC, solely by virtue of such Borrower' s failure to qualify as an Eligible Contract Participant on the Eligibility Date for such Hedging Agreement. Notwithstanding anything to the contrary contained in the foregoing or in any other provision of this Agreement or any other Loan Document, the foregoing is subject to the following provisos: (a) if a Hedging Obligation arises under a master agreement governing more than one Hedging Agreement, this definition shall apply only to the portion of such Hedging Obligation that is attributable to the Hedging Agreements for which such surety agreement or security interest is or becomes illegal under the CEA or any rule, regulations or order of the CFTC, solely as a result of the failure by such Borrower for any reason to qualify as an Eligible Contract Participant on the Eligibility Date for such Hedging Agreement; and (b) if a guarantee of a Hedging Obligation would cause such obligation to be an Excluded Hedge Liability but the grant of a security interest would not cause such obligation to be an Excluded Hedge Liability, such Hedging Obligation shall constitute an Excluded Hedge Liability for purposes of the surety agreement but not for purposes of the grant of the security interest.

(yyy) "**Expedited Sales Closing Date**" means November 22, 2024.

(zzz) "**Expedited Sales Documents**" means, collectively, one or more definitive purchase agreement(s) and other agreements, documents and instruments related to an Expedited Sales Transaction, all of which agreements, documents and instruments shall be in form and substance acceptable to Bank.

(aaaa) "**Expedited Sales Investment Banker**" means Brown Gibbons Lang & Co Securities, LLC (or such other firm acceptable to Bank in its Permitted Discretion) to be the investment banker for Borrowers in connection with the Expedited Sales Transactions pursuant to the Expedited Sales Investment Banking Agreement and as set forth in Amendment No. 3 to Forbearance Agreement.

(bbbb) "**Expedited Sales Investment Banking Agreement**" means the Addendum to Letter and Indemnification Agreement Dated January 24, 2024, made as of August 30, 2024, between Brown Gibbons Lang & Securities Inc. and Azzur Group, as may be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms of Amendment No. 3 to Forbearance Agreement.

(cccc) "**Expedited Sales Letter of Intent**" means, collectively, one or more letters of intent between Azzur Group and a purchaser of all or substantially all of one or more divisions of Azzur Group and its Subsidiaries, which shall be in form and substance acceptable to Bank.

(dddd) "**Expedited Sales Transactions**" means, collectively, to the extent Borrowers do not consummate the JLL Sales Transaction on the JLL Sales Closing Date in accordance with the Forbearance Agreement, sales to one or more Persons of (i) one or more segments or divisions of the Borrowers and their Subsidiaries or (ii) all or substantially all of the Borrowers' and their Subsidiaries' business and assets in one or more of a series of transactions for a purchase price in cash or other immediately available funds in the aggregate sufficient for the Payment in Full of all Bank Indebtedness pursuant to the Expedited Sales Documents in accordance with the terms of the Forbearance Agreement, each individually, an "Expedited Sales Transaction".

(eeee) **"Fifth Amendment and Modification to Loan and Security Agreement**" means Fifth Amendment and Modification to Loan and Security Agreement, dated as of May 3, 2023, by and among Borrowers and Bank, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms and conditions contained therein.

(ffff) "**Financial Advisor**" means Ankura Consulting Group LLC, or such other Person acceptable to Bank in its Permitted Discretion, to be the financial advisor for Borrowers in connection with providing financial and business advice regarding the business operations and financial performance of Borrowers and their Subsidiaries pursuant to the Financial Advisor Agreement and as set forth in the Forbearance Agreement.

(gggg) "**Financial Advisor Agreement**" means the engagement agreement, dated as of December 22, 2023, among DLA Piper LLP (US), Financial Advisor, and Azzur Group Re: Financial Advisory Services, as may be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms of the Forbearance Agreement.

(hhhh) "**First Amendment and Modification to Loan and Security Agreement**" means First Amendment and Modification to Loan and Security Agreement, dated as of January 21, 2021, by and among Borrowers and Bank, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms and conditions contained therein.

(iiii) **"Fixed Charge Coverage Ratio"** means the ratio of Borrowers' (a) Adjusted EBITDA to (b) Fixed Charges.

(jjjj) **"Fixed Charges"** means, for any period, the sum of (i) Borrowers' Interest Expense for such period, plus (ii) principal payments paid or due on Borrowers' long-term Indebtedness and Capitalized Lease Obligations for such period, as determined on a consolidated basis in accordance with GAAP.

(kkkk) "**Forbearance Agreement and Sixth Amendment**" means the Forbearance Agreement and Sixth Amendment to Loan and Security Agreement, dated as of February 26, 2024, by and among Borrowers and Bank, as amended by Amendment No. 1 to Forbearance Agreement, Amendment No. 2 to Forbearance Agreement, Amendment No. 3 to Forbearance Agreement, and Amendment No. 4 to Forbearance Agreement, as the same exists on the execution and delivery date thereof or may thereafter be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms and conditions contained therein.

(llll) "**Forbearance Effective Date**" means the date on which all of the conditions precedent set forth in Section 9 of the Forbearance Agreement have been either satisfied or waived in accordance with Section 9.

(mmmm) "**Forbearance Fee**" shall have the meaning specified therefor in Section 7.1 of the Forbearance Agreement.

(nnnn) "**Forbearance Period**" means the period commencing on the Forbearance Effective Date until the Forbearance Termination Date.

(oooo) "**Forbearance Termination Date**" shall have the meaning specified therefor in Section 3.2(a) of the Forbearance Agreement.

(pppp) **"Fourth Amendment and Modification to Loan and Security Agreement**" means Fourth Amendment and Modification to Loan and Security Agreement, dated as of January 5, 2023, by and among Borrowers and Bank, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms and conditions contained therein.

(qqqq) **"GAAP"** means generally accepted accounting principles in the United States of America, in effect from time to time, consistently applied and maintained.

(rrrr) "**Governmental Body**" means any nation or government, any state or other political subdivision thereof or any entity, authority, agency, division or department exercising the executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to a government (including any supra-national bodies such as the European Union or the European Central Bank) and any group or body charged with setting financial accounting or regulatory capital rules or standards (including, without limitation, the Financial Accounting Standards Board, the Bank for International Settlements or the Basel Committee on Banking Supervision or any successor or similar authority to any of the foregoing).

(ssss) "**Hazardous Discharge**" has the meaning given such term in **Section 7.33(d)**.

(tttt) "**Hazardous Substance**" means, but is not limited to, any flammable explosives, radon, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum and petroleum products, methane, hazardous materials, Hazardous Wastes, hazardous or Toxic Substances or related materials as defined in CERCLA, the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), RCRA, or any other applicable Environmental Law and in the regulations adopted pursuant thereto.

(uuuu) "**Hazardous Wastes**" means all waste materials subject to regulation under CERCLA, RCRA or applicable state law, and any other applicable Federal and state laws now in force or hereafter enacted relating to hazardous waste disposal.

(vvvv) **"Hedging Agreements"** means any interest rate protection agreement, swap agreement (as defined in 11 U.S.C. § 101), foreign currency exchange agreement, commodity purchase or option agreement or other interest or exchange rate or commodity price hedging agreements between any Borrower and Bank or any Affiliate of Bank.

(wwww) "**Hedging Obligations**" means any and all obligations or liabilities, whether absolute or contingent, due or to become due, now existing or hereafter arising, of each Borrower and its Subsidiaries arising under, owing pursuant to, or existing in respect of Hedging Agreements entered into with Bank or any Affiliate of Bank.

(xxxx) "**Indebtedness**" means, as to any Person at any date, without duplication, (i) all indebtedness of such Person for borrowed money (including, with respect to Borrowers, the Bank Indebtedness) or for the deferred purchase price of property or services (other than current trade liabilities incurred in the ordinary course of business and payable in accordance with customary practices), (ii) any other indebtedness of such Person which is evidenced by a note, bond, debenture or similar instrument, (iii) all Capitalized Lease Obligations of such Person, (iv) the face amount of all letters of credit issued for the account of such Person and all drafts drawn thereunder, (v) all obligations of other Persons which such Person has guaranteed, (vi) all net obligations of such Person under Hedging Agreements, (vii) all liabilities secured by any lien on any property owned by such Person even though such Person has not assumed or otherwise become liable for the payment thereof, and (viii) all guaranty obligations of such Person for the Indebtedness of another Person.

(yyyy) "**Indemnitee(s)**" has the meaning given such term in **Section 3.7**.

(zzzz) "**Independent Director**" means Gary Knight or such other independent director selected by Borrowers who is acceptable to Bank.

(aaaaa) "**Initial Capital Investment**" means an investment in Azzur Group or one or more of the Borrowers in the net amount equal to not less than $20,000,000, either in the form of an equity investment or a subordinated loan (or a combination of both) pursuant to the Initial Capital Investment Documents in accordance with the terms of the Forbearance Agreement.

(bbbbb) "**Initial Capital Investment Advisor**" means Ankura Capital Advisors, LLC, or such other Person acceptable to Bank in its Permitted Discretion, to be the Initial Capital Investment Advisor in connection with the Initial Capital Investment pursuant to the Initial Capital Investment Advisor Agreement and as set forth in the Forbearance Agreement.

(ccccc) "**Initial Capital Investment Advisor Agreement**" means the engagement agreement, dated January 26, 2024, between Initial Capital Investment Advisor and Azzur Group, as may be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms of the Forbearance Agreement.

(ddddd) "**Initial Capital Investment Documents**" means, collectively, (i) the equity contribution agreements, documents or instruments in respect of an Initial Capital Investment in the form of an equity interest and (ii) the loan or financing agreements, documents or instruments in respect of any Initial Capital Investment in the form of Indebtedness, as all of the same may exist if ever executed and delivered and as the same may thereafter be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms of the Forbearance Agreement, each of the foregoing documents in clauses (i) and (ii) sometimes being referred to herein individually as an "Initial Capital Investment Document".

(eeeee) "**Insolvency Law**" means Title 11 of the United States Code, 11 U.S.C. §§ 101 et seq., and any provision of any other statute governing the existence of any artificial legal person permitting that legal person to propose an arrangement with respect to any class of its creditors or any other like, equivalent or analogous legislation of any jurisdiction.

(fffff) "**Insolvency Proceeding**" means, with respect to any person, any proceeding contemplated by any application, petition, assignment, filing of notice or other means, whether voluntary or involuntary, under any Insolvency Law seeking any moratorium, reorganization, adjustment, composition, proposal, compromise, arrangement, administration or other like or similar relief in respect of all or any substantial part of the obligations of such person, seeking the winding up, liquidation or

dissolution of such person or all or any substantial part of its property, seeking any order, declaring, finding or adjudging such person insolvent or bankrupt, seeking the appointment (provisional, interim or permanent) of any receiver or resulting, by operation of law, in the bankruptcy of such person.

(ggggg) "**Interim Line Advance Amount**" means $13,000,000.

(hhhhh) "**Investment Banker**" means Brown Gibbons Lang & Co Securities, LLC, or such other Person acceptable to Bank in its Permitted Discretion, to be the investment banker for Borrowers in connection with an Acceptable Sale and an Acceptable Investment pursuant to the Investment Banking Agreement and as set forth in the Forbearance Agreement. For the avoidance of doubt, the Investment Banker shall not be responsible for any Initial Capital Investment.

(iiiii) "**Investment Banking Agreement**" means the engagement agreement, dated January 24, 2024, between Investment Banker and Azzur Group, as may be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms of the Forbearance Agreement.

(jjjjj) **"Interest Expense"** means, for any Person for any period, the amount of interest paid or due on Indebtedness by such Person for such period, determined in accordance with GAAP.

(kkkkk) "**Intellectual Property**" means property constituting, under any Applicable Law, a patent, patent application, copyright, trademark, service mark, trade name, mask work, trade secret or license or other right to use any of the foregoing.

(lllll) "**Intellectual Property Claim**" means the assertion by any Person of a claim (whether asserted in writing, by action, suit or proceeding or otherwise) that any Borrower' s ownership, use, marketing, sale or distribution of any inventory, equipment, Intellectual Property or other property or asset may violate any ownership of or right to use any Intellectual Property of such Person.

(mmmmm) "**JLL Commitment Letter**" means, collectively, (i) the JLL Letter of Intent and (ii) the JLL Acknowledgment of Material Terms.

(nnnnn) "**JLL Exclusivity Period**" means the "Exclusivity Period" as defined in the JLL Letter of Intent.

(ooooo) "**JLL Letter of Intent**" means the letter of intent, dated August 16, 2024, between Azzur Group and JLL Partners regarding the terms and conditions of Azzur Group and JLL Partners to effect the JLL Sales Transaction, which shall be in form and substance acceptable to Bank.

(ppppp) "**JLL Material Terms**" means the "Material Terms" as defined in the JLL Letter of Intent as confirmed in the JLL Acknowledgement of Material Terms setting forth the cash consideration payable on the JLL Closing Date, the amount and terms of any seller note, the closing schedule, and the transaction structure of the JLL Sales Transaction, which shall be in form and substance satisfactory to Bank.

(qqqqq) "**JLL Material Terms Breach**" means either (i) the failure to deliver the JLL Acknowledgement of Material Terms on or before September 9, 2024 or (ii) if Borrowers deliver the JLL Acknowledgement of Material Terms on or before September 9, 2024, but the "JLL Material Terms" are not acceptable to Bank.

(rrrrr) "**JLL Partners**" means JLL Partners, LLC, a limited liability company.

(sssss) "**JLL Purchase Agreement**" means the purchase agreement to be entered into by and among Azzur Group, Azzur Consulting and Azzur Labs, as sellers, and JLL Purchaser, as purchaser (including the schedules and exhibits thereto), which agreement shall be in form and substance acceptable to Bank (it being acknowledged and agreed that a purchase agreement that results in all Bank Indebtedness being Paid in Full by the JLL Sale Closing Date shall be deemed acceptable).

(ttttt) "**JLL Purchase Documents**" means, collectively, (a) the JLL Purchase Agreement and (b) all material agreements, documents and instruments, including all schedules and exhibits thereto, at any time executed and/or delivered in connection therewith, all of which agreements, documents and instruments shall be in form and substance acceptable to Bank (it being acknowledged and agreed that such documentation that results in all Bank Indebtedness being Paid in Full by the JLL Sale Closing Date shall be deemed acceptable).

(uuuuu) "**JLL Purchaser**" means JLL Partners or its designee or assignee pursuant to the JLL Purchase Documents.

(vvvvv) "**JLL Sales Closing Date**" means September 20, 2024, which date may be extended to the extent provided in Section 6.5(b) of Amendment No. 3 to Forbearance Agreement (or such later date as may be determined by Bank in its sole discretion).

(wwwww) "**JLL Sales Transaction**" means the sale of all or substantially all of the assets constituting the consulting division of Azzur Consulting and Azzur Group and the analytical lab operations based in Pennsylvania of Azzur Labs and the Azzur Group as set forth in the JLL Purchase Agreement and the other JLL Purchase Documents.

(xxxxx) "**Joinder Agreement**" means the Joinder Agreement, dated February __, 2025, by and among Azzur Holdings and Azzur COD Raleigh in favor of Bank.

(yyyyy) **"Letter of Credit Sublimit"** means an amount up to Four Million and 00/100 Dollars ($4,000,000.00).

(zzzzz) **"Line"** shall have the meaning given such term in **Section 2.1**.

(aaaaaa) **"Line Advances"** shall mean all Advances under the Line.

(bbbbbb) "**Line Daily Simple SOFR**" shall mean the "Daily Simple SOFR" as defined in the Line Note.

(cccccc) **"Line Note"** means the Fourth Amended and Restated Line Note, dated as of February 26, 2024, by Borrowers payable to the order of Bank, as the same exists on the execution and delivery date thereof, as amended by Amendment No. 3 to Forbearance Agreement, and as the same may thereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

(dddddd) "**Line SOFR Floor**" shall mean the "SOFR Floor" as defined in the Line Note.

(eeeeee) **"Line Variable Loan Rate**" means the amount equal to the greater of the Line Daily Simple SOFR and the Line SOFR Floor as further defined in the Line Note.

(ffffff) "**Liquidation Budget**" means an initial 13-week cash flow budget, in form and substance satisfactory to Bank in its Permitted Discretion setting forth on a weekly basis as of the

end of each week for the periods covered thereby the projected cash flow showing cash receipts and cash expenditures of Borrowers and their Subsidiaries necessary to operate the business of Borrowers and their Subsidiaries to (i) sell the assets and properties of Borrowers in an orderly fashion to preserve and maximize the value of the business of Borrowers and their Subsidiaries, (ii) sell the businesses of Borrowers and their Subsidiaries in parts in one or more separate transactions or (iii) sell the businesses of Borrowers and their Subsidiaries as a whole as a going concern.

(gggggg) "**Liquidity**" means, from the Forbearance Effective Date and at all times thereafter, as of any date of determination during such period, the sum of (i) Unrestricted Cash on such date plus (ii) the amount of Revolver Availability on such date; provided, that, solely during the period from August 20, 2024 through and including the earlier of (x) October 11, 2024 and (y) the receipt by Bank of amounts sufficient to repay the Out-Of-Formula Advance, Liquidity shall mean, as of any date of determination, the amount of Unrestricted Cash on such date.

(hhhhhh) **"Loan Account"** has the meaning given such term in **Section 4.10**.

(iiiiii) **"Loan Documents"** means this Agreement, the Notes, the Equipment Line Documents, the Joinder Agreement, and all other documents, executed or delivered by any Borrower or any other Person pursuant to this Agreement or in connection herewith, as they may be amended, modified or restated from time to time.

(jjjjjj) "**Loan Limit Line**" has the meaning given such term in **Section 2.3**.

(kkkkkk) "**Loan Limit Line Advances**" means all Advances under the Loan Limit Line.

(llllll) "**Loan Limit Line Daily Simple SOFR**" shall mean the "Daily Simple SOFR" as defined in the Loan Limit Line Note.

(mmmmmm) "**Loan Limit Line Note**" means the Third Amended and Restated Loan Limit Line Note, dated as of February 26, 2024, by Borrowers payable to the order of Bank, as the same exists on the execution and delivery date thereof, as amended by Amendment No. 3 to Forbearance Agreement, and as the same may thereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

(nnnnnn) "**Loan Limit Line SOFR Floor**" shall mean the "SOFR Floor" as defined in the Loan Limit Line Note.

(oooooo) "**Loan Limit Line Variable Loan Rate**" means the amount equal to the greater of the Loan Limit Line Daily Simple SOFR and the Loan Limit Line SOFR Floor as further defined in Loan Limit Line Note.

(pppppp) Intentionally omitted.

(qqqqqq) **"Loans"** means, collectively, the Line, the Equipment Line and the Loan Limit Line.

(rrrrrr) "**Material Budget Deviation**" shall have the meaning specified therefor in Section 6.2(b) of the Forbearance Agreement.

(ssssss) **"Material Adverse Effect"** means a material adverse effect, as determined by Bank in its reasonable discretion: (i) on the business, operations, assets, management, liabilities, condition or prospects of any Borrower; (ii) in the perfection or priority of Bank' s lien upon the Collateral; or (iii) in the ability of any Borrower to perform its obligations under the Loan Documents.

(tttttt) "**Material Contract**" means any contract or agreement to which any Borrower is a party, the termination or expiration of which would be reasonably likely to cause a Material Adverse Effect.

(uuuuuu) "**Material Revised Budget Deviation**" shall have the meaning specified therefor in Section 6.2(b) of Amendment No. 3 to Forbearance Agreement.

(vvvvvv) "**Material Updated Revised Budget Deviation**" shall have the meaning specified therefor in Section 5.4(b) of Amendment No. 4 to Forbearance Agreement.

(wwwwww) **"Maximum Line Amount"** means the outstanding principal amount not to exceed the sum of the Interim Line Advance Amount plus the Supplemental Line Limit.

(xxxxxx)"**Maximum Loan Limit Line Amount**" means the outstanding principal amount not to exceed $57,936,941.46; provided, that, if the Azzur Labs Sale has been consummated in accordance with the Consent to Azzur Labs Sale, the outstanding principal amount shall not exceed the amount equal to $57,936,941.46 minus (a) the Azzur Labs Net Purchase Price minus (b) the Supplemental Line Limit. For the avoidance of doubt, the closing of the Azzur Labs Sale has occurred as of the Amendment No. 4 Forbearance Effective Date and, accordingly, the Maximum Loan Limit Line Amount is $45,883,541.15.

(yyyyyy)"**Net Capital Expenditures**" means, with respect to the applicable periods through and including the fiscal year ending December 31, 2025, (i) the amount of Capital Expenditures made by Borrowers, minus (ii) the amount of Tenant Improvement Allowances received in cash by Borrowers.

(zzzzzz) "**Net Capital Expenditures Schedule**" means the Net Capital Expenditures in the amounts and for the periods set forth through the fiscal year ending December 31, 2025 as set forth on Schedule A to the Forbearance Agreement. The Net Capital Expenditures Schedule shall include (i) with respect to the Capital Expenditures for each period, the specific project for which the Capital Expenditure is being made (such as the applicable COD, Azzur Lab or a capital maintenance expenditure) less (ii) the Tenant Improvement Allowances for each period.

(aaaaaaa) **"Net Income"** means income (or loss) of Borrowers after income and franchise taxes and shall have the meaning given such term by GAAP, provided that there shall be specifically excluded therefrom: (i) gains or losses from the sale of capital assets; (ii) net income of any Person in which any Borrower has an ownership interest, unless received by such Borrower in a cash distribution; and (iii) any gains arising from extraordinary items, all as determined on a consolidated basis in accordance with GAAP.

(bbbbbbb) "**Non-Qualifying Party**" means any Person that on the Eligibility Date fails for any reason to qualify as an Eligible Contract Participant.

(ccccccc) **"Notes"** means, collectively, the Line Note, the Line Limit Note and any promissory note executed pursuant to, and constituting one of, the Equipment Line Documents.

(ddddddd) **"OFAC"** shall mean the U.S. Department of the Treasury' s Office of Foreign Assets Control.

(eeeeeee) "**Organizational Documents**" means, with respect to any Person, any charter, articles or certificate of incorporation, certificate of organization, registration or formation, certificate of partnership or limited partnership, bylaws, operating agreement, limited liability company agreement, or partnership agreement of such Person and any shareholders' or equity holders' agreement or voting trust agreement and specifically includes, without limitation, any certificates of designation for preferred stock or other forms of preferred equity.

(fffffff) **"Out-Of-Formula Advance"** means the amount by which (i) the sum of (A) the then outstanding Line Advances, plus (B) the face amount of all outstanding Letters of Credit, exceeds (ii) the lesser of (A) the Borrowing Base Amount or (B) the Maximum Line Amount, subject to such restrictions on Line Advances as are set forth in this Agreement.

(ggggggg) "**Out-Of-Formula Advance Period**" means the period commencing on August 20, 2024 through and including the earliest to occur of (i) the JLL Sale Closing Date, (ii) the receipt by Bank of a Borrowing Base Certificate certifying that the Borrowing Base Amount exceeds the sum of (A) the then outstanding amount of Line Advances, plus (B) the face amount of all outstanding Letters of Credit, (iii) the receipt by Bank of amounts sufficient to repay the Out-Of-Formula Advance and (iv) October 11, 2024.

(hhhhhhh) "**Paid in Full**" or "**Payment in Full**", including references to "paid in full" or "repaid in full" or "payment in full" or "repayment in full" (and any correlative meanings or similar references thereto), means, with respect to Bank Indebtedness, (a) the payment in full in cash or other immediately available funds of all Bank Indebtedness owed to Bank pursuant to a payoff letter agreement acceptable to Bank in its Permitted Discretion, together with all accrued and unpaid interest and fees thereon, (b) in the case of any outstanding letters of credit, the receipt by Bank of cash collateral to fully Cash Collateralize the Bank Indebtedness with respect to such letters of credit, (c) in the case of any outstanding Cash Management Obligations, the receipt by Bank of cash collateral to fully Cash Collateralize such Cash Management Obligations, (d) in the case of any outstanding Bank Indebtedness with respect to any Hedging Obligations, the receipt by Bank of cash collateral to fully Cash Collateralize such outstanding Hedging Obligations, (e) the receipt by Bank of cash to cash collateralize any contingent indemnification or reimbursement obligations (other than contingent indemnification or reimbursement obligations for which no claim has been asserted or for which no claim could reasonably be expected to be asserted), and (f) the termination or expiration of all commitments of Bank to lend to Borrowers or their Subsidiaries.

(iiiiiii) **"PBGC"** has the meaning given such term in **Section 6.16**.

(jjjjjjj) "**Permitted Discretion**" means a determination made in the exercise of reasonable (from the perspective of a secured lender) business judgment.

(kkkkkkk) **"Person"** means an individual, a Corporation or a Governmental Body, or any other entity.

(lllllll) **"Plan"** has the meaning given such term in **Section 6.16**.

(mmmmmmm) "**Plans and Specifications**" means, with respect to any COD or Azzur Lab, as applicable, any and all drawings and specifications relating to such COD or Azzur Lab as may be approved by Bank in its reasonable discretion.

(nnnnnnn) "**Properly Contested**" means, in the case of any Indebtedness, lien or taxes, as applicable, of any Person that are not paid as and when due or payable by reason of such Person' s bona fide dispute concerning its liability to pay the same or concerning the amount thereof: (i) such Indebtedness, lien or taxes, as applicable, are being properly contested in good faith by appropriate proceedings; (ii) such Person has established appropriate reserves as shall be required in conformity with GAAP; (iii) the non-payment of such Indebtedness or taxes will not have a Material Adverse Effect or will not result in the forfeiture of any assets of such Person; (iv) no lien is imposed upon any of such Person' s assets with respect to such Indebtedness or taxes unless such lien (A) does not attach to any of the Collateral, (B) is at all times junior and subordinate in priority to the liens in favor of Bank (except only with respect to taxes that have priority as a matter of Applicable Law), and (C) enforcement of such lien is stayed during the period prior to the final resolution or disposition of such dispute; and (v) if such Indebtedness or lien, as applicable, results from, or is determined by the entry, rendition or issuance against a Person or any of its assets of a judgment, writ, order or decree, enforcement of such judgment, writ, order or decree is stayed pending a timely appeal or other judicial review.

(ooooooo) "**Qualified ECP Loan Party**" means each Person that on the Eligibility Date is (i) a Person other than a "commodity pool" as defined in Section 1a(10) of the CEA and CFTC regulations thereunder that has total assets exceeding $10,000,000, or (ii) an Eligible Contract Participant that can cause another person to qualify as and Eligible Contract Participant on the Eligibility Date under Section 1a(18)(A)(v)(II) of the CEA by entering into or otherwise providing a "letter of credit or keepwell, support, or other agreement" for purposes of Section 1a(18)(A)(v)(II) of the CEA.

(ppppppp) "**RCRA**" means the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., as same may be amended from time to time.

(qqqqqqq) "**Real Property**" means all of any Borrower' s right, title and interest in and to the owned and leased premises which is now or hereafter owned or leased by such Borrower, provided that, as of the date of this Agreement, any and all references to "Real Property" shall mean and refer to leased premises only as Borrowers do not own any real property as of the date of this Agreement.

(rrrrrrr) "**Release(s)**" has the meaning given such term in **Section 6.25(c)**.

(sssssss) "**RemainCo Budget**" means a detailed cash flow forecast of the Borrowers and their Subsidiaries constituting the remining business of the Azzur Group after giving effect to the consummation of the JLL Sales Transaction setting forth the cash receipts and expenditures of such Borrowers and their Subsidiaries, which forecast shall be in form and substance satisfactory to Bank and shall be prepared by management of Borrowers in consultation with the Chief Restructuring Officer (it being acknowledged and agreed that such budget that results in all Bank Indebtedness being Paid in Full by the JLL Sale Closing Date shall be deemed acceptable).

(ttttttt) "**Reorganization Transaction"** means the following transactions:

(i) certain of the members of ACA desire to assign and contribute to MKHV20, LLC, a Nevada limited liability company ("**MKHV20**"), and MKHV20 desires to accept and assume from such members, all of such members' equity in ACA;

(ii) immediately following the contribution described in Section 1(a)(i) above, MKHV20 desires to contribute to Azzur Group, and Azzur Group desires to accept and assume from MKHV20, all of MKHV20's equity in ACA, such that immediately following such contribution, ACA will be wholly-owned by Azzur Group;

(iii) immediately following the foregoing transactions, the Persons who are the Equity Owners in Azzur Group immediately prior to the Reorganization Transaction (the "Existing Equity Owners") will transfer their respective Equity Interests in Azzur Group to Azzur Group Holdings LLC, a Delaware limited liability company ("**Azzur Holdings**"), in exchange for Equity Interests in Azzur Holdings;

(iv) third party investors (the "**Investors**") shall obtain certain Equity Interests in Azzur Holdings from the Existing Equity Owners; and

(v) the Existing Equity Owners will transfer their respective remaining Equity Interests in Azzur Holdings to Yotomachi LLC, a Pennsylvania limited liability company ("**Yotomachi**"), whereupon: (A) Yotomachi will hold approximately 71.0% of the Equity Interests in Azzur Holdings; and (B) Investors will, in the aggregate, hold approximately 29.0% of the Equity Interests in Azzur Holdings.

(uuuuuuu) "**Revised Budget**" means the revised cash flow budget delivered to Bank in accordance with Section 6.2(a) of Amendment No. 3 to Forbearance Agreement, together with any subsequent or amended budget(s) delivered to Bank, in each case in form and substance satisfactory to Bank in its Permitted Discretion setting forth on a weekly basis as of the end of each week for the periods covered thereby (i) the projected cash flow showing cash receipts and cash expenditures of Borrowers and their Subsidiaries, and (ii) the projected Revolver Availability, showing the Borrowing Base Amount, the outstanding amount of Advances of Borrowers and the cash balances of Borrowers, as such Budget may be supplemented from time to time in accordance with the terms and conditions of Section 6.2 of Amendment No. 3 to Forbearance Agreement.

(vvvvvvv) "**Revised Budget Measurement Period**" shall have the meaning specified therefor in Section 6.2(b) of Amendment No. 3 to Forbearance Agreement.

(wwwwwww) "**Revised Budget Report**" shall have the meaning specified therefor in Section 6.2(b) of Amendment No. 3 to Forbearance Agreement.

(xxxxxxx) "**Revolver Availability**" means, as of any date of determination, (i) the amount of Line Advances that Borrowers are entitled to borrow up to $15,000,000 based upon the Borrowing Base Amount in accordance with Section 2.1 hereof (including, for the avoidance of doubt, the amount of letters of credit available to be issued to Borrowers in accordance with Section 2.6 hereof) less (ii) the outstanding amount of Line Advances on a revolving basis (including for the avoidance of doubt, the aggregate amount of undrawn letters of credit plus the aggregate amount of reimbursement obligations under letters of credit that remain unreimbursed).

(yyyyyyy) "**Sanctioned Country**" shall mean a country subject to a sanctions program maintained under any Anti-Terrorism Law.

(zzzzzzz) "**Sanctioned Person**" shall mean any individual person, group, regime, entity or thing listed or otherwise recognized as a specially designated, prohibited, sanctioned or debarred person, group, regime, entity or thing, or subject to any limitations or prohibitions (including but not limited to the blocking of property or rejection of transactions), under any Anti-Terrorism Law.

(aaaaaaaa) **"Second Amendment and Modification to Loan and Security Agreement**" means Second Amendment and Modification to Loan and Security Agreement, dated as of April 16, 2021, by and among Borrowers and Bank, as the same now exists or may hereafter be amended,

modified, supplemented, extended, renewed, restated or replaced in accordance with the terms and conditions contained therein.

(bbbbbbbb) "**Second Amendment Effective Date**" means April 16, 2021.

(cccccccc) "**Senior Funded Debt**" means all Indebtedness of Borrowers under **clause (a)** of the definition thereof, less any of such Indebtedness that is expressly subordinated to the Bank Indebtedness.

(dddddddd) "**Senior Funded Debt to EBITDA Ratio**" means, for any period, the ratio of (x) the Senior Funded Debt on the last day of such period, to (y) Borrowers' EBITDA for such period, in each case as determined on a consolidated basis.

(eeeeeeee) **"Special Materials"** means any and all materials which, under Environmental Requirements, require special handling in use, generation, collection, storage, treatment or disposal, or payment of costs associated with responding to the lawful directives of any court or agency of competent jurisdiction. Special Materials shall include, without limitation: (i) any flammable substance, explosive, radioactive material, hazardous material, hazardous waste, toxic substance, solid waste, pollutant, contaminant or any related material, raw material, substance, product or by-product of any substance specified in or regulated or otherwise affected by any Environmental Requirements (including but not limited to any "hazardous substance" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended or any similar state or local law), (ii) any toxic chemical or other substance from or related to industrial, commercial or institutional activities, and (iii) asbestos, gasoline, diesel fuel, motor oil, waste and used oil, heating oil and other petroleum products or compounds, polychlorinated biphenyls, radon, urea formaldehyde and lead-containing materials.

(ffffffff) **"Subsidiary"** means any Corporation: (i) which is organized under the laws of the United States or any State thereof, or any other county or jurisdiction; (ii) which conducts substantially all of its business and has substantially all of its assets within the United States; and (iii) of which more than fifty percent (50%) of its outstanding voting Equity Interests of every class (or other voting Equity Interest) is owned by a Borrower or one or more of its Subsidiaries.

(gggggggg) "**Supplemental Line**" means the supplemental revolving loans made by Bank to Borrowers on a revolving basis as set forth in Section 2.2 hereof.

(hhhhhhhh) "**Supplemental Line Advances**" means all Advances made under the Supplemental Line.

(iiiiiiii) "**Supplemental Line Limit**" means $2,000,000.

(jjjjjjjj) "**Supplemental Line Termination Date**" means the earliest of (i) the Forbearance Termination Date and (ii) the termination of the Contract Period.

(kkkkkkkk) "**Tenant Improvement Allowances**" means the tenant improvement allowances provided by the landlords to reimburse Borrowers in cash or other immediately available funds for Capital Expenditures (including capital improvements) made by Borrowers under the lease agreements between the applicable landlords and the applicable Borrowers. For the avoidance of doubt, all Tenant Improvement Allowances shall be set forth on the Net Capital Expenditures Schedule.

(llllllll) **"Third Amendment and Modification to Loan and Security Agreement**" means Third Amendment and Modification to Loan and Security Agreement, dated as of

August 20, 2021, by and among Borrowers and Bank, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms and conditions contained therein.

(mmmmmmmm) "**Toxic Substance**" means any material present on the Real Property or the Leasehold Interests which has been shown to have significant adverse effect on human health or which is subject to regulation under the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601 et seq., applicable state law, or any other applicable Federal or state laws now in force or hereafter enacted relating to toxic substances. "Toxic Substance" includes but is not limited to asbestos, polychlorinated biphenyls (PCBs) and lead-based paints.

(nnnnnnnn) "**UCC**" means the Uniform Commercial Code as in effect in the Commonwealth of Pennsylvania from time to time; provided, however, if the Uniform Commercial Code as in effect in any other jurisdiction governs the perfection or non-perfection of a security interest in the Collateral at any time, then "**UCC**" shall mean and refer to the Uniform Commercial Code as in effect in such other jurisdiction at such time.

(oooooooo) "**Unfunded Capital Expenditures**" means Capital Expenditures made from any Borrower' s funds other than funds borrowed as term Indebtedness to finance such Capital Expenditures.

(pppppppp) "**Unrestricted Cash**" means, as of any date of determination, the amount of cash of Borrowers that are in deposit accounts maintained with Bank.

(qqqqqqqq) "**Updated Revised Budget**" means the revised cash flow budget delivered to Bank in accordance with Section 5.4(a) of Amendment No. 4 to Forbearance Agreement, together with any subsequent or amended budget(s) delivered to Bank, in each case in form and substance satisfactory to Bank in its Permitted Discretion setting forth on a weekly basis as of the end of each week for the periods covered thereby (i) the projected cash flow showing cash receipts and cash expenditures of Borrowers and their Subsidiaries, and (ii) the projected Revolver Availability, showing the Borrowing Base Amount, the outstanding amount of Advances of Borrowers and the cash balances of Borrowers, as such Budget may be supplemented from time to time in accordance with the terms and conditions of Section 5.4 of Amendment No. 4 to Forbearance Agreement.

(rrrrrrrr) "**Updated Revised Budget Measurement Period**" shall have the meaning specified therefor in Section 5.4(b) of Amendment No. 4 to Forbearance Agreement.

(ssssssss) "**Updated Revised Budget Report**" shall have the meaning specified therefor in Section 5.4(b) of Amendment No. 4 to Forbearance Agreement.

(tttttttt) **"Waiver Agreement"** means an agreement in form and content satisfactory to Bank in its sole discretion executed by a landlord of a leased location of any Borrower or a warehouseman of a warehouse location of any Borrower pursuant to which, inter alia, such landlord or warehouseman waives any and all rights against any Collateral at such location and permits Bank access to such location for the purpose of selling and taking possession of any Collateral at such location.

(uuuuuuuu) "**Yotomachi**" means Yotomachi LLC, a Pennsylvania limited liability company.

1.2 **Accounting Terms.** As used in this Agreement, or any certificate, report or other document made or delivered pursuant to this Agreement, accounting terms not defined elsewhere in this Agreement shall have the respective meanings given to them under GAAP.

1.3 **UCC Terms.** All terms used herein and defined in the Uniform Commercial Code shall have the meanings given therein unless otherwise defined herein.

1.4 **Time References**. Unless the context of this Agreement or any other Loan Document clearly requires otherwise, all references to time of day refer to Eastern standard time or Eastern daylight saving time, as in effect in New York, New York on such day. In the event that any date on which any action is required to be taken under this Agreement or any other Loan Document by any of the parties hereto or thereto is not a Business Day, such action shall be required to be taken on the next succeeding day that is a Business Day.

2. **THE LINE; THE EQUIPMENT LINE; LOAN LIMIT LINE; USE OF PROCEEDS**.

2.1 **Line of Credit.** Bank will establish for Borrowers for and during the Contract Period, subject to the terms and conditions hereof, a revolving line of credit (the **"Line")** pursuant to which Bank will from time to time make Advances to Borrowers in an aggregate amount not exceeding at any time the lesser of: (a) the Borrowing Base Amount or (b) the Maximum Line Amount. Bank, in its sole discretion, may from time to time (x) establish certain reserves against Eligible Receivables and/or (y) increase or decrease the advance rates contained in the Borrowing Base Amount, provided that, in each event, Bank shall use commercially reasonable efforts to provide notice to Borrowing Agent of such action taken by Bank promptly following such action (provided that the failure to provide notice shall not invalidate the applicable action(s)). Each Borrower consents to any such implementation of reserves or increase or decrease of advance rates and acknowledges that Bank's decrease of advance rates or implementation of reserves may limit or restrict Advances available to Borrowers. Within the limitations set forth above, Borrowers may borrow, repay and reborrow under the Line. The Line shall be subject to all terms and conditions set forth in all of the Loan Documents, which terms and conditions are incorporated herein. Borrowers' obligation to repay Line Advances shall be evidenced by Borrowers' third amended and restated promissory note (as the same may be amended, modified, restated and/or supplemented from time to time, the **"Line Note")** in the face amount of Fifteen Million and 00/100 Dollars ($15,000,000.00), which shall be in form and content satisfactory to Bank.

2.2 **Supplemental Line.**

(a) In addition to the Line Advances that have been made by Bank to Borrowers under the Line in accordance with Section 2.1 hereof, subject to and upon the terms and conditions contained herein and in the Amendment No. 4 to Forbearance Agreement and the other Loan Documents, commencing on the Amendment No. 4 to Forbearance Effective Date though and including the Supplemental Line Termination Date, Bank agrees to make a revolving credit facility (the "**Supplemental Line**") to Borrowers in the amounts requested by Borrowers up to the amount equal to the Supplemental Line Limit in accordance with the amounts and time period set forth in the Updated Revised Budget. The Supplemental Line Advances may exceed the Borrowing Base Amount but in no event shall such Advances exceed the Supplemental Line Limit. The Supplemental Line is a sublimit facility within the overall Line. In no event shall the sum of the outstanding amount of the Supplemental Line Advances and the Line Advances exceed the Maximum Line Amount.

(b) All Supplemental Line Advances shall be made in accordance with the terms hereof and of the Amendment No. 4 to Forbearance Agreement. Except in Bank's discretion, Bank shall have no obligation to make any Supplemental Line Advances (i) in excess of the Supplemental Line Limit,

(ii) in excess of the amounts set forth in the Updated Revised Budget or (iii) after the Supplemental Line Termination Date. The Supplemental Line Advances shall be secured by all Collateral.

(c) Borrowers agree that all outstanding and unpaid Bank Indebtedness arising pursuant to the Supplemental Line Advances (including, but not limited to, principal, interest, fees, costs, expenses and other charges in respect thereof payable by Borrowers to Bank) shall automatically, without notice or demand, be absolutely and unconditionally due and payable, and Borrowers shall pay to Bank in cash or other immediately available funds all such Obligations, on the Supplemental Line Termination Date. Notwithstanding anything to the contrary contained herein or in the other Loan Documents, all payments received or collected from Borrowers or for the account of Borrowers (including, without limitation, the monetary proceeds of collections or of realization upon any Collateral), shall be applied first to the then outstanding amount of Supplemental Line Advances. If all of the Supplemental Line Advances have been paid in full, any additional payments received or collected shall be applied at the sole discretion of Bank either (i) to the then outstanding amount of Loan Limit Advances as a mandatory prepayment with a permanent reduction in the Maximum Loan Limit Line Advance in the amount of such prepayment or (ii) to the then outstanding Bank Indebtedness in such order and manner as Bank may determine."

2.3 **Loan Limit Line.** Bank will establish for Borrowers for and during the Contract Period, subject to the terms and conditions hereof, a revolving line of credit (the **"Loan Limit Line")** pursuant to which Bank will from time to time make Advances to Borrowers in an aggregate amount not exceeding at any time the Maximum Loan Limit Line Amount. The Loan Limit Line shall be subject to all terms and conditions set forth in all of the Loan Documents, which terms and conditions are incorporated herein. Borrowers' obligation to repay Line Advances shall be evidenced by Borrowers' second amended and restated promissory note (as the same may be amended, modified, restated and/or supplemented from time to time, the **"Loan Limit Line Note")** in the face amount of Sixty Million and 00/100 Dollars ($60,000,000.00), which shall be in form and content satisfactory to Bank.

Notwithstanding anything to the contrary contained in Section 2.3 or 2.5 of this Agreement or any other provision in this Agreement, the Loan Limit Line Note or the other Loan Documents, effective as of the Forbearance Effective Date and at all times thereafter, Borrowers shall not have any right to request any new Loan Limit Line Advances. The Maximum Loan Limit Line Amount shall be set at $57,936,941.46, being the outstanding principal amount of the Loan Limit Line Advances as of the Forbearance Effective Date and shall be repaid in accordance with the terms of this Agreement, the Loan Limit Line Note and the other Loan Documents as amended by the Forbearance Agreement.

2.4 **Use of Proceeds.** Borrowers agree to use: (a) Line Advances for proper working capital purposes; and (b) Loan Limit Line Advances for construction of CODs and Azzur Labs in locations selected by Borrowers.

2.5 **Method of Advances**.

(a) **Funding of Advances.** Subject to the terms and conditions of this Agreement, Bank may make the proceeds of an Advance available to Borrowers by crediting such proceeds to Borrowers' deposit account with Bank.

(b) **Line Advances.** Borrowers may request, and Bank will make, Line Advances in accordance with, and on the terms and conditions set forth in, the Line Note.

(c) **Intentionally omitted.**

(d) **Loan Limit Line Advances.** Borrowers may request, and Bank will make, Loan Limit Line Advances, subject to the following terms and conditions:

(i) **All Other Conditions**. The conditions set forth in **Article 12** shall be satisfied.

(ii) **COD/Azzur Labs Occupancy**. Borrowers shall deliver to Bank satisfactory evidence that existing CODs and Azzur Labs that have been opened more than 365 days have a global occupancy level of not less than sixty-five percent (65%).

(iii) **COD/Azzur Lab Lease Term; Assignability of Lease**. The term of the lease for the applicable COD or Azzur Lab to be constructed with the proceeds of such Loan Limit Line Advance shall be at least seven (7) years, and each such lease shall be assignable to Bank.

(iv) **Project Budget**. Borrowers shall have delivered to Bank a project budget for the applicable COD(s) (each, an **"Applicable Project Budget"),** which shall be reasonably satisfactory to Bank and demonstrate that the cost of construction in the applicable facility does not exceed $750,000 per individual COD room in such facility. The aggregate original principal amount of the Loan Limit Line Advances with respect to any COD shall not exceed ninety percent (90%) of the Applicable Project Budget (the **"Applicable Project Budget Limit").**

(v) **Procedure**.

(A) Consistent with and subject to the terms and conditions of this Agreement, Bank shall make Loan Limit Line Advances with respect to each COD in accordance with this **Section 2.5(d)(v)**. Loan Limit Line Advances with respect to each COD shall be made from time to time by Bank as construction and installation progresses satisfactorily to Bank, but not more frequently than twice each month, to pay for labor, services, and materials physically incorporated into such COD or Azzur Lab, as applicable, in a good and workmanlike manner in accordance with the Plans and Specifications.

(B) Each request for a Loan Limit Line Advance shall be in writing and shall be on a standard request form acceptable to Bank and otherwise in form and content satisfactory to Bank and shall be delivered to Bank at least three (3) Business Days prior to the date on which such Loan Limit Line Advance is requested. Each request for a Loan Limit Line Advance shall be accompanied by: (1) requisitions and other supporting invoices and bills submitted by the Contractor to Borrowers (as approved by Borrowers); (2) any necessary authorizations and approvals of relevant Government Bodies; and (3) such other information or documentation as may be reasonably requested by Bank evidencing that the costs have been incurred by Borrowers.

(C) Borrowers, by its request for a Loan Limit Line Advance, without further certification, is by such request certifying that: (1) the work was done in a good and workmanlike manner and in substantial conformity with the Plans and Specifications and complies with all Applicable Laws; (2) the unadvanced balance under the Applicable Project Budget Limit for the applicable COD or Azzur Lab is sufficient to complete construction and installation of such COD or Azzur Lab in accordance with the Plans and Specifications related thereto; and (3) the work is proceeding satisfactorily and on schedule.

(D) Bank shall have no obligation to make any Loan Limit Line Advance requested by Borrowers: (1) after the expiration of the Contract Period; (2) after the expiration of the applicable COD/Azzur Lab Advance Period; (3) if a Default or Event of Default has occurred and is continuing; (4) if the unadvanced portion under the Applicable Project Budget Limit would be insufficient

to complete construction and installation of the applicable COD or Azzur Lab in accordance with the applicable Plans and Specifications, as determined by Bank in its reasonably discretion; and (5) unless Bank is satisfied, in its reasonable discretion, that the portion of the COD or Azzur Lab for which the applicable Borrower seeks such Loan Limit Line Advance has been completed in accordance with the Plans and Specifications and in a satisfactory and workmanlike manner.

(vi) **Variance of Procedure.** Notwithstanding that Borrowers request or Bank elects to vary the procedures set forth in **Section 2.5(d)(v)**, all Loan Limit Line Advances hereunder shall be deemed to have been made pursuant to an obligation under this Agreement. Bank may disburse all or any portion of any Loan Limit Line Advance before Borrowers have fulfilled any or all of the conditions under this Agreement, and the same also shall be deemed made pursuant to an obligation under this Agreement.

(vii) **Limitation of Liability**. No Loan Limit Line Advance, whether made with or without such inspection, shall constitute an approval or acceptance of any work or materials, or be binding upon Bank, except to the extent that the facts actually are as so represented in the advance certificate when approved, nor shall such approval give rise to any liability or responsibility relating to the quality or quantity of the work, the rate of progress and completion of the work, the sufficiency of materials or labor being supplied in connection with the work, or any errors, omissions, inconsistencies, or other defects of any nature in the applicable Plans and Specifications.

2.6 **Letters of Credit.** Bank, at its sole discretion, may issue for the account of any Borrower letters of credit in form and content satisfactory to Bank, at its sole discretion, with a term not to exceed the earlier to occur of (a) twelve (12) months, or (b) the last day of the Contract Period. Notwithstanding the foregoing, at no time shall the (i) aggregate face amount of all outstanding letters of credit issued under the Line exceed the Letter of Credit Sublimit; and (ii) principal balance of the Line, plus the aggregate face amount of all outstanding letters of credit issued under the Line, exceed the lesser of the (A) Borrowing Base Amount or (B) Maximum Line Amount.

The applicable Borrower shall execute a letter of credit application and letter of credit agreement, and such other documents as may be required by Bank in connection with the issuance of letters of credit hereunder. The outstanding face amount of all letters of credit issued by Bank pursuant hereto will reduce Borrowers' ability to borrow under the Line as if such face amount were a Line Advance. In the event that Bank pays any sums due pursuant to such letters of credit for any reason, such payment shall be deemed to be a Line Advance under the Line repayable by Borrowers pursuant to the terms hereof.

In the event that the Line is terminated for any reason or demand is made thereunder, Borrowers shall deposit with Bank an amount equal to one hundred five percent (105%) of the face amount of all letters of credit then outstanding which have been issued hereunder, plus all fees related thereto or to accrue thereunder. Such funds will be held by Bank as cash collateral to secure the Bank Indebtedness.

Borrowers hereby assume all risks of the acts or omissions of Bank and any beneficiary of any letter of credit issued by Bank. Without limiting the generality of the foregoing, each Borrower hereby indemnifies and holds harmless Bank and any Affiliate, shareholder, officer, director, official, agent, employee and attorney of Bank and any of their respective heirs, executors, administrators, successors and assigns (collectively, for this paragraph, the **"Indemnitees"**) from and against any and all claims, damages, losses, liabilities, costs or expenses whatsoever by reason of or in connection with the execution and delivery or transfer of, or payment or failure to pay under, any letter of credit issued by Bank or any Indemnitee entering into any transaction described herein, provided, however, Borrowers shall not be required to indemnify any Indemnitee for any claims, damages, losses, liabilities, costs or expenses to the extent, but only to the extent, caused by the willful misconduct or gross negligence of such Indemnitee.

Notwithstanding anything to the contrary contained in this Section 2.6 or any other provision in this Agreement or the other Loan Documents, effective as of the Forbearance Effective Date and all times during the Forbearance Period, unless otherwise determined by Bank in its sole discretion, Bank shall not have any obligation to issue any new letters of credit under this Agreement or the other Loan Documents. For the avoidance of doubt, subject to the terms and conditions of this Forbearance Agreement and the other Loan Documents, Borrowers may request, and Bank may consent to the extension of or an amendment to decrease (but not an increase of) the amount of any existing letters of credit outstanding as of the date hereof.

3. **INTEREST RATE**.

3.1 **Interest on the Line.**

(a) Effective on the Forbearance Effective Date through and including August 31, 2024, interest on the outstanding principal amount of Line Advances will accrue from the date of advance until final payment thereof at the rate per annum equal to the Line Variable Loan Rate plus 5.0% as further set forth in the Line Note, of which (i) the amount equal to the Line Variable Loan Rate plus 3.5% per annum shall be payable in cash on the first day of each month and (ii) the amount equal to the balance of 1.5% shall accrue and be due and payable in cash (unless payable sooner pursuant to the terms of the Loan Documents) upon the earliest of (A) the Forbearance Termination Date, (B) the termination of the Contract Period and (C) the date Bank is Paid in Full.

(b) Effective on the Amendment No. 3 Forbearance Effective Date and at all times thereafter, interest on the outstanding principal amount of Line Advances will accrue from the date of advance until final payment thereof at the rate per annum equal to the Line Variable Loan Rate plus 5.5% as further set forth in the Line Note, of which (i) the amount equal to the Line Variable Loan Rate plus 4.0% per annum shall be payable in cash on the first day of each month and (ii) the amount equal to the balance of 1.5% shall accrue and be due and payable in cash (unless payable sooner pursuant to the terms of the Loan Documents) upon the earliest of (A) the Forbearance Termination Date, (B) the termination of the Contract Period and (C) the date Bank is Paid in Full; provided, that, if the JLL Sales Closing Date does not occur on the date specified in the definition of the JLL Sales Closing Date, then commencing on the date immediately after such date and at all times thereafter until the date Bank is Paid in Full, interest on the outstanding principal amount of Line Advances will accrue at the rate per annum equal to the Line Variable Loan Rate plus 7.0% as further set forth in the Line Note, of which (x) 5.5% shall be payable in cash on the first day of each month and (y) 1.5% shall accrue and be due and payable in cash (unless payable sooner pursuant to the terms of the Loan Documents) upon the earliest of (A) the Forbearance Termination Date, (B) the termination of the Contract Period and (C) the date Bank is Paid in Full. It being understood that the deferred cash portion of interest payable under Section 3.1(a)(ii) hereof and this Section 3.1(b)(ii) and clause (y) of the proviso in this Section 3.1(b) shall be due and payable upon the earliest of (1) the Forbearance Termination Date, (2) the termination of the Contract Period and (3) the date Bank is Paid in Full.

(c) Notwithstanding anything to the contrary contained in Section 3.1 hereof or in the Line Note or the other Loan Documents, at any time there are Out-Of-Formula Advances (whether or not such Out-Of-Formula Advances were made with or without Bank's knowledge and whether made before or after an Event of Default), in addition to the interest payable on the outstanding amount of Line Advances, Borrowers shall pay to Bank in cash an additional amount equal to .5% per annum on the outstanding amount of any Out-Of-Formula Advances.

3.2 **Interest on the Equipment Line.** Interest on outstanding Equipment Line Advances will accrue and be payable in accordance with the Equipment Line Documents.

3.3 **Interest on the Loan Limit Line.**

(a) Effective on the Forbearance Effective Date through and including August 31, 2024, interest on the outstanding principal amount of the Maximum Loan Limit Line Amount will accrue from the date of advance of the Loan Limit Line Advance until the final payment thereof at the rate per annum equal to the Loan Limit Line Variable Loan Rate plus 5.0% as further set forth in the Loan Limit Line Note, of which (i) the amount equal to the Loan Limit Line Variable Loan Rate plus 3.5% per annum shall be payable in cash on the first day of each month and (ii) the amount equal to the balance of 1.5% shall accrue and be due and payable in cash (unless payable sooner pursuant to the terms of the Loan Documents) upon the earliest of (A) the Forbearance Termination Date, (B) the termination of the Contract Period and (C) the date Bank is Paid in Full.

(b) Effective on the Amendment No. 3 Forbearance Effective Date and at all times thereafter, interest on the outstanding principal amount of the Maximum Loan Limit Line Amount will accrue from the date of advance of the Loan Limit Line Advance until the final payment thereof at the rate per annum equal to the Loan Limit Line Variable Loan Rate plus 5.5% as further set forth in the Loan Limit Line Note, of which (i) the amount equal to the Line Variable Loan Rate plus 4.0% per annum shall be payable in cash on the first day of each month and (ii) the amount equal to the balance of 1.5% shall accrue and be due and payable in cash (unless payable sooner pursuant to the terms of the Loan Documents) upon the earliest of (A) the Forbearance Termination Date, (B) the termination of the Contract Period and (C) the date Bank is Paid in Full; provided, that, if the JLL Sales Closing Date does not occur on the date specified in the definition of the JLL Sales Closing Date, then commencing on the date immediately after such date and at all times thereafter until the date Bank is Paid in Full, interest on the outstanding principal amount of Loan Limit Line Advances will accrue at the rate per annum equal to the Line Variable Loan Rate plus 7.0% as further set forth in the Loan Limit Line Note, of which (x) 5.5% shall be payable in cash on the first day of each month and (y) 1.5% shall accrue and be due and payable in cash (unless payable sooner pursuant to the terms of the Loan Documents) upon the earliest of (A) the Forbearance Termination Date, (B) the termination of the Contract Period and (C) the date Bank is Paid in Full. It being understood that the cash portion of interest payable under Sections 3.3(a)(ii) hereof and this Section 3.3(b)(ii) and clause (y) of the proviso in this Section 3.3(b) shall be due and payable upon the earliest of (1) the Forbearance Termination Date, (2) the termination of the Contract Period and (3) the date Bank is Paid in Full.

3.4 **Default Interest.** Interest will accrue on the principal balance of each of the Loans after the occurrence of an Event of Default at a rate which is three percent (3.00%) in excess of the applicable rate of interest in effect for such Loan from time to time (the **"Default Rate"**).

3.5 **Post Judgment Interest.** Any judgment obtained for sums due hereunder or under the Loan Documents will accrue interest at the applicable default rate set forth above until paid.

3.6 **Calculation.** Interest will be computed on the basis of a year of 360 days and paid for the actual number of days elapsed.

3.7 **Limitation of Interest to Maximum Lawful Rate.** In no event will the rate of interest payable hereunder exceed the maximum rate of interest permitted to be charged by Applicable Law (including the choice of law rules) and any interest paid in excess of the permitted rate will be refunded to Borrowers. Such refund will be made by application of the excessive amount of interest paid against any sums outstanding hereunder and will be applied in such order as Bank may determine. If the excessive amount of interest paid exceeds the sums outstanding, the portion exceeding the sums outstanding will be refunded in cash by Bank. Any such crediting or refunding will not cure or waive any Default or Event of Default by Borrowers. Borrowers agree, however, that in determining whether or not any interest payable

hereunder exceeds the highest rate permitted by Applicable Law, any non-principal payment, including without limitation prepayment fees and late charges, will be deemed to the extent permitted by Applicable Law to be an expense, fee, premium or penalty rather than interest.

3.8 **Interest on the Supplemental Line**. Interest on the outstanding principal amount of Supplemental Line Advances will accrue from the date of advance until final payment thereof at the rate per annum equal to the Line Variable Loan Rate plus 7.0% as further set forth in the Line Note, of which (a) 5.5% shall be payable in cash on the first day of each month and (b) 1.5% shall accrue and be due and payable in cash (unless payable sooner pursuant to the terms of the Loan Documents) upon the earliest of (i) the Forbearance Termination Date, (ii) the termination of the Contract Period and (iii) the date Bank is Paid in Full.

4. **PAYMENTS AND FEES**.

4.1 **Principal and Interest Payments on the Line.** Notwithstanding anything to the contrary contained herein, in the Line Note or any other Loan Document, effective on the Forbearance Effective Date through the Forbearance Termination Date, all payments of principal in respect of the Line and under the Line Note shall be paid in accordance with the terms hereof and the Line Note (including, without limitation, repayments of Out-Of-Formula Advances under Section 4.2 hereof and any payments or prepayments pursuant to Section 4.11 hereof and Section 6.4 and Section 6.6 of the Forbearance Agreement). Borrowers shall pay interest on the outstanding principal amount of Line Advances in accordance with Section 3 hereof and the Line Note.

4.2 **Principal Payments on the Line.** Borrowers shall pay the outstanding Advances under the Line, together with any accrued and unpaid interest thereon, and any other sums due pursuant to the terms hereof, on the last day of the Contract Period. Without limiting the foregoing, if any Out-Of-Formula Advance arises or exists under the Line for any reason whatsoever, including accounts becoming ineligible, Bank decreasing advance rates or Bank establishing reserves, Borrowers shall repay such Out-Of-Formula Advance immediately, without demand.

4.3 **Principal and Interest Payments on Equipment Line**. Borrowers shall pay the outstanding principal balance of, and interest on, the Line in accordance with the Equipment Line Documents.

4.4 **Principal and Interest Payments on Loan Limit Line.** Notwithstanding anything to the contrary contained herein, in the Loan Limit Line Note or any other Loan Document, effective on the Forbearance Effective Date through the Forbearance Termination Date, (a) all covenants requiring periodic payments of principal in respect of the Loan Limit Line hereunder or under the Loan Limit Line Note shall be temporarily suspended and shall be due and payable in full on the earlier of the Forbearance Termination Date and the termination of the Contract Period unless sooner payable in accordance with the terms of this Agreement or the Loan Limit Line Note and the other Loan Documents (including, without limitation, any payments or prepayments pursuant to Section 4.11 hereof and Section 6.4 and Section 6.6 of the Forbearance Agreement) and (b) all payments of interest in respect of the Maximum Loan Limit Line Amount shall be due and payable in accordance with Section 3 hereof and the Loan Limit Line Note.

4.5 **Letter of Credit Fees.** For each issuance or renewal of a letter of credit hereunder, Borrowers shall pay to Bank an issuance or renewal fee in an amount equal to two percent (2.00%) per annum of the face amount of such letter of credit, payable coincident with and as a condition of the issuance or renewal of such letter of credit. In addition, Borrowers shall pay such other fees and charges in connection

with each letter of credit as may be customarily charged by Bank. Such fees shall be computed on the basis of a year of 360 days.

4.6 **Loan Fees.** In consideration of Bank' s agreements contained herein, Borrowers shall pay to Bank loan fees in the aggregate amount of Thirty-One Thousand and 00/100 Dollars ($31,000.00), which fees may be charged as a Line Advance or charged to any bank account of Borrowers maintained with Bank.

4.7 **Usage Fee**. So long as the Line is outstanding and has not been terminated, and the Bank Indebtedness has not been satisfied in full, Borrowers shall unconditionally pay to Bank a fee equal to 0.15% per annum of the daily unused portion of the Line (which shall be calculated as the difference between the Maximum Line Amount, minus the average outstanding principal balance of cash advances under the Line for the applicable quarter), which fee shall be computed on a quarterly basis in arrears and shall be due and payable on the first day of each calendar quarter commencing on the first day of the first full calendar quarter after the date hereof.

4.8 **Termination of Line; Prepayment of Loans**.

(a) **Right to Terminate.** Borrowers may terminate the Line upon thirty (30) days prior written notice to Bank.

(b) **Prepayment of Loans.** Borrowers may prepay all or any part of the principal balance of the Loans at any time, following delivery of not less than thirty (30) days prior written notice to Bank and upon payment of the applicable premium, if any, set forth in the applicable Note.

(c) **Loan Limit Line and Equipment Line Co-Terminus with Line.** In the event the Line is terminated for any reason including, without limitation, as a result of an Event of Default, expiration of the Contract Period, pre-payment and termination by Borrowers or otherwise, the entire outstanding principal balance of each of the Loan Limit Line and the Equipment Line, together with any accrued and unpaid interest thereon and any other sums due pursuant to the terms hereof, shall be due and payable immediately.

4.9 **Payment Method.** Each Borrower irrevocably authorizes Bank to debit all payments required to be made by Borrowers hereunder or under any of the Loans on the date due from Borrowers' operating account number or, after the occurrence and during the continuance of an Event of Default, charge any or all of such payments as a Line Advance. Otherwise, Borrowers shall be obligated to make such payments directly to Bank. All payments are to be made in immediately available funds. If Bank accepts payment in any other form, such payment shall not be deemed to have been made until the funds comprising such payment have actually been received by or made available to Bank.

4.10 **Loan Account**. Bank will open and maintain on its books a loan account (the **"Loan Account"**) with respect to Advances made, repayments, prepayments, the computation and payment of interest and fees and the computation and final payment of all other amounts due and sums paid to Bank under this Agreement. Except in the case of manifest error in computation, the Loan Account will be conclusive and binding on Borrowers as to the amount at any time due to Bank from Borrowers under the Loan Documents.

4.11 **Anti-Cash Hoarding**. Commencing on the Forbearance Effective Date and all times thereafter, (a) as of 11:59 pm Eastern time each Thursday of any week, if the aggregate amount of Unrestricted Cash of Borrowers exceeds $3,500,000 as of such Wednesday, Borrowers shall cause such amounts in excess of $3,500,000 to be immediately remitted to Bank to prepay the then outstanding amount

of Line Advances in the aggregate principal amount equal to such excess (it being understood that the repayment of such Line Advances pursuant to this Section 4.11(a) shall not result in the permanent reduction of the Loan Limit Line) and (b) as of 11:59 pm Eastern time each Thursday of any week, if the aggregate amount of Unrestricted Cash of Borrowers exceeds $15,000,000 (after giving effect to any mandatory prepayment in Section 4.11(a) hereof), Borrowers shall cause such amounts in excess of $15,000,000 to be immediately remitted to Bank to prepay in full the then outstanding amount of Loan Limit Line Advances in the aggregate principal amount equal to such excess and such prepayment shall result in a permanent reduction of the Loan Limit Line in the aggregate principal amount equal to such excess.

5. **SECURITY; COLLECTION OF RECEIVABLES AND PROCEEDS OF COLLATERAL**.

5.1 **Personal Property.** As security for the full and timely payment and performance of all Bank Indebtedness, each Borrower hereby grants to Bank a security interest in all existing and after-acquired property of such Borrower of any nature including, without limitation:

(a) All present and future accounts, contract rights, chattel paper, instruments and documents and all other rights to the payment of money whether or not yet earned, for services rendered or goods sold, consigned, leased or furnished by such Borrower or otherwise, together with (i) all goods (including any returned, rejected, repossessed or consigned goods), the sale, consignment, lease or other furnishing of which shall be given or may give rise to any of the foregoing, (ii) all of such Borrower' s rights as a consignor, consignee, unpaid vendor or other lienor in connection therewith, including stoppage in transit, set-off, detinue, replevin and reclamation, (iii) all general intangibles related thereto, (iv) all guaranties, mortgages, security interests, assignments, and other encumbrances on real or personal property, leases and other agreements or property securing or relating to any accounts, (v) choses-in-action, claims and judgments, and (vi) any returned or unearned premiums, which may be due upon cancellation of any insurance policies.

(b) All present and future inventory of such Borrower (including but not limited to goods held for sale or lease or furnished or to be furnished under contracts for service, raw materials, work-in-process, finished goods and goods used or consumed in such Borrower' s business) whether owned, consigned or held on consignment, together with all merchandise, component materials, supplies, packing, packaging and shipping materials, and all returned, rejected or repossessed goods sold, consigned, leased or otherwise furnished by such Borrower and all embedded software related thereto.

(c) All present and future general intangibles (including but not limited to payment intangibles, tax refunds and rebates, manufacturing and processing rights, designs, patents, patent rights and applications therefor, trademarks and registration or applications therefor, tradenames, brand names, logos, inventions, copyrights and all applications and registrations therefor), licenses, permits, approvals, software and computer programs, license rights, royalties, trade secrets, methods, processes, know-how, formulas, drawings, specifications, descriptions, label designs, plans, blueprints, patterns and all memoranda, notes and records with respect to any research and development.

(d) All present and future machinery, equipment, furniture, fixtures, motor vehicles, tools, dies, jigs, molds and other articles of tangible personal property of every type together with all parts, substitutions, accretions, accessions, attachments, accessories, additions, components and replacements thereof, and all manuals of operation, maintenance or repair, and all embedded software related thereto.

(e) All present and future general ledger sheets, files, books and records, customer lists, books of account, invoices, bills, certificates or documents of ownership, bills of sale, business papers, correspondence, credit files, tapes, cards, computer runs and all other data and data storage systems whether in the possession of such Borrower or any service bureau.

(f) All present and future letter of credit rights and supporting obligations, including without limitation, all letters of credit and letter of credit rights now existing or hereafter issued naming such Borrower as a beneficiary or assigned to such Borrower, including the right to receive payment thereunder, and all documents and records associated therewith.

(g) All present and future deposit accounts of such Borrower.

(h) All present and future financial assets and investment property of such Borrower.

(i) All of such Borrower' s commercial tort claims from time to time listed on **Schedule 5.1(i)**. Each amendment adding commercial tort claims to such **Schedule 5.1(i)** pursuant to the provisions of **Section 7.30** below shall constitute a contemporaneous grant by such Borrower of a security interest in all of such Borrower' s rights and interests in such commercial tort claims.

(j) All funds, instruments, documents, policies and evidence and certificates of insurance and rights thereunder, securities, chattel paper and other assets of such Borrower or in which such Borrower has an interest and all proceeds thereof, now or at any time hereafter on deposit with or in the possession or control of Bank or owing by Bank to such Borrower or in transit by mail or carrier to Bank or in the possession of any other Person acting on Bank' s behalf, without regard to whether Bank received the same in pledge, for safekeeping, as agent for collection or otherwise, or whether Bank has conditionally released the same, and in all assets of such Borrower in which Bank now has or may at any time hereafter obtain a lien, mortgage, or security interest for any reason.

(k) All products and proceeds of each of the items described in the foregoing **subparagraphs (a)-(j)** and all supporting obligations related thereto.

5.2 **General.** The collateral described above in **Section 5.1** is collectively referred to herein as the **"Collateral"**. The above-described security interests, assignments, liens shall not be rendered void by the fact that no Bank Indebtedness exists as of any particular date, but shall continue in full force and effect until the Bank Indebtedness has been repaid, Bank has no agreement or commitment outstanding pursuant to which Bank may extend credit to or on behalf of any Borrower and Bank has executed termination statements or releases with respect thereto. **IT IS THE EXPRESS INTENT OF BORROWERS THAT ALL OF THE COLLATERAL SHALL SECURE NOT ONLY THE OBLIGATIONS UNDER THE LOAN DOCUMENTS, BUT ALSO ALL OTHER PRESENT AND FUTURE OBLIGATIONS OF ANY BORROWER TO BANK**.

5.3 **Special Flood Zone Loan**. If, now or in the future, any of the obligations secured pursuant to any security interest or lien in the Collateral include any Special Flood Zone Loan, then the following shall apply: any such Special Flood Zone Loan shall not be secured pursuant to any security interest or lien created by this instrument in personal property that would constitute "contents" located within Flood Zone Improvements securing such Special Flood Zone Loan, where, for purposes of the foregoing, "Flood Zone Improvements" means any "improved" real property that is located within a Special Flood Hazard Area, a "Special Flood Zone Loan" means a loan, line of credit or other credit facility which is secured by Flood Zone Improvements, and the terms "improved" real property, "Special Flood Hazard Area," and "contents" shall have the meaning ascribed to them by the Flood Disaster Protection Act of

1973, 42 U.S.C. § 4001 et seq., and implementing regulations, 44 C.F.R. Parts 59 et seq., and/or the Federal Emergency Management Agency, all as may be amended from time to time.

6. **REPRESENTATIONS AND WARRANTIES**. Each Borrower represents and warrants as follows:

6.1 **Valid Organization, Good Standing and Qualification**. Such Borrower is duly organized, validly existing and in good standing under the laws of the jurisdiction in which is was formed or incorporated, has full power and authority to execute, deliver and comply with the Loan Documents, and to carry on its business as it is now being conducted and is duly licensed or qualified as a foreign entity in good standing under the laws of each jurisdiction in which the character or location of the properties owned by it or the business transacted by it requires such licensing or qualification, except where the failure to be so licensed or qualified could not have a Material Adverse Effect**. Schedule 6.1** lists such Borrower' s jurisdiction of incorporation, each jurisdiction of foreign qualification and the organizational identification number of such Borrower (if any) issued by each such jurisdiction.

6.2 **Licenses**. Such Borrower and its respective employees and agents have all licenses, registrations, approvals and other authority as may be necessary to enable such Borrower to own and operate its business and, as applicable, perform all services and business which such Borrower has agreed to perform in any state, municipality or other jurisdiction.

6.3 **Ownership Interests**. The ownership of all Equity Interests of such Borrower and all pledges, proxies, voting trusts, powers of attorney and other agreements affecting the ownership or voting rights of said Equity Interests is as set forth on **Schedule 6.3**.

6.4 **Subsidiaries**. Except as set forth on **Schedule 6.4**, such Borrower does not own any Equity Interests, directly or indirectly (by any Subsidiary or otherwise).

6.5 **Financial Statements**. Borrowers have furnished to Bank (a) the reviewed financial statements of Borrowers for the fiscal year ended December 31, 2018, certified without qualification by independent public accountants and all management and comment letters in connection therewith and (b) its internally prepared interim financial statements as of December 31, 2019. Such financial statements of Borrowers (together with the related notes and comments), are correct and complete, fairly present the financial condition and the assets and liabilities of Borrowers at such dates, and have been prepared in accordance with GAAP. With respect to the interim statements, such statements are subject to year-end adjustment and any accompanying footnotes.

6.6 **No Material Adverse Change in Financial Condition**. There has been no material adverse change in the financial condition of Borrower since the date of the most recent financial statements of Borrowers delivered to Bank.

6.7 **Pending Litigation or Proceedings**. Except as set forth on **Schedule 6.7** attached hereto, there are no judgments outstanding or actions, suits or proceedings pending or, to such Borrower' s knowledge, threatened against or affecting such Borrower, at law or in equity or before or by any Governmental Body, which, if determined adversely to such Borrower, could reasonably be expected to result in a Material Adverse Effect.

6.8 **Due Authorization; No Legal Restrictions**. The execution and delivery by such Borrower of the Loan Documents to which it is a party, the consummation of the transactions contemplated by the Loan Documents to which it is a party and the fulfillment and compliance with the respective terms, conditions and provisions of the Loan Documents to which it is a party: (a) have been duly authorized by

all requisite action of such Borrower; (b) will not conflict with or result in a breach of, or constitute a default (or might, upon the passage of time or the giving of notice or both, constitute a default) under, any of the terms, conditions or provisions of any Applicable Law, such Borrower' s Organizational Documents or any indenture, mortgage, loan, credit agreement or other document or instrument to which such Borrower is a party or by which such Borrower may be bound or affected, or any judgment or order of any Governmental Body applicable to such Borrower or its properties; and (c) will not result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of such Borrower under the terms or provisions of any such agreement or instrument, except liens in favor of Bank.

6.9 **Enforceability**. The Loan Documents to which such Borrower is a party have been duly executed by such Borrower and delivered to Bank and constitute legal, valid and binding obligations of such Borrower, enforceable in accordance with their terms, except as enforceability may be limited by any bankruptcy, insolvency, reorganization, moratorium or other laws or equitable principles affecting creditors' rights generally.

6.10 **No Default Under Other Obligations, Orders or Governmental Regulations**. Such Borrower is not in violation of its Organizational Documents, and such Borrower is not in default in the performance or observance of any of its obligations, covenants or conditions contained in any indenture or other agreement creating, evidencing or securing any Indebtedness or pursuant to which any such Indebtedness is issued or in violation of or in default under any other agreement or instrument to which such Borrower is a party or any Applicable Law or judgment, decree or order of any Governmental Body applicable to such Borrower or by which its properties may be bound or affected.

6.11 **Governmental Consents**. No consent, approval or authorization of or designation, declaration or filing with any Governmental Body on the part of such Borrower is required in connection with the execution, delivery or performance by such Borrower of the Loan Documents or the consummation of the transactions contemplated thereby.

6.12 **Taxes**. Such Borrower has filed all tax returns which it is required to file and has paid, or made provision for the payment of, all taxes which have or may have become due pursuant to such returns or pursuant to any assessment received by it, except for those being Properly Contested. Such tax returns are complete and accurate in all respects. Such Borrower does not know of any proposed additional assessment or basis for any assessment of additional taxes.

6.13 **Title to Collateral**. The Collateral of such Borrower is and will be owned by such Borrower free and clear of all liens and other encumbrances of any kind (including liens or other encumbrances upon properties acquired or to be acquired under conditional sales agreements or other title retention devices), excepting only liens in favor of the Bank and those liens and encumbrances permitted under **Section 7.9**. Such Borrower shall defend the Collateral against any claims of all Persons other than Bank.

6.14 **Names; Addresses**. During the past five (5) years, such Borrower has not been known by any names (including trade names) other than those set forth in **Schedule 6.14** and has not been located at any addresses other than those set forth on **Schedule 6.14**. The portions of the Collateral which are tangible property and such Borrower' s books and records (both pertaining to the Collateral and otherwise) will at all times be located at the addresses set forth on **Schedule 6.14**; or such other location determined by such Borrower after prior notice to Bank and delivery to Bank of any items requested by Bank to maintain perfection and priority of Bank' s security interests and access to such Borrower' s books and records. **Schedule 6.14** identifies the chief executive office of such Borrower.

6.15 **Current Compliance**. Except for the Existing Events of Default, no Default or Event of Default has occurred and is continuing.

6.16 **Pension Plans**. Except as disclosed on **Schedule 6.16**: (a) such Borrower has no obligations with respect to any employee pension benefit plan ("**Plan"**) (as such term is defined in the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**")); (b) no events, including, without limitation, any "**Reportable Event**" or "**Prohibited Transaction**" (as those terms are defined under ERISA), have occurred in connection with any Plan of such Borrower which might constitute grounds for the termination of any such Plan by the Pension Benefit Guaranty Corporation ("**PBGC**") or for the appointment by any United States District Court of a trustee to administer any such Plan; (c) all of such Borrower' s Plans meet with the minimum funding standards of Section 302 of ERISA; and (d) such Borrower has no existing liability to the PBGC. Such Borrower is not subject to or bound to make contributions to any "multi-employer plan" as such term is defined in Section 4001(a)(3) of ERISA.

6.17 **Material Contracts**. Such Borrower has complied with the provisions of all Material Contracts to which it is a party and is not in default thereunder. No other party is in default under any such Material Contracts and no event has occurred which, but for the giving of notice or the passage of time or both, would constitute an event of default thereunder. **Schedule 6.17** sets forth an accurate list of all Material Contracts.

6.18 **Intellectual Property**. **Schedule 6.18** sets forth an accurate list and description of all Intellectual Property owned or licensed by such Borrower. Such Borrower owns, or possesses the irrevocable right to use, all of the Intellectual Property necessary to own and operate such Borrower' s properties and to carry on its business as presently conducted and presently planned to be conducted, subject to no Intellectual Property Claims.

6.19 **Reserved**.

6.20 **Eligible Receivables Warranties**. With respect to all Eligible Receivables from time to time scheduled, listed or referred to in any certificate, statement or report prepared by or for Borrowers and delivered to Bank and upon which Borrowers are basing availability under the Line, each Borrower warrants and represents that (a) the accounts arose in the ordinary course of such Borrower' s business; (b) the accounts are genuine, are in all respects what they purport to be, and are not evidenced by any chattel paper, note, instrument or judgment; (c) such Borrower has absolute title to such accounts and the accounts represent undisputed, bona fide transactions completed in accordance with the terms thereof and as represented to Bank; (d) such accounts are not subject to any lien whatsoever except for the prior, perfected security interest granted to Bank; (e) no payments have been or will be made thereon; (f) there are no setoffs, counterclaims, disputes, discounts, credits, charge backs, freight claims, allowances or adjustments existing or asserted in writing with respect thereto and such Borrower has not made any agreement with any account debtor for any deduction therefrom; (g) to such Borrower' s knowledge, there are no facts, events or occurrences which impair the validity or enforcement thereof or may reduce the amount payable thereunder as shown on any certificates, statements or reports, prepared by or for Borrowers and delivered to Bank, such Borrower' s books and records and all invoices and statements delivered to Bank with respect thereto; (h) to such Borrower' s knowledge, all account debtors have the capacity to contract and are solvent; (i) the goods sold giving rise thereto are not subject to any lien, claim, encumbrance or security interest except that of Bank; (j) to such Borrower' s knowledge, there are no proceedings or actions pending against any account debtor which might result in any material adverse change in such account debtor' s financial condition; (k) the account is not an account with respect to which the account debtor is an Affiliate of such Borrower or a director, officer of employee of such Borrower or its Affiliates; (l) the account does not arise with respect to goods which have been returned, rejected, lost or damaged, or which have not been shipped or arise with respect to services which have not been fully performed and

accepted as satisfactory by the account debtor; (m) the account is not an account with respect to which the account debtor' s obligation to pay the account is conditional upon the account debtor' s approval or is otherwise subject to any repurchase obligation or return right, as with sales made on a consignment, bill-and-hold, guaranteed sale, sale-and-return, or sale on approval basis; (n) the amounts shown on the applicable certificates, statements, on such Borrower' s books and records and all invoices and statements which may be delivered to Bank with respect to such accounts are actually and absolutely owing to such Borrower and are not in any way contingent; and (o) the accounts have not been sold, assigned or transferred to any other Person, and no Person except such Borrower has any claim thereto or (with the exception of the applicable account debtor) any claims to the goods sold.

6.21 **Commercial Tort Claims**. **Schedule 5.1(i)**, as it may be amended from time to time pursuant to **Section 7.30**, lists all now existing commercial tort claims in favor of the such Borrower.

6.22 **Deposit Accounts**. **Schedule 6.22** contains a list of all bank accounts, investment accounts, deposit account, certificates of deposit or other like accounts maintained by such Borrower with any Person other than Bank.

6.23 **Solvency**. Such Borrower is solvent, able to pay its debts as they mature, has capital sufficient to carry on its business and all businesses in which it is about to engage, and (a) as of the date hereof, the fair present saleable value of its assets, calculated on a going concern basis, is in excess of the amount of its liabilities and (b) subsequent to the date hereof, the fair saleable value of its assets (calculated on a going concern basis) will be in excess of the amount of its liabilities.

6.24 **Investment Company Act**. Such Borrower is not an "investment company" registered or required to be registered under the Investment Company Act of 1940, as amended, nor is it controlled by such a company.

6.25 **O.S.H.A. and Environmental Compliance**.

(a) Such Borrower has duly complied with, and its facilities, business, assets, property, leaseholds, Real Property and equipment are in compliance in all material respects with, the provisions of the Federal Occupational Safety and Health Act, the Environmental Protection Act, RCRA and all other Environmental Laws; there have been no outstanding citations, notices or orders of non-compliance issued to such Borrower or relating to its business, assets, property, leaseholds or equipment under any such laws, rules or regulations.

(b) Such Borrower has been issued all required federal, state and local licenses, certificates or permits applicable to its business relating to all applicable Environmental Laws.

(c) (i) There are no visible signs of releases, spills, discharges, leaks or disposal (collectively referred to as "**Releases**") of Hazardous Substances at, upon, under or within any Real Property; (ii) there are no underground storage tanks or polychlorinated biphenyls on the Real Property; (iii) the Real Property has never been used as a treatment, storage or disposal facility of Hazardous Waste; and (iv) no Hazardous Substances are present on the Real Property of such Borrower, excepting such quantities as are handled in accordance with all applicable manufacturer' s instructions and governmental regulations and in proper storage containers and as are necessary for the operation of the commercial business of such Borrower or of its tenants.

6.26 **Accuracy of Representations and Warranties**. No representation or warranty by such Borrower contained herein or in any certificate or other document furnished by such Borrower pursuant hereto or in connection herewith fails to contain any statement of material fact necessary to make

such representation or warranty not misleading in light of the circumstances under which it was made. There is no fact which such Borrower knows and has not disclosed to Bank, which does or may materially and adversely affect such Borrower or any of its operations.

6.27 **Interrelatedness of Borrowers**. The business operations of each Borrower are interrelated and complement one another, and such entities have a common business purpose, with intercompany bookkeeping and accounting adjustments used to separate their respective properties, liabilities, and transactions. To permit their uninterrupted and continuous operations, such entities now require and will from time to time hereafter require funds and credit accommodations for general business purposes. The proceeds of Loans and other credit facilities extended hereunder will directly and indirectly benefit each Borrower hereunder, severally and jointly, regardless of which Borrower requests or which Borrower receives, part or all of the proceeds of such Advances.

7. **GENERAL COVENANTS**. Each Borrower shall comply with the following:

7.1 **Payment of Principal, Interest and Other Amounts Due**. Such Borrower shall pay when due all Bank Indebtedness and all other amounts payable by it hereunder.

7.2 **Limitation on Sale and Leaseback**. Such Borrower shall not enter into any arrangement whereby it will sell or transfer any real property or improvements thereon or other fixed assets owned by it and then or thereafter rent or lease as lessee such property, improvements or assets or any part thereof, or other property which such Borrower shall intend to use for substantially the same purposes as the property sold or transferred.

7.3 **Limitation on Indebtedness**. Such Borrower shall not have at any time outstanding to any Person other than Bank, any Indebtedness for borrowed money, Capitalized Lease Obligations, or any outstanding letters of credit, except:

(a) Current accounts payable incurred in the ordinary course of such Borrower' s business, accrued expenses and other current items arising out of transactions (other than borrowings) in the ordinary course of such Borrower' s business;

(b) Existing Indebtedness for borrowed money and Capitalized Lease Obligations described on **Schedule 7.3**; and

(c) Future purchase money Indebtedness and Capitalized Lease Obligations in respect of specific items of equipment in an aggregate amount (for all Borrowers) not to exceed $500,000 outstanding at any time, provided, however, that any liens granted by such Borrower in connection with such future purchase money Indebtedness or Capitalized Lease must also be permitted under **Section 7.9**.

Any of such existing permitted Indebtedness may not be refinanced or replaced without the consent of the Bank.

7.4 **Investments and Loans**. Such Borrower shall not have or make any investments in all or a material portion of the capital stock or securities of any Person, or any loans, advances or extensions of credit to any Person, except:

(a) Investments in direct or indirect obligations of, or obligations unconditionally guaranteed by, the United States of America and maturing within twelve (12) months from the date of acquisition;

(b) Investments in commercial paper of Bank or commercial paper rated "Prime-1" by Moody' s Investors Services or "A-1" by Standard & Poor' s Corporation, or with an equivalent rating by another rating agency of nationally recognized standing, maturing within three hundred sixty-five (365) days from the date of acquisition;

(c) Certificates of deposit maturing within twelve (12) months from the date of acquisition issued by the Bank; and

(d) Investments and loans listed on **Schedule 7.4**.

7.5 **Guaranties**. Except with respect to the Bank Indebtedness, such Borrower shall not directly or indirectly guarantee, endorse (other than for collection or deposit in the ordinary course of business), discount, sell with recourse or for less than the face value or agree (contingently or otherwise) to purchase or repurchase or otherwise acquire, or otherwise become directly or indirectly liable for, or agree (contingently or otherwise) to supply or advance funds (whether by loan, stock purchase, capital contribution or otherwise) in respect of, any Indebtedness, obligations or liabilities of any Person.

7.6 **Disposition of Assets**. Such Borrower shall not sell, lease, transfer or otherwise dispose of any of its property or assets, except for sales of inventory in the ordinary course for fair consideration and the disposal and replacement of obsolete or worn equipment.

7.7 **Merger; Consolidation; Business Acquisitions; Subsidiaries**. Such Borrower shall not merge into or consolidate with any Person (other than another Borrower), acquire any material portion of the Equity Interests in any Person (other than another Borrower), assets or business of any Person (other than another Borrower), permit any Person (other than another Borrower) to merge into it, or form any new Subsidiaries.

7.8 **Taxes; Claims for Labor and Materials**. Such Borrower shall pay or cause to be paid when due all taxes, assessments, governmental charges or levies imposed upon it or its income, profits, payroll or any property belonging to it, including without limitation all withholding taxes, and all claims for labor, materials and supplies which, if unpaid, might become a lien or charge upon any of its properties or assets, except to the extent the same are being Properly Contested. Such Borrower shall not file or consent to the filing of, any consolidated income tax return with any Person other than a Subsidiary.

7.9 **Liens**. Such Borrower shall not create, incur or permit to exist any mortgage, pledge, encumbrance, lien, security interest or charge of any kind (including liens or charges upon properties acquired or to be acquired under conditional sales agreements or other title retention devices) on its property or assets, whether now owned or hereafter acquired, or upon any income, profits or proceeds therefrom, except:

(a) Security interests and mortgages held by Bank;

(b) Liens incurred or deposits made in the ordinary course of business (i) in connection with worker' s compensation, unemployment insurance, social security and other like laws or (ii) to secure the performance of statutory obligations, not incurred in connection with either (A) the borrowing of money or (B) the deferred purchase price of goods or inventory;

(c) Encumbrances consisting of zoning restrictions, easements, restrictions on the use of real property or minor irregularities of title thereto, none of which impairs the use of such property by such Borrower in the operation of its business;

(d) Liens and security interests listed on **Schedule 7.9**; or

(e) Purchase money liens or Capitalized Leases, provided that:

(i) the property subject to any of the foregoing is acquired or leased by such Borrower in the ordinary course of its business and the lien on any such property is created contemporaneously with such acquisition;

(ii) purchase money Indebtedness or Capitalized Lease Obligations so created shall not exceed 100% of the lesser of cost or fair market value as of the time of acquisition or lease of the property covered thereby;

(iii) the purchase money Indebtedness or Capitalized Lease Obligations shall only be secured by the property so acquired or leased; and

(iv) the purchase money Indebtedness or Capitalized Lease Obligations are permitted by the provisions of **Section 7.3**.

No Borrower shall enter into any agreement with any other Person which shall prohibit such Borrower from granting, creating or suffering to exist, or otherwise restrict in any way (whether by covenant, by identifying such event as a default under such agreement or otherwise) the ability of such Borrower to grant, create or suffer to exist, any lien, security interest or other charge or encumbrance upon or with respect to any of its assets in favor of the Bank.

Borrowers shall not apply for or obtain any letters of credit for the payment of or to secure the payment for any inventory or other assets to be acquired by Borrowers, except letters of credit issued by Bank, as set forth herein.

7.10 **Existence; Approvals; Qualification; Business Operations; Compliance with Laws**. Such Borrower shall: (a) obtain, preserve and keep in full force and effect its separate existence and all rights, licenses, registrations and franchises necessary to the proper conduct of its business or affairs; (b) qualify and remain qualified as a foreign entity in each jurisdiction in which the character or location of the properties owned by it or the business transacted by it requires such qualification, except where the failure to obtain or maintain such qualification could not have a Material Adverse Effect; and (c) continue to operate its business as presently operated and will not engage in any new businesses without the prior written consent of Bank. Such Borrower shall comply with the requirements of all Applicable Laws and all rules, regulations (including environmental regulations) and orders of any Governmental Body having jurisdiction over it and applicable to such Borrower or its properties.

7.11 **Maintenance of Properties**. Borrower shall maintain, preserve, protect and keep or cause to be maintained, preserved, protected and kept its real and personal property used or useful in the conduct of its business in good working order and condition, reasonable wear and tear excepted, and will pay and discharge when due the cost of repairs to and maintenance of the same.

7.12 **Insurance**. Such Borrower shall carry adequate insurance issued by an insurer acceptable to Bank, in amounts acceptable to Bank (at least adequate to comply with any coinsurance provisions) and against all such liability and hazards as are usually carried by entities engaged in the same or a similar business similarly situated or as may be required by Bank, and in addition, will carry business interruption insurance in such amounts as may be required by Bank. In the case of insurance on any of the Collateral, such Borrower shall carry insurance in the full insurable value thereof and cause Bank to be named as insured mortgagee with respect to all real property, loss payee (with a lender' s loss payable

endorsement) with respect to all personal property, and additional insured with respect to all liability insurance, as its interests may appear with thirty (30) days' notice to be given Bank by the insurance carrier prior to cancellation or material modification of such insurance coverage.

Borrowers shall cause to be delivered to Bank the insurance policies therefor or, in the alternative, evidence of insurance and at least thirty (30) business days prior to the expiration of any such insurance, additional policies or duplicates thereof or, in the alternative, evidence of insurance evidencing the renewal of such insurance and payment of the premiums therefor. Borrowers shall direct all insurers that in the event of any loss thereunder or the cancellation of any insurance policy, the insurers shall make payments for such loss and pay all returned or unearned premiums directly to Bank and not to Borrower and Bank jointly.

In the event of any loss, Borrowing Agent shall give Bank prompt notice thereof and Bank may make proof of loss whether the same is done by the applicable Borrower(s). Bank is granted a power of attorney by each Borrower with full power of substitution to file any proof of loss in such Borrower' s or Bank' s name, to endorse such Borrower' s name on any check, draft or other instrument evidencing insurance proceeds, and to take any action or sign any document to pursue any insurance loss claim. Such power being coupled with an interest is irrevocable.

In the event of any loss, Bank, at its option, may (a) retain and apply all or any part of the insurance proceeds to reduce, in such order and amounts as Bank may elect, the Bank Indebtedness, or (b) disburse all or any part of such insurance proceeds to or for the benefit of such Borrower for the purpose of repairing or replacing Collateral after receiving proof satisfactory to Bank of such repair or replacement, in either case without waiving or impairing the Bank Indebtedness or any provision of this Agreement. Any deficiency thereon shall be paid by Borrower to Bank upon demand. Borrowers shall not take out any insurance without having Bank named as loss payee or additional insured thereon. Borrowers shall bear the full risk of loss from any loss of any nature whatsoever with respect to the Collateral.

Notwithstanding the foregoing, in the event that any Borrower suffers a casualty loss not in excess of $250,000 and desires to use the proceeds of its casualty loss insurance to repair or replace damaged Collateral, Bank will permit such Borrower to utilize the proceeds of such insurance solely to purchase such replacement assets or to repair such assets, provided that: (i) such Borrower confirms to Bank in writing that it intends to continue its business operations and has business interruption insurance in effect providing for the payment of proceeds in amounts acceptable to Bank; (ii) such Borrower submits to Bank its business plan for operations after such casualty loss, which plan must be in form and content satisfactory to Bank; (iii) Bank will hold such insurance proceeds and will disburse such proceeds upon receipt by Bank of evidence satisfactory to Bank that such proceeds will be used to purchase assets as required above; (iv) disbursement of proceeds will be in compliance with such procedures as Bank may require, e.g. checks payable to the vendor or supplier; (v) no Default or Event of Default has occurred; and (vi) such loss does not occur within four (4) months of the expiration of the Contract Period.

7.13 **Inspections; Examinations**. Such Borrower hereby irrevocably authorizes and directs all accountants and auditors employed by such Borrower at any time after notice to Borrower (which notice shall not be required if an Event of Default has occurred and is continuing) to exhibit and deliver to Bank copies of any and all of such Borrower' s financial statements, trial balances or other accounting records of any sort in the accountant' s or auditor' s possession and copies of all reports submitted to such Borrower by such accountants or auditors, including management letters, "comment" letters and audit reports, and to disclose to Bank any information they may have concerning such Borrower' s financial status and business operations. Such Borrower further authorizes all Governmental Bodies to furnish to Bank, upon its request after notice to Borrower (which notice shall not be required if an Event of Default

has occurred and is continuing) copies of reports or examinations relating to such Borrower, whether made by such Borrower or otherwise.

The officers of Bank, or such Persons as any of them may designate, may, at Borrowers' sole cost and expense, visit and inspect any of the properties of Borrowers, examine (either by Bank' s employees or by independent accountants) any of the Collateral or other assets of Borrowers, including the books of account of Borrower, and discuss the affairs, finances and accounts of such Borrower with its officers and with its independent accountants, at such times as Bank may desire; provided that, so long as no Event of Default has occurred and is continuing, Borrower shall not be responsible for the cost of more than one (1) inspection in any calendar year. Additionally, Bank may obtain updated appraisals of the Collateral at any time at Borrowers' sole cost and expense; provided that, so long as no Event of Default has occurred and is continuing, Borrower shall not be responsible for the cost of more than one (1) appraisal (or set of appraisals) in any calendar year.

Bank may conduct at any time and from time to time upon reasonable prior notice and during regular business hours (in each case, so long as no Event of Default has occurred and is continuing), and such Borrower shall fully cooperate with, field examinations of the inventory, accounts receivable and business affairs of Borrower. Subject to the limitations set forth above, Borrowers shall reimburse Bank for all costs, expenses and charges as may be required by Bank in connection with all field examinations. At Bank' s option all costs, expenses and charges owing under this **Section 7.13** may be charged as a Line Advance.

7.14 **Default Under Other Indebtedness**. Such Borrower shall not permit any of its Indebtedness to be in default. If any Indebtedness of such Borrower is declared or becomes due and payable before its expressed maturity by reason of default beyond applicable notice, cure and/or grace periods, or, to the knowledge of such Borrower, the holder of any such Indebtedness shall have the right (or upon the giving of notice or the passage of time, or both, shall have the right) to declare such Indebtedness to be so due and payable, such Borrower shall immediately give Bank written notice of such declaration, acceleration or right of declaration.

7.15 **Pension Plans**. Such Borrower shall: (a) keep in full force and effect any and all Plans which are presently in existence or may, from time to time, come into existence under ERISA, unless such Plans can be terminated without material liability to such Borrower in connection with such termination (as distinguished from any continuing funding obligation); (b) make contributions to all of such Borrower' s Plans in a timely manner and in a sufficient amount to comply with the requirements of ERISA; (c) comply with all material requirements of ERISA which relate to such Plans so as to preclude the occurrence of any Reportable Event, Prohibited Transaction or material "accumulated funding deficiency" as such term is defined in ERISA; and (d) notify Bank promptly following receipt by such Borrower of any notice of the institution of any proceeding or other action which may result in the termination of any Plan and deliver to Bank, promptly after the filing or receipt thereof, copies of all reports or notices which such Borrower files or receives under ERISA with or from the Internal Revenue Service, the PBGC, or the U.S. Department of Labor.

7.16 **Bank of Account**. Such Borrower shall maintain Bank as its sole bank of account.

7.17 **Reserved**.

7.18 **Amendment to Organizational Documents**. Such Borrower shall not make any material amendment to its Organizational Documents without providing Bank with thirty (30) day' s prior notice thereof. Such Borrower shall provide Bank with a copy of any proposed amendments to its

Organizational Documents prior to adoption. Such Borrower shall not cause or permit any division or similar event with respect to such Borrower.

7.19 **Dividends**. Such Borrower shall not: (a) redeem, repurchase or otherwise make any payment, distribution, or dividend to acquire any of its Equity Interests; or (b) pay dividends or distributions on account of its Equity Interests; provided, however, that so long as such Borrower maintains its status as a pass-through entity for federal income tax purposes and no Default or Event of Default has occurred, and the payment of such dividend or distribution would not result in a Default or Event of Default, such Borrower may pay and declare dividends or distributions to the holders of its Equity Interests (each, an "**Equity Owner**").

7.20 **Transactions with Affiliates**. Such Borrower shall not enter into or conduct any transaction with any Affiliate except on terms that would be usual and customary in a similar transaction between Persons not affiliated with each other and except as disclosed to Bank. Such Borrower shall cause all of its Indebtedness at any time owed to its Affiliates, Equity Owners, directors and officers to be subordinated in all respects to all present and future Bank Indebtedness and will not make any payments thereon, except as approved by Bank in writing.

7.21 **Reserved**.

7.22 **Name; Address or State of Organization Change**. Such Borrower shall not change its name or change or add any address or location except upon thirty (30) days prior written notice to Bank and delivery to Bank of any items requested by Bank to maintain perfection and priority of Bank' s security interests in and access to the Collateral. Such Borrower shall not change its state of organization or take any action which would result in a change in such Borrower' s state of organization without Bank' s prior written consent.

7.23 **Notices**. Such Borrower shall promptly notify Bank of: (a) any action or proceeding brought against such Borrower wherein such action or proceeding could, if determined adversely to such Borrower have a Material Adverse Effect; or (b) the occurrence of any Default or Event of Default.

7.24 **Additional Documents and Future Actions**. Such Borrower shall, at its sole cost, take such actions and provide Bank from time to time with such agreements, financing statements and additional instruments, documents or information as the Bank may in its discretion deem necessary or advisable to perfect, protect, maintain or enforce the security interests in the Collateral, to permit Bank to protect or enforce its interest in the Collateral, or to carry out the terms of the Loan Documents. Such Borrower hereby authorizes and appoints Bank as its attorney-in-fact, with full power of substitution, upon such Borrower' s failure to do so, to take such actions as Bank may deem advisable to protect the Collateral and its interests thereon and its rights hereunder, to execute on such Borrower' s behalf and file at such Borrower' s expense financing statements, and amendments thereto, in those public offices deemed necessary or appropriate by Bank to establish, maintain and protect a continuously perfected security interest in the Collateral, and to execute on such Borrower' s behalf such other documents and notices as Bank may deem advisable to protect the Collateral and its interests therein and its rights hereunder. Such power being coupled with an interest is irrevocable.

7.25 **Title to Equipment**. Such Borrower shall within thirty (30) days of acquisition of any equipment, have Bank' s lien noted on any and all evidence of ownership, certificates of title, or applications for title for any such equipment and provide Bank with all original certificates of title or other evidence of ownership.

7.26 **Accounts Receivable**. Such Borrower shall: (a) inform Bank immediately of the rejection of goods, claims made or delay in delivery or performance in regard to any account or contract right upon which Borrowers have based availability for Line Advances or if any account receivable previously scheduled, listed or referred to in any certificate, statement or report by Borrower and upon which Borrowers are basing availability for Line Advances ceases to be an Eligible Receivable; (b) adjust the borrowing base calculation under the Line to reduce the availability for Line Advances by the amount of any account with respect to which such Borrower is required to give Bank notice pursuant to the foregoing **subsection (a)** and repay any Out-Of-Formula Advance resulting therefrom; (c) make no change in any account upon which Borrowers have based availability for Line Advances, unless such change is contemporaneously reflected in the borrowing base calculation; (d) furnish to Bank all information received by such Borrower affecting the financial standing of any account debtor whose account or contract right has been specifically assigned to Bank; (e) pay Bank the amount loaned against any account or contract right if the goods are returned by purchaser or the contract is canceled or terminated or adjust the borrowing base calculation to reduce the availability for Line Advances by the amount of such account and repay any Out-Of-Formula Advance resulting therefrom; (f) immediately notify Bank if any of its accounts arise out of contracts with the United States or any department, agency or instrumentality thereof, and execute any instruments and take any steps required by Bank in order that all monies due and to become due under such contract shall be assigned to Bank and notice thereof given to the Government under the Federal Assignment of Claims Act; and (g) deliver to Bank, with appropriate endorsement or assignment, any instrument or chattel paper representing an account or contract right. Any permission granted to such Borrower by Bank to omit any of the requirements of this **Section 7.26** may be revoked by Bank at any time.

Such Borrower shall, if requested by Bank (a) give Bank assignments, in form acceptable to Bank, of specific accounts or groups of accounts and monies due and to become due under specific contracts and specific general intangibles; (b) furnish to Bank a copy, with such duplicate copies as Bank may request, of the invoice applicable to each account specifically assigned to Bank or arising out of a contract right, bearing a statement that such account has been assigned to Bank and such additional statements as Bank may require; (c) mark its records evidencing its accounts in a manner satisfactory to Bank so as to show which accounts have been assigned to Bank; (d) furnish to Bank satisfactory evidence of the shipment and receipt of any goods specified by Bank and the performance of any services or obligations covered by accounts or contracts in which Bank has a security interest; (e) pay Bank the unpaid portion of any account or contract right upon which Borrowers have based availability for Line Advances if (i) such account is not paid promptly in accordance with its terms, (ii) an account debtor does not accept the goods or services, or (iii) any petition under the Bankruptcy Code or any similar federal or state statute is filed by or against a purchaser; (f) join with Bank in executing a financing statement, notice, affidavit, security agreement, assignment or similar instrument, in form satisfactory to Bank, and such continuation statements and other instruments as Bank may from time to time request and pay the cost of filing the same in any public office deemed advisable by Bank to perfect the liens and security interests granted therein; (g) give Bank such financial statements, reports, certificates, lists of purchasers (showing names, addresses, and amounts owing) and other data concerning its accounts, contracts, collections, inventory, general intangibles and other matters as Bank may from time to time request; (h) after the occurrence and during the continuance of an Event of Default, segregate cash proceeds of Collateral so that they may be identified readily, and deliver the same to the Bank at such time or times and in such manner and form as the Bank may direct; (i) furnish such witnesses as may be necessary to establish legal proof of the Collateral or records relating to the Collateral; and (j) obtain from any owner, encumbrancer, processor, or other person having an interest in the property where any Collateral is located, written consent to Bank' s removal of the Collateral therefrom, without liability on the part of the Bank to such owner, encumbrancer, processor or other person, or from any such owner, encumbrancer, processor or other person such waivers of any interest in the Collateral as the Bank may require.

7.27 **Reserved**.

7.28 **Material Adverse Contracts**. Such Borrower shall deliver to Bank promptly after execution, copies of each new Material Contract to which such Borrower is a party and any amendment to any Material Contract to which such Borrower is a party. Such Borrower shall not become or be a party to any contract or agreement which has or could have a Material Adverse Effect.

7.29 **Restrictions on Use of Proceeds**. Such Borrower shall not carry or purchase with the proceeds of any of the Loans any "margin security" within the meaning of Regulations U, G, T or X of the Board of Governors of the Federal Reserve System.

7.30 **Commercial Tort Claims**. Such Borrower shall promptly notify Bank in writing of each commercial tort claim from time to time in favor of such Borrower and provide Bank with full descriptions for each such claim and such additional information regarding such claim as may be required by Bank. Such Borrower authorizes the amendment to Schedule 5.1(i) as necessary from time to time to reflect the current status of such Borrower' s commercial tort claims.

7.31 **Possessory Collateral**. Immediately upon such Borrower' s receipt of any portion of the Collateral evidenced by an agreement, instrument or document, including, without limitation, any tangible chattel paper, letter of credit, note, draft, instrument, investment property or financial asset, such Borrower shall deliver the original thereof to Bank together with an appropriate endorsement, stock power or other specific evidence of assignment thereof to Bank (in form and substance acceptable to Bank). If an endorsement or assignment of any such items shall not be made for any reason, Bank is hereby irrevocably authorized, as such Borrower' s attorney and agent-in-fact, to endorse or assign the same on such Borrower' s behalf.

7.32 **Electronic Chattel Paper**. To the extent that such Borrower obtains or maintains any electronic chattel paper, such Borrower shall create, store and assign the record or records comprising the electronic chattel paper in such a manner that (a) a single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in clauses (d), (e) and (f), unalterable, (b) the authoritative copy identifies Bank as the assignee of the record or records, (c) the authoritative copy is communicated to and maintained by Bank or its designated custodian, (d) copies or revisions that add or change an identified assignee of the authoritative copy can only be made with the participation of Bank, (e) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy and (f) any revision of the authoritative copy is readily identifiable as an authorized or unauthorized revision.

7.33 **Environmental Matters**.

(a) Such Borrower shall ensure that the Real Property and all operations and businesses conducted thereon remains in compliance with all Environmental Laws and they shall not place or permit to be placed any Hazardous Substances on any Real Property except as permitted by Applicable Law or appropriate Governmental Bodies.

(b) Such Borrower shall establish and maintain a system to assure and monitor continued compliance with all applicable Environmental Laws which system shall include periodic reviews of such compliance.

(c) Such Borrower shall: (i) employ in connection with the use of the Real Property appropriate technology necessary to maintain compliance with any applicable Environmental Laws; and (ii) dispose of any and all Hazardous Waste generated at the Real Property only at facilities and

with carriers that maintain valid permits under RCRA and any other applicable Environmental Laws. Such Borrower shall use its best efforts to obtain certificates of disposal, such as hazardous waste manifest receipts, from all treatment, transport, storage or disposal facilities or operators employed by Such Borrower in connection with the transport or disposal of any Hazardous Waste generated at the Real Property.

(d) In the event such Borrower obtains, gives or receives written notice of any Release of a reportable quantity of any Hazardous Substances at the Real Property (any such event being hereinafter referred to as a "**Hazardous Discharge**") or receives any written notice of violation, request for information or notification that it is potentially responsible for investigation or cleanup of environmental conditions at the Real Property, demand letter or complaint, order, citation, or other written notice with regard to any Hazardous Discharge or violation of Environmental Laws affecting the Real Property or such Borrower' s interest therein (any of the foregoing is referred to herein as an "**Environmental Complaint**") from any Person, including any Governmental Body responsible in whole or in part for environmental matters in the state in which the Real Property is located or the United States Environmental Protection Agency, then such Borrower shall, within five (5) Business Days, give written notice of same to Bank detailing facts and circumstances of which such Borrower is aware giving rise to the Hazardous Discharge or Environmental Complaint. Such information is to be provided to allow Bank to protect its security interest in and lien on the Real Property and the Collateral and is not intended to create nor shall it create any obligation upon Bank with respect thereto.

(e) Such Borrower shall promptly forward to Bank copies of any written request for information, notification of potential liability, demand letter relating to potential responsibility with respect to the investigation or cleanup of Hazardous Substances at any other site owned, operated or used by such Borrower to dispose of Hazardous Substances and shall continue to forward copies of correspondence between such Borrower and any applicable Governmental Body regarding such claims to Bank until the claim is settled. Such Borrower shall promptly forward to Bank copies of all documents and reports concerning a Hazardous Discharge at the Real Property that such Borrower is required to file under any Environmental Laws. Such information is to be provided solely to allow Bank to protect Bank' s security interest in and lien on the Real Property and the Collateral.

(f) Such Borrower shall respond promptly to any Hazardous Discharge or Environmental Complaint and take all necessary action in order to safeguard the health of any Person and to avoid subjecting the Collateral or Real Property to any lien, encumbrance, charge or claim. If such Borrower shall fail to respond promptly to any Hazardous Discharge or Environmental Complaint or such Borrower shall fail to comply with any of the requirements of any Environmental Laws, as determined by Bank in its reasonable discretion, Bank may, upon prior written notice to Borrower (which notice shall not be required if an Event of Default has occurred and is continuing), but without the obligation to do so, for the sole purpose of protecting Bank' s interest in the Collateral: (i) give such notices or (ii) enter onto the Real Property (or authorize third parties to enter onto the Real Property) and take such actions as Bank (or such third parties as directed by Bank) deem reasonably necessary or advisable, to clean up, remove, mitigate or otherwise deal with any such Hazardous Discharge or Environmental Complaint. All reasonable costs and expenses incurred by Bank (or such third parties) in the exercise of any such rights, including any sums paid in connection with any judicial or administrative investigation or proceedings, fines and penalties, together with interest thereon from the date expended at the Default Rate shall be paid upon demand by such Borrower, and until paid shall be added to and become a part of the Bank Indebtedness and secured by the Loan Documents.

(g) Promptly upon the written request of Bank from time to time, but not more frequently than once every (5) years (unless Bank is required to do so more frequently under Applicable Laws), such Borrower shall provide Bank, at such Borrower' s expense, with an environmental site assessment or environmental audit report prepared by an environmental engineering firm acceptable in the

reasonable opinion of Bank, to assess with a reasonable degree of certainty the existence of a Hazardous Discharge and the potential costs in connection with abatement, cleanup and removal of any Hazardous Substances found on, under, at or within the Real Property. Any report or investigation of such Hazardous Discharge proposed and acceptable to an appropriate Authority that is charged to oversee the clean-up of such Hazardous Discharge shall be acceptable to Bank. If such estimates, individually or in the aggregate, exceed $250,000, Bank shall have the right to require such Borrower to post a bond, letter of credit or other security reasonably satisfactory to Bank to secure payment of these costs and expenses.

(h) Each Borrower shall defend and indemnify Bank and hold Bank and its employees, agents, directors and officers harmless from and against all loss, liability, damage and expense, claims, costs, fines and penalties, including attorney' s fees, suffered or incurred by Bank under or on account of any Environmental Laws, including the assertion of any lien, encumbrance, charge or claim thereunder, with respect to any Hazardous Discharge, the presence of any Hazardous Substances affecting the Real Property, whether or not the same originates or emerges from the Real Property or any contiguous real estate, including any loss of value of the Real Property as a result of the foregoing except to the extent such loss, liability, damage and expense is attributable to any Hazardous Discharge resulting from actions on the part of Bank. Borrowers' obligations under this **Section 7.33** shall arise upon the discovery of the presence of any Hazardous Substances at the Real Property, whether or not any federal, state, or local environmental agency has taken or threatened in writing any action in connection with the presence of any Hazardous Substances. Borrowers' obligation and the indemnifications hereunder shall survive the termination of this Agreement.

(i) For purposes of **Sections 6.25** and **7.33**, all references to Real Property shall be deemed to include all of such Borrower' s right, title and interest in and to its owned and leased premises, provided that, as of the date hereof, Borrowers only lease Real Property and do not own or have any other interests in any Real Property and, therefore, all representations, warranties, and covenants applicable to the ownership of Real Property or obligations or liabilities thereto are subject at all times to the fee owner' s rights and obligations.

7.34 Restrictions on Permitted Transactions. Notwithstanding any transaction otherwise permitted under the terms of Section 7 of this Agreement, or otherwise under this Agreement, except for the debt, liens and transactions already incurred as of the date hereof to the extent incurred in accordance with the terms of this Agreement, on and after the Forbearance Effective Date, Borrowers shall be prohibited from engaging in any such transaction during the Forbearance Period, except for

(a) the incurrence of (i) Indebtedness permitted pursuant to the Initial Capital Investment in accordance with and subject to the terms and conditions of Section 6.4 of the Forbearance Agreement, and (ii) Indebtedness permitted pursuant to an Acceptable Investment in accordance with and subject to the terms and conditions of Section 6.6 of the Forbearance Agreement,

(b) (i) sales of inventory in the ordinary course of business for fair consideration in the aggregate amount not to exceed $250,000 each year during the fiscal years ending December 31, 2024 and December 31, 2025 and (ii) sales, disposal or other disposition of obsolete or worn equipment for fair consideration in the aggregate amount not to exceed $500,000 each year during the fiscal years ending December 31, 2024 and December 31, 2025, and

(c) the making of dividends pursuant to the proviso in Section 7.19(b) hereof, so long as such Borrower maintains its status as a pass-through entity for federal income tax purposes and no Default or Event of Default exists or has occurred, other than the Existing Events of Default, and the payment of such dividend or distribution would not result in a Default or Event of Default, other than the Existing Events of Default, such Borrower may pay and declare dividends or distributions to the holders of

its Equity Interests (each, an "Equity Owner") for the tax years ending December 31, 2023 and December 31, 2024 in the amount not to exceed $200,000 each such tax year.

8. **FINANCIAL COVENANTS**.

8.1 **[Reserved.]**

8.2 **Minimum Liquidity**.

(a) Commencing with the fiscal quarter of Borrowers ending September 30, 2021 through and including December 31, 2023, Borrowers shall at all times maintain a minimum of Ten Million Dollars ($10,000,000) on deposit in one or more deposit accounts maintained with Bank, tested as of the end of each fiscal quarter of Borrowers.

(b) Commencing with the Forbearance Effective Date through and including September 2, 2024 at all times thereafter, Borrowers shall maintain Liquidity of not less than $2,000,000.

(c) Commencing on September 3, 2024 through and including December 20, 2024, Borrowers shall maintain Liquidity of not less than $3,000,000; provided, that,

(i) from September 6, 2024 through and including September 12, 2024, Borrowers shall maintain Liquidity of not less than $2,750,000;

(ii) from September 13, 2024 through and including September 26, 2024, Borrowers shall maintain Liquidity of not less than $1,500,000; and

(iii) from September 27, 2024 through and including October 4, 2024, Borrowers shall maintain Liquidity of not less than $1,250,000.

(d) Commencing on the Amendment No. 4 Effective Date through and including January 9, 2025, Borrowers shall maintain Liquidity of not less than $1,000,000.

(e) Commencing on January 10, 2025 at all times thereafter, Borrowers shall maintain Liquidity of not less than $2,000,000.

8.3 **Minimum EBITDA**.

(a) Commencing with the fiscal month ending March 31, 2024 through and including June 30, 2024, Borrowers shall achieve Adjusted EBITDA, measured on a cumulative year-to-date basis through the end of the fiscal month set forth in the following table of at least the amount set forth in the following table:

| Measurement Period | Minimum EBITDA |
|---|---|
| From January 1, 2024 through and including March 31, 2024 | $618,000 |
| From January 1, 2024 through and including April 30, 2024 | $2,008,000 |
| From January 1, 2024 through and including May 31, 2024 | $2,986,000 |
| From January 1, 2024 through and including June 30, 2024 | $3,469,000 |

(b) Commencing with the fiscal month ending August 31, 2024, Borrowers shall achieve Adjusted EBITDA, measured on a cumulative month-to-date basis commencing with the month of July 1, 2024 through the end of the fiscal month set forth in the following table of at least the amount set forth in the following table:

| Measurement Period | Minimum EBITDA |
|---|---|
| From July 1, 2024 through and including August 31, 2024 | ($668,000) |
| From July 1, 2024 through and including September 30, 2024 | ($48,000) |
| From July 1, 2024 through and including October 31, 2024 | $1,066,000 |
| From July 1, 2024 through and including November 30, 2024 | $1,493,000 |
| From July 1, 2024 through and including December 31, 2024 | $1,663,000 |

8.4 **Net Capital Expenditures**.

(a) Subject to clause (b) of this Section 8.4, commencing with January 1, 2024 through and including April 30, 2024, Borrowers shall not permit Net Capital Expenditures to exceed the Net Capital Expenditures in the amounts and for the periods set forth in the Net Capital Expenditures Schedule; provided, that, if Borrowers have not consummated the Initial Capital Investment in accordance with the terms of Section 6.4 of the Forbearance Agreement on or before April 30, 2024, (i) Borrowers shall thereafter not make any Net Capital Expenditures and (ii) Borrowers shall not make any Contractor Settlement Payments from August 23, 2024 through and including the end of the fiscal year ending December 31, 2024 in excess of $1,363,000 in the aggregate. All Contractor Settlement Payments shall be made on the dates and in the amounts set forth in the Contractor Settlement Payments Schedule.

(b) If Borrowers consummate the Initial Capital Investment in accordance with the terms of Section 6.4 of the Forbearance Agreement on or before April 30, 2024, (i) Borrowers shall not permit Net Capital Expenditures to exceed $10,000,000 in the aggregate for the fiscal year ending December 31, 2024 and (ii) Borrowers shall not permit Net Capital Expenditures to exceed $5,000,000 in the aggregate for the fiscal year ending December 31, 2025.

9. **ACCOUNTING RECORDS, REPORTS AND FINANCIAL STATEMENTS**.

Borrowers shall maintain books of record and account in which full, correct and current entries in accordance with GAAP will be made of all of its dealings, business and affairs, and Borrowers shall deliver to Bank the following:

9.1 **Annual Statements**. As soon as available and in any event within one hundred twenty (120) days after the end of each fiscal year of Borrowers:

(a) the review basis consolidated income and retained earnings statements of Borrowers and their Subsidiaries for such fiscal year,

(b) the review basis consolidated balance sheet of Borrowers and their Subsidiaries as at the end of such fiscal year, and

(c) the review basis consolidated statement of cash flow of Borrowers and their Subsidiaries for such fiscal year,

setting forth in comparative form the corresponding figures as at the end of the previous fiscal year, all in reasonable detail, including all supporting schedules and comments. The foregoing statements and balance sheets shall be prepared in accordance with GAAP and shall be prepared and reviewed

by independent certified public accountants of recognized standing acceptable to Bank in the reasonable exercise of its discretion (the "**Accountants**") with respect to which such Accountants shall deliver their unqualified opinion.

9.2 **Projections and Cash Flow**. As soon as available and in any event within forty-five (45) days after the end of each fiscal year of Borrowers, balance sheet and income projections on a month-by-month basis for the next succeeding fiscal year, prepared by the chief financial officer of Borrowers. Borrowers covenant that: (a) all projections required by this **Section 9.2** shall be prepared by the chief financial officer of Borrowers and shall represent the best available good faith estimate of Borrower regarding the course of Borrowers' business for the periods covered thereby; (b) the assumptions set forth in the future projections shall be reasonable and realistic based on then current economic conditions; and (c) Borrowers shall have no knowledge at the time of delivery of future projections of any reason why Borrowers shall not be able to meet the performance levels set forth in said projections.

9.3 **Quarterly Statements**. As soon as available and in any event within forty- five (45) days after the close of each fiscal quarter of Borrowers:

(a) the consolidated and consolidating income and retained earnings statements of Borrowers and their Subsidiaries for such quarter, and

(b) the consolidated and consolidating balance sheet of Borrowers and their Subsidiaries as of the end of such quarter,

setting forth in comparative form the corresponding figures as at the end of the corresponding quarter of the previous fiscal year (if applicable) and the projected figures based upon the projections required under **Section 9.2**, all in reasonable detail, subject to year-end adjustments and certified by an officer of Borrowers to be accurate and to have been prepared in accordance with GAAP.

9.4 **Borrowing Base Certifications; Accounts Receivable and Accounts Payable Statements**. As soon as available but in any event within twenty (20) days after the end of each calendar month, (a) a Borrowing Base Certificate, and (b) a schedule of the Borrowers' accounts receivable and accounts payable, identifying all Eligible Receivables, and the aging thereof by open invoice of each customer of Borrower. The Borrowing Base Certificate shall be reviewed by Financial Advisor and certified as to accuracy by an officer of Borrowers. Borrowers shall also provide Bank with all information requested by Bank in its Permitted Discretion with respect to any account debtor.

9.5 **Reports to Governmental Bodies and Other Creditors**. With reasonable promptness, copies of all such financial reports, statements and returns which Borrowers shall file with any Governmental Body and any report or statement delivered by Borrowers to any supplier or other creditor in connection with any payment restructuring.

9.6 **Compliance Certificates**. Within the periods provided in Sections 9.1 and 9.3 and within thirty (30) days after the end of each fiscal month of Borrowers, a certificate of the chief financial officer of Borrowers: (a) stating that Borrowers have observed, performed and complied with each and

every undertaking contained herein, (b) setting forth the information and computations (in sufficient detail) required in order to establish whether Borrowers were operating in compliance with the financial covenants in Article 8, and (c) certifying that as of the date of such certification, there does not exist any Default or Event of Default. Such certificate will be in the form of Exhibit "B" as such form may be updated from time to time as the direction of Bank.

9.7 **Requested Information**. With reasonable promptness, all such other data and information (including, without limitation, updated customer address lists and contact information) in form and content satisfactory to Bank in respect of the condition, operation and affairs of any Borrower as Bank may reasonably request from time to time.

10. Additional Covenants and Agreements.

10.1 Financial Advisor.

(a) Borrowers shall, at all times during the Forbearance Period, retain the Financial Advisor on terms and conditions acceptable to Bank in its Permitted Discretion (it being acknowledged and agreed by the Bank that the terms and conditions of the Financial Advisor Agreement are acceptable) and at the sole cost and expense of the Borrowers. The Financial Advisor shall assist Azzur Group in connection with the review and analysis of the liquidity and working capital needs and forecasts of Borrowers, including, without limitation, (i) a review of the Borrowers' operations and preparation of the Business Plan and the Business Assessment Report pursuant to Section 6.3 hereof, and (ii) assistance to the Borrowers in the preparation of the Budget and the Budget Reports pursuant to Section 6.2 hereof and the Business Plan, the Business Assessment Report, the COD/Azzur Lab and Capital Projects Reports and the Capital Expenditures Schedule pursuant to Section 6.3 hereof. Financial Advisor shall assist in the preparation of and review each of the foregoing items before such items are delivered to Bank.

(b) Each of the Borrowers expressly authorizes the Financial Advisor to consult with Bank and, after disclosure to Borrowers, to share with Bank all records, projections, financial information, reports and other information prepared by or in the possession of the Financial Advisor relating to the collateral, the financial condition or operations of the business of the Borrowers and to respond fully to any reasonable inquiries of Bank regarding the assets, prospects, business and operations of the Borrowers and communicate and fully cooperate with Bank to effect the terms of this Forbearance Agreement. Each Borrower agrees to provide the Financial Advisor with complete access to all of the books and records of such Borrower, all of the premises of such Borrower and to all management and employees of such Borrower as and when deemed necessary by the Financial Advisor to complete the work contemplated by the Financial Advisor Agreement.

(c) Borrowers shall make Financial Advisor and Azzur Group's management team available once every two weeks (unless more frequently requested by Bank in its Permitted Discretion) for a call with Bank to discuss, among other items, the business operations, liquidity and cash flow forecasts and Budget of Borrowers, including, without limitation, the Budget Reports, the Business Assessment Report, the Business Plan, the COD/Azzur Lab and Capital Projects Reports and the Capital Expenditures Schedule. Any such calls shall be scheduled at reasonable and mutually acceptable times by Bank, Financial Advisor and the Borrowers.

(d) No Borrower shall amend or modify the Financial Advisor Agreement without the prior written consent of Bank. No Borrower shall terminate the Financial Advisor or the Financial Advisor Agreement or replace the Financial Advisor without the prior written consent of Bank. If the Financial Advisor resigns, the Borrowers shall promptly (but in any event by the end of the day that the Borrowers receive notice of such resignation) furnish Bank a copy of any notice of resignation upon the

receipt by Borrowers of such notice. Any replacement or successor Financial Advisor shall be acceptable to Bank in its Permitted Discretion and shall be retained pursuant to a new retention agreement on terms and conditions acceptable to Bank in its Permitted Discretion within ten (10) Business Days immediately following the notice of resignation of the resigning Financial Advisor. Failure to comply with the terms and conditions of this Section 6.1 shall constitute an Event of Default.

10.2 Budget.

(a) Borrowers shall have prepared and delivered to Bank a 13-week cash flow budget covering the period commencing with the week ending on February 9, 2024 (as may be amended, modified, restated or replaced from time to time with the Bank's prior written consent, the "Budget"). A copy of the initial Budget is attached hereto as Exhibit C. Financial Advisor shall have reviewed the initial Budget with Borrowers and shall have made and shall make recommendations and modifications as to the form, scope and methodology thereof as may be approved by Bank. The Budget shall be updated on a weekly roll forward basis in the Budget Report setting forth the disbursements and receipts for the new week being reported in the latest such Budget Report. The Budget and each Budget Report shall (i) be prepared by the Borrowers and their management; (ii) be reviewed by the Financial Advisor; and (iii) set forth for each period covered thereby, the projected cash disbursements, projected cash receipts, projected Net Capital Expenditures, projected Revolver Availability, the amount of outstanding Advances and projected cash balances. For the avoidance of doubt, the Budget Report shall not modify or alter the previously reported amounts of disbursements and receipts from the prior weeks but should include disbursements and receipts for the new week being reported in the current Budget Report, all in form and substance acceptable to Bank.

(b) Not later than 11:59 p.m. (Eastern time) on the Wednesday of each week commencing on February 28, 2024, Borrowers shall furnish to Bank, a roll forward budget and variance report in form and substance acceptable to Bank (the "Budget Report"). Borrowers shall work with Financial Advisor to develop a form of Budget Report, which shall be in form, scope and methodology acceptable to Bank. The Budget Report shall, among other things, set forth (x) on a cumulative, weekly roll-forward basis through the end of the immediately preceding week and (y) commencing on the fourth week after the first week of the Budget, on a cumulative four-week period to-date-basis, a comparison of (i) the actual "Cumulative Tested Disbursements" to the projected "Cumulative Tested Disbursements", and (ii) the actual "Cumulative Tested Receipts" to the projected "Cumulative Tested Receipts" (each such period, respectively a "Budget Measurement Period"), and shall include an explanation of the reason any Material Budget Deviation. As used herein, a "Material Budget Deviation" shall mean with respect to each week commencing on and after the first week of the delivery of the initial Budget (i.e., February 28, 2024, or such later period as may be agreed to by Bank) as set forth in the most recent weekly Budget Report if : (i) the total amount of actual "Cumulative Tested Disbursements" exceeds the total amount of projected "Cumulative Tested Disbursements", after giving effect to the "Cushion to Covenant" permitted variance set forth in the Budget or Budget Report, as applicable, for any Budget Measurement Period; and (ii) the total amount of actual "Cumulative Tested Receipts" is less the than total amount of projected "Cumulative Tested Receipts", after giving effect to the "Cushion to Covenant" permitted variance set forth in the Budget or Budget Report, as applicable, for any Budget Measurement Period. As used herein, the references to (x) projected and actual "Cumulative Tested Disbursements", (y) projected and actual "Cumulative Tested Receipts", and (z) "Cushion to Covenant" permitted variances for Cumulative Tested Disbursements and Cumulative Tested Receipts shall have the meanings and amounts as set forth in the Budget and Budget Reports.

(c) Each of the Borrowers hereby confirms, acknowledges and agrees that, unless waived in writing by Bank, either or both of the occurrence of a Material Budget Deviation and the failure to deliver the Budget Report in accordance with Section 6.2(b) hereof shall constitute an Event of

Default. Upon the consummation of an Initial Capital Investment, the Budget Reports shall continue to be prepared and delivered to Bank and failure to deliver the Budget Reports shall constitute an Event of Default; provided, however, the occurrence of a Material Budget Deviation shall no longer constitute an Event of Default for any Measurement Period that occurs after the consummation of an Initial Capital Investment.

(d) Notwithstanding any projected amounts set forth in the Budget relating to the costs and expenses of Bank that are reimbursable by the Borrowers or any other amounts owing by the Borrowers to Bank (including, without limitation attorneys' and consulting fees and expenses) in accordance with the Loan Agreement and Loan Documents, such projections shall not limit, impair, modify or waive the Borrowers' obligation to pay the actual amounts due to Bank in respect of such costs, expenses and other amounts owing to Bank in accordance with the Loan Agreement and Loan Documents; provided, that, none of the costs and expenses of Bank that are reimbursable by Borrowers to Bank (including, without limitation, attorneys' and consulting fees and expenses) that are not included in the Budget or a Budget Report shall not be included in the determination of a Material Budget Determination.

10.3 Reports, Additional Information and Notices. In addition to and not in limitation of any reporting or notice requirements under the Loan Agreement or any other Loan Document and notwithstanding any expiration or earlier termination of the Forbearance Period, Borrowers shall deliver to or provide to Bank the following additional reports, information and notices within the following time periods.

(a) On or before March 31, 2024, Borrowers shall have delivered to Bank, in form and substance satisfactory to Bank, the Business Assessment Report by Financial Advisor.

(b) During the period from the Forbearance Effective Date through and including the date that is sixty (60) days after the Forbearance Effective Date, Borrowers shall have provided Bank and its representatives full access to the premises, business records and employees of Borrowers to conduct a field exam of all Collateral.

(c) Borrowers shall provide Bank with written notice (promptly but in any event not less than five (5) days after Borrowers have knowledge) of the termination or loss (or upon receiving a written communication indicating a potential termination or loss) of any customers in the COD business segment of Borrowers or the consulting business segment of Borrowers, together with the calculation of the amount of revenue and profit that would be lost by the termination or loss of such customer.

(d) Within twenty (20) days after the end of each month, Borrowers shall deliver to Bank a progress report (each a "COD/Azzur Lab and Capital Projects Report" and collectively the "COD/Azzur Lab and Capital Projects Reports"), in form and substance acceptable to Bank, setting forth the status of the completion of the construction of each COD and Azzur Lab and the capital projects of Borrowers, including, without limitation, (i) the name each COD, Azzur Lab and capital project, (ii) the anticipated completion date of the construction and opening date of such COD and Azzur Lab and the completion date of such capital project, (iii) the current amount of funds that have been expended on such COD and Azzur Lab and such capital project, and (iv) the anticipated amount of funds required to complete and open such COD and Azzur Lab and to complete such capital project.

(e) Commencing on and after the date of the completion of the field exam report pursuant to Section 6.3(c) hereof, within thirty (30) days after the request by Bank, Borrowers shall use their best efforts to furnish to Bank, in form and substance acceptable to Bank, a Waiver Agreement, with respect to any leased location of a Borrower that Bank deems in its Permitted Discretion is necessary

or desirable to the exercise of Bank's rights and remedies under the Loan Agreement and the other Loan Documents.

(f) Promptly, but in any event within two (2) Business Days, after the sending of any presentations or reports with respect to the business and financial condition of Azzur Group to its Board of Directors with respect to the business prospects and financial condition of Borrowers, Borrowers shall furnish to Bank a copy of such presentation or report.

(g) In addition to all rights and remedies available to the Bank, Bank shall be permitted to conduct such additional field exams, audits, inspections, and appraisals during normal business hours (unless an Event of Default, other than the Existing Events of Default) exists or has occurred, in which case, at any time) as the Bank may determine to be necessary or appropriate, all at the Borrowers' sole cost and expense, and the Borrowers agree to cooperate with Bank' consultants, field examiners and representatives, including granting such consultants, field examiners and representatives access to the Borrowers' premises and personnel in connection with the foregoing. For the avoidance of doubt, (i) such permission granted by Section 6 hereof, shall include the ability of Bank (and its designees) to audit, test, and inspect, any and all receipts, disbursements, and loan balances of the Borrowers on a weekly basis and (ii) Bank may retain a financial advisor or consultant at Borrowers' sole cost and expense to review and advise Bank on the financial condition, business and operations of Borrowers and its Subsidiaries.

(h) Bank reserves the right (i) to require that Borrowers instruct, and (ii) upon a Default or Event of Default (other than the Existing Events of Default) to directly instruct, the landlords that are obligated to make payments of Tenant Improvements Allowances to Borrowers to remit the proceeds of such Tenant Improvements Allowances to the payment account of Bank maintained at M&T.

10.4 Initial Capital Investment Advisor.

(a) Borrowers shall, at all times during the Forbearance Period, retain the Initial Capital Investment Advisor on terms and conditions acceptable to Bank in its Permitted Discretion (it being acknowledged and agreed by the Bank that the terms and conditions of the Initial Capital Investment Advisor Agreement are acceptable) and at the sole cost and expense of the Borrowers. The Initial Capital Investment Advisor shall assist Azzur Group in connection with the consummation of the Initial Capital Investment accordance with Section 6.5 of this Forbearance Agreement, including, without limitation, providing recommendations on the structure and terms of the Initial Capital Investment, identifying potential investors, and assisting Azzur Group in the negotiation of the terms of the Initial Capital Investment with investors and the Initial Capital Investment Documents. Borrowers shall, at all times during the Forbearance Period, retain the Initial Capital Investment Advisor on terms and conditions acceptable to Bank in its Permitted Discretion and at the sole cost and expense of Borrowers.

(b) Borrowers agree to provide the Initial Capital Investment Advisor with complete access to all of the books and records of Borrowers, all of the premises of Borrowers and to all management and employees of Borrowers as and when deemed necessary by the Initial Capital Investment Advisor to complete the work contemplated by the Initial Capital Investment Advisor Agreement.

(c) Each Borrower shall irrevocably authorize and direct the Initial Capital Investment Advisor to consult with Bank and to share with Bank all reports and other information prepared by or in the possession of the Initial Capital Investment Advisor relating to the investment offering process and the sale process. Each Borrower shall cause the Initial Capital Investment Advisor to (i) keep Bank fully informed of the progress of the making of the Initial Capital Investment and respond fully to any inquiries of Bank regarding the making of the Initial Capital Investment, and (ii) communicate and fully cooperate with Bank to effect the terms of this Forbearance Agreement. Borrowers shall make Initial

Capital Investment Advisor and the Azzur management team available once every two weeks (unless more frequently as may be requested by Bank in its sole discretion) for a call with Bank to discuss the status of the Initial Capital Investment. Any such calls shall be scheduled at reasonable and mutually acceptable times by Bank, Initial Capital Investment Advisor and Azzur's management team.

(d) No Borrower shall amend or modify the Initial Capital Investment Advisor Agreement without the prior written consent of Bank. No Borrower shall terminate the Initial Capital Investment Advisor or the Initial Capital Investment Advisor Agreement or replace the Initial Capital Investment Advisor without the prior written consent of Bank. If the Initial Capital Investment Advisor resigns, the Borrowers shall promptly (but in any event by the end of the day that the Borrowers receive notice of such resignation) furnish Bank a copy of any notice of resignation upon the receipt by Borrowers of such notice. Any replacement or successor Initial Capital Investment Advisor shall be acceptable to Bank in its Permitted Discretion and shall be retained pursuant to a new retention agreement on terms and conditions acceptable to Bank in its Permitted Discretion within ten (10) Business Days immediately following the notice of resignation of the resigning Initial Capital Investment Advisor. Failure to comply with the terms and conditions of this Section 6.4 shall constitute an Event of Default.

10.5 Initial Capital Investment. Borrowers shall consummate the Initial Capital Investment on or before April 30, 2024 subject to the following terms and conditions:

(a) If the Initial Capital Investments is in the form of Indebtedness, then each of the following conditions shall be satisfied, in form and substance satisfactory to Bank:

(i) the net proceeds of such Indebtedness shall be in the principal amount of not less than $20,000,000, all of which shall be remitted to Bank to be applied to pay the then outstanding Bank Indebtedness consisting of the then outstanding amount of Line Advances equal to the then outstanding amount of Line Advances and Borrowers shall be permitted to reborrow any such amounts subject to and in accordance with the terms and conditions of the Loan Documents;

(ii) such Indebtedness shall be subject and subordinate in right of payment to the right of Bank to receive the prior payment in full of all of the Bank Indebtedness pursuant to the terms of a subordination agreement between Bank and the holders of such Indebtedness in form and substance satisfactory to Bank;

(iii) such Indebtedness shall have a maturity date not less than six (6) months after the date of the termination of the Contract Period and shall be on terms and conditions otherwise acceptable to Bank in its Permitted Discretion;

(iv) unless otherwise agreed to by Bank in its Permitted Discretion, Borrowers shall not, directly or indirectly, make any payments in respect of such Indebtedness;

(v) Bank shall receive true, correct and complete copies of all Initial Capital Investment Documents related to such Indebtedness;

(vi) Borrowers shall not, directly or indirectly, (A) amend, modify, alter or change the terms of such Indebtedness or any Initial Capital Investment Documents related to such Indebtedness, except, that, Borrowers may, after prior written notice to Bank, amend, modify, alter or change the terms thereof so as to extend the maturity thereof, or defer the timing of any payments in respect thereof, or to forgive or cancel any portion of such Indebtedness, or to reduce the interest rate or any fees in connection therewith, or (B) redeem, retire, defease, purchase or otherwise acquire such Indebtedness or set aside or otherwise deposit or invest any sums for such purpose; and

(vii) Borrowers shall furnish to Bank all material notices or demands in connection with such Indebtedness either received by any Borrower or on its behalf promptly after the receipt thereof, or sent by any Borrower or on its behalf concurrently with the sending thereof, as the case may be; and

(viii) If the Initial Capital Investments is in the form of an equity investment, then each of the following conditions shall be satisfied, in form and substance satisfactory to Bank:

(ix) the net proceeds of such equity investment shall be in the amount of not less than $20,000,000, all of which shall be remitted to Bank to be applied to pay the then outstanding Bank Indebtedness in accordance with Section 6.5(a)(i) of this Forbearance Agreement and Borrowers shall be permitted to reborrow any such amounts subject to and in accordance with the terms and conditions of the Loan Documents;

(x) Borrowers shall not be required, directly or indirectly, to pay any cash dividends or repurchase or redeem such equity interests or make any other payments in respect thereof;

(xi) the terms of such Equity Interests shall be on terms and conditions acceptable to Bank in its Permitted Discretion and Bank shall receive true, correct and complete copies of all Initial Capital Investment Documents related to such equity investment; and

(xii) Borrowers shall not, directly or indirectly, amend, modify, alter or change the terms of such equity investment or any Initial Capital Investment Documents related to such equity investment that would affect the rights or remedies of Bank with respect to Borrowers or the Collateral without the prior written consent of Bank.

10.6 Investment Banker.

(a) Borrowers shall, at all times during the Forbearance Period, retain the Investment Banker on terms and conditions acceptable to Bank in its Permitted Discretion (it being acknowledged and agreed by the Bank that the terms and conditions of the Investment Banking Agreement are acceptable) and at the sole cost and expense of Borrowers.

(b) The Investment Banker shall assist Borrowers in connection with the consummation of an Acceptable Investment or an Acceptable Sale, including, without limitation, providing assistance in the preparation of a confidential information memorandum, the distribution to prospective investors or purchasers or both of the confidential information memorandum and other disclosure materials, the solicitations and management of bids and the negotiation of the terms of the Acceptable Sale or Acceptable Investment and the letters of intent, investment or purchase agreements and the other definitive Acceptable Investment Documents or Acceptable Sale Documents. Borrowers agree to provide the Investment Banker with complete access to all of the books and records of Borrowers, all of the premises of Borrowers and to all management and employees of Borrowers as and when deemed necessary by the Investment Banker to complete the work contemplated by the Investment Banking Agreement.

(c) Each Borrower shall irrevocably authorize and direct the Investment Banker to consult with Bank after disclosure to Borrowers and to share with Bank all reports and other information prepared by or in the possession of the Investment Banker relating to the investment offering process and the sale process. Each Borrower shall cause the Investment Bank to keep Bank fully informed of the progress of the sale of the business and the making of the investment and respond fully to any inquiries of Bank regarding the sale of the business and the making of the investment. On and after March

15, 2024, Borrowers shall make Investment Banker and their management team available once every two weeks (unless more frequently as may be requested by Bank in its Permitted Discretion) for a call with Bank to discuss, among other items, the status of the sale process and making of the investment. Any such calls shall be scheduled at reasonable and mutually acceptable times by Bank, Investment Banker and Borrowers.

(d) No Borrower shall amend or modify the Investment Banking Agreement without the prior written consent of Bank. No Borrower shall terminate the Investment Banker or the Investment Banking Agreement or replace the Investment Banker without the prior written consent of Bank. If the Investment Banker resigns, the Borrowers shall promptly (but in any event by the end of the day that the Borrowers receive notice of such resignation) furnish Bank a copy of any notice of resignation upon the receipt by Borrowers of such notice. Any replacement or successor Investment Banker shall be acceptable to Bank in its Permitted Discretion and shall be retained pursuant to a new retention agreement on terms and conditions acceptable to Bank in its Permitted Discretion within ten (10) Business Days immediately following the notice of resignation of the resigning Investment Banker. Failure to comply with the terms and conditions of this Section 6.6 shall constitute an Event of Default.

10.7 Repayment of Credit Facility; Milestones.

(a) If Borrowers do not consummate the Initial Capital Investment on or before April 30, 2024, Borrowers shall Repay in Full all Bank Indebtedness on or before July 31, 2024.

(b) Subject to Section 6.6(c) hereof, Borrowers shall satisfy the following milestones with respect to the consummation of an Acceptable Sale and/or an Acceptable Investment:

(i) deliver to Bank on or before April 30, 2024 and thereafter, within two (2) Business Days of receipt thereof, copies of all Letters of Intent, proposal letters or commitment letters received by Borrowers with respect to the sale of the business and/or a private placement,

(ii) deliver to Bank on or before June 15, 2024 and thereafter, within one (1) Business Day of receipt thereof, copies of all executed Commitment Letters received by Borrowers,

(iii) deliver to Bank on or before July 15, 2024 (but in any event not less than ten (10) Business Days prior to the proposed closing date if the closing date is before July 31, 2024), in form and substance acceptable to Bank, (A) the terms of the Acceptable Investment and the drafts of the definitive Acceptable Investment Documents or (B) the terms of the Acceptable Sale and the drafts of the definitive Acceptable Sale Documents; and

(iv) to pay or cause to be Paid in Full on or before July 31, 2024, all Bank Indebtedness.

(c) The time periods for meeting the milestones set forth in Section 6.6(b) hereof shall run concurrently with the efforts of Borrowers to consummate the Initial Capital Investment. If, however, the Initial Capital Investment is consummated on or before April 30, 2024 in accordance with Section 6.4 hereof, Borrowers shall not be obligated to meet the milestones set forth in Sections 6.6(b)(iii) through and including 6.6(b)(vi).

10.8 Updates to Schedules. Promptly (but in any event with thirty (30) days after the Forbearance Effective Date, Bank shall have received, in form and substance satisfactory to Bank, updates to all schedules to the Loan Agreement and the other Loan Documents.

10.9 Confidentiality; Attorney Client Privilege. Notwithstanding anything to the contrary in this Forbearance Agreement, Borrowers shall not be required to disclose or permit the inspection of any information, documents or materials that (a) would result in a breach of any obligation to keep such information, documents or materials confidential under any confidentiality agreement to which Borrowers are subject, unless mutually agreeable arrangements can be made with Bank to preserve such information, documents or materials as confidential (which, for the avoidance of doubt, the parties agree that the Confidentiality Agreement is such a mutually agreeable arrangement and that to the extent that any of the information, documents or materials made available to Bank constitutes "Evaluation Material" (as defined in the Confidentiality Agreement), Bank and Borrowers agree that such information, documents and materials shall be subject to the Confidentiality Agreement), or (b) is subject to attorney-client privilege or constitutes attorney work product; provided, that, each Borrower shall make available redacted versions of requested information, documents or materials or, if unable to do so consistent with the preservation of such privilege, shall disclose information, documents or materials that is responsive to the requests of Bank in a manner that will protect such privilege.

10.10 Further Assurances. The parties hereto shall execute and deliver such additional documents and take such additional action as may be necessary or desirable in Bank's Permitted Discretion to effectuate the provisions and purposes of this Forbearance Agreement and any additional documentation to evidence or perfect the security interests and liens of Bank in the assets of the Borrowers.

11. **CONDITIONS OF CLOSING**. The obligation of Bank to make available the Loans is subject to the performance by Borrowers of all of its agreements to be performed hereunder and to the following further conditions (any of which may be waived by Bank):

11.1 **Loan Documents**. Borrowers and all other required Persons will have executed and delivered to Bank the Loan Documents.

11.2 **Representations and Warranties**. All representations and warranties of Borrowers set forth in the Loan Documents will be true at and as of the date hereof.

11.3 **No Default**. Except for the Existing Events of Default, no condition or event shall exist or have occurred at or as of the date of such Advance which would constitute a Default or Event of Default hereunder.

11.4 **Proceedings and Documents**. All proceedings taken by each Borrower in connection with the transactions contemplated by this Agreement and all documents incident to such transactions shall be satisfactory in form and substance to Bank and Bank' s counsel, and Bank shall have received all documents or other evidence which it reasonably may request in connection with such proceedings and transactions. Each Borrower shall have delivered to Bank a certificate, in form and substance satisfactory to Bank, dated the date hereof and signed on behalf of such Borrower or by an officer of Borrower, certifying (a) true copies of the Organizational Documents of such Borrower in effect on such date, (b) true copies of all actions taken by such Borrower relative to the Loan Documents, and (c) the names, true signatures and incumbency of the officers of such Borrower authorized to execute and deliver this Agreement and the other Loan Documents. Bank may conclusively rely on such certificate unless and until a later certificate revising the prior certificate has been received by Bank.

11.5 **Waiver Agreements**. Bank shall have received a Waiver Agreement, satisfactory in form and substance to Bank, from each landlord and warehouseman for each location leased by any Borrower or at which any Borrower warehouses inventory. Additionally, Bank shall have received such letter agreements as Bank in its sole discretion may require from any processor, consignee, bailee or any other third party which at any time has possession of any of the Collateral.

11.6 **Delivery of Other Documents**. The following documents shall have been delivered by or on behalf of Borrowers to Bank:

(a) **Good Standing and/or Subsistence Certificates**. A good standing or subsistence certificate from the state of formation of each Borrower certifying to the good standing and status of each Borrower and good standing/foreign qualification certificates from all other jurisdictions in which each Borrower is required to be qualified to do business.

(b) **Authorization Documents**. Evidence of authorization of such Borrower' s execution and full performance of this Agreement, the Loan Documents and all other documents and actions required hereunder.

(c) **Insurance**. Evidence of the insurance coverage required under **Section 7.12**.

(d) Reserved.

(e) **Lien Search**. Copies of record searches on each Borrower (including UCC searches and judgments, suits, tax and other lien searches) acceptable to Bank.

(f) **No Material Adverse Change**. Evidence satisfactory to the Bank that no material adverse change has occurred with respect to each Borrower since the date of the most recent financial statements of such Person delivered to Bank.

(g) **Licenses and Approvals**. Copies of all licenses, approvals, consents, authorizations and filings of Borrower, required or necessary for the operation by each Borrower of its business.

(h) **Other Documents**. Such other documents as may be required to be submitted to Bank by the terms hereof or of any Loan Document.

11.7 **Non-Waiver of Rights**. By completing the closing hereunder, or by making Advances hereunder, Bank does not thereby waive a breach of any warranty or representation made by Borrowers hereunder or any agreement, document, or instrument delivered to Bank or otherwise referred to herein, and any claims and rights of Bank resulting from any breach or misrepresentation by Borrowers are specifically reserved by Bank.

12. **CERTAIN CONDITIONS TO SUBSEQUENT ADVANCES.** Subsequent Advances shall be conditioned upon the following conditions and each request by Borrower for a Line Advance shall constitute a representation by Borrowers to Bank that each condition has been met or satisfied:

12.1 **Representations and Warranties**. All representations and warranties of Borrowers contained herein or in the Loan Documents shall be true and correct in all material respects (except that any representation or warranty qualified by reference to materiality or Material Adverse Effect (or similar language) shall be true and correct in all respects) and at and as of the date of such Advance as if made on such date (or, if such representation or warranty expressly relates to an earlier date, then such earlier date), and each request for an Advance shall constitute reaffirmation by Borrowers that such representations and warranties are then true and correct in all material respects (except that any representation or warranty qualified by reference to materiality or Material Adverse Effect (or similar language) shall be true and correct in all respects).

12.2 **No Default**. No condition or event shall exist or have occurred at or as of the date of such Advance which would constitute a Default or Event of Default hereunder.

12.3 **Other Requirements**. Bank shall have received all certificates, authorizations, affidavits, schedules and other documents which are provided for hereunder or under the Loan Documents, or which Bank may reasonably request.

13. **DEFAULT AND REMEDIES**.

13.1 **Events of Default**. The occurrence of any one or more of the following events shall constitute an Event or Events of Default hereunder:

(a) The failure of any Borrower to pay (i) any amount of principal or interest on any of the Notes or the Equipment Line Documents within two (2) Business Days of the due date therefor, or (ii) any fee or other sums payable hereunder or any other Bank Indebtedness within five (5) Business Days after the due date therefor, in each case, whether on demand, at the stated maturity or due date thereof, or by reason of any requirement for the prepayment thereof, by acceleration or otherwise;

(b) The failure of any Borrower to duly perform or observe any obligation, covenant or agreement on its part contained herein or in any other Loan Document not otherwise specifically constituting an Event of Default under this **Section 13.1** and such failure continues unremedied for a period of thirty (30) days after the earlier of (i) notice from Bank to any Borrower of the existence of such failure, or (ii) any officer or principal of any Borrower knows or should have known of the existence of such failure, provided that, in the event such failure is incapable of remedy, consists of a default of any of the covenants contained in **Sections 7.2**, **7.3**, **7.4**, **7.5**, **7.6**, **7.9**, **7.10**, **7.12**, **7.16**, **7.18**, **7.19**, **7.22**, **7.23**, **7.24**, or **Article 8** or was willfully caused or permitted by any Borrower, Borrowers shall not be entitled to any notice or grace hereunder;

(c) The failure of any Borrower to pay any Indebtedness for borrowed money due to any third Person or the existence of any other event of default under any loan, security agreement, mortgage or other agreement pertaining thereto binding any Borrower, after the expiration of any notice and/or grace periods permitted in such documents, if such failure or event of default would permit the holder of such Indebtedness to accelerate the maturity thereof;

(d) The failure of any Borrower to pay or perform any other obligation to Bank under any other agreement or note or otherwise arising, whether or not related to this Agreement, after the expiration of any notice and/or grace periods permitted in such documents;

(e) Any Borrower shall (i) apply for, consent to or suffer the appointment of, or the taking of possession by, a receiver, custodian, trustee, liquidator or similar fiduciary of itself or of all or a substantial part of its property, (ii) make a general assignment for the benefit of creditors, (iii) commence a voluntary case under any state or federal bankruptcy laws (as now or hereafter in effect), (iv) be adjudicated a bankrupt or insolvent, (v) file a petition seeking to take advantage of any other law providing for the relief of debtors, (vi) acquiesce to, or fail to have dismissed, within thirty (30) days, any petition filed against it in any involuntary case under such bankruptcy laws, or (vii) take any action for the purpose of effecting any of the foregoing;

(f) The suspension of the operation of any Borrower' s present business for a period of thirty (30) consecutive days, any Borrower becoming unable to meet its debts as they mature, as determined by Bank in its reasonable discretion, or the admission in writing by any Borrower to such effect,

or any Borrower calling any meeting of all or any material portion of its creditors for the purpose of debt restructure;

(g) The indictment of any Borrower under any criminal statute, or the commencement of criminal or civil proceedings against any Borrower pursuant to which statute or proceedings the penalties or remedies sought or available include forfeiture of any property of any Borrower, or any Borrower engages or participates in any "check kiting" activity regardless of whether a criminal investigation has been commenced.

(h) All or any part of the Collateral or the assets of any Borrower are attached, seized, subjected to a writ or distress warrant, or levied upon, or come within the possession or control of any receiver, trustee, custodian or assignee for the benefit of creditors;

(i) The entry of a final judgment for the payment of money in excess of $100,000 against any Borrower which, within thirty (30) days after such entry, shall not have been discharged or execution thereof stayed pending appeal or shall not have been discharged within ten (10) days after the expiration of any such stay;

(j) Any representation or warranty of any Borrower in any of the Loan Documents is discovered to be untrue in any material respect or any statement, certificate or data furnished by any Borrower pursuant hereto is discovered to be untrue in any material respect as of the date as of which the facts therein set forth are stated or certified;

(k) Any Borrower voluntarily or involuntarily dissolves or is dissolved, terminates or is terminated;

(l) Any Borrower is enjoined, restrained, or in any way prevented by the order of any court or any administrative or regulatory agency, the effect of which order restricts any Borrower from conducting all or any material part of its business;

(m) An event or condition occurs or fails to occur which has a Material Adverse Effect;

(n) The Collateral or the prospects of the payment of the Bank Indebtedness is jeopardized or impaired;

(o) Any material uninsured damage to, or loss, theft, or destruction of, any of the Collateral occurs;

(p) Any strike, lockout, labor dispute, embargo, condemnation, act of God or public enemy, or other casualty loss occurs resulting in the cessation or substantial curtailment of production or other revenue producing activities at any facility of any Borrower for more than thirty (30) consecutive days;

(q) The loss, suspension, revocation or failure to renew any license or permit now held or hereafter acquired by any Borrower, which loss, suspension, revocation or failure to renew might have a Material Adverse Effect;

(r) Any Change of Control;

(s) Any Borrower fails to perform any term or condition under any of the Material Contracts;

(t) The occurrence of an Event of Default under any of the other Loan Documents; or

(u) The validity or enforceability of this Agreement, or any of the Loan Documents, is contested by any Borrower or any Equity Owner, or any Borrower denies that it has any or any further liability or obligation hereunder or thereunder.

13.2 **Remedies**. At the option of the Bank, upon the occurrence of an Event of Default, or at any time thereafter:

(a) The entire unpaid principal of the Loans, all other Bank Indebtedness, or any part thereof, all interest accrued thereon, all fees due hereunder and all other obligations of Borrowers to Bank hereunder or under any other agreement, note or otherwise arising will become immediately due and payable without any further demand or notice;

(b) The Line will immediately terminate and Borrowers shall receive no further extensions of credit thereunder;

(c) Bank may increase the interest rate on the Loans to the Default Rate, without notice;

(d) Bank may reduce availability for advances under the formula in the Borrowing Base Amount, reduce the Maximum Line Amount or require additional reserves without notice;

(e) Bank may enter any premises occupied by Borrowers and take possession of the Collateral and any records relating thereto; and/or

(f) Bank may exercise each and every right and remedy granted to it under the Loan Documents, under the Uniform Commercial Code and under any other applicable law or at equity.

If an Event of Default occurs under **Section 13.1(e)**, all Bank Indebtedness shall become immediately due and payable.

13.3 **Sale or Other Disposition of Collateral**. The sale, lease or other disposition of the Collateral, or any part thereof, by Bank after an Event of Default may be for cash, credit or any combination thereof, and Bank may purchase all or any part of the Collateral at public or, if permitted by law, private sale, and in lieu of actual payment of such purchase price, may set-off the amount of such purchase price against the Bank Indebtedness then owing. Any sales of the Collateral may be adjourned from time to time with or without notice. The Bank may cause the Collateral to remain on any Borrower' s premises or otherwise or to be removed and stored at premises owned by other persons, at Borrowers' expense, pending sale or other disposition of the Collateral. Each Borrower, at Bank' s request, shall assemble the Collateral consisting of inventory and tangible assets and make such assets available to Bank at a place to be designated by Bank. Bank shall have the right to conduct such sales on such Borrower' s premises, at Borrowers' expense, or elsewhere, on such occasion or occasions as Bank may see fit. Any notice required to be given by Bank of a sale, lease or other disposition or other intended action by Bank with respect to any of the Collateral which is deposited in the United States mail, postage prepaid and duly addressed to Borrowing Agent at the address specified in **Section 14.1**, at least ten (10) days prior to such proposed action, shall constitute fair and reasonable notice to Borrowing Agent or any Borrower of any

such action. The net proceeds realized by Bank upon any such sale or other disposition, after deduction for the expenses of retaking, holding, storing, transporting, preparing for sale, selling or otherwise disposing of the Collateral incurred by Bank in connection therewith and all other costs and expenses related thereto including attorney fees, shall be applied in such order as Bank, in its sole discretion, elects, toward satisfaction of the Bank Indebtedness. Bank shall account to Borrowers for any surplus realized upon such sale or other disposition, and Borrowers shall remain liable for any deficiency. The commencement of any action, legal or equitable, or the rendering of any judgment or decree for any deficiency shall not affect Bank' s security interest in the Collateral. Each Borrower agrees that Bank has no obligation to preserve rights to the Collateral against any other parties. Bank is hereby granted a license or other right to use, after an Event of Default, without charge, any Borrower' s labels, general intangibles, intellectual property, equipment, real estate, patents, copyrights, rights of use of any name, trade secrets, trade names, trademarks, service marks and advertising matter, or any property of a similar nature, as it pertains to the Collateral, in completing production of, advertising for sale and selling any inventory or other Collateral and any Borrower' s rights under all contracts, licenses, approvals, permits, leases and franchise agreements shall inure to Bank' s benefit. Bank shall be under no obligation to marshal any assets in favor of any Borrower or any other party or against or in payment of any or all of the Bank Indebtedness.

13.4 **Actions with Respect to Accounts**. Each Borrower hereby irrevocably makes, constitutes and appoints Bank (and any of Bank' s designated officers, employees or agents) as its true and lawful attorney-in-fact, with full power of substitution, with power to sign its name and to take any of the following actions, in its name or the name of Bank, as Bank may determine, without notice to Borrowing Agent or any Borrower and at Borrowers' expense:

(a) Verify the validity and amount of or any other matter relating to the Collateral by mail, telephone, telecopy or otherwise;

(b) Notify all account debtors that such Borrower' s accounts have been assigned to Bank and that Bank has a security interest therein;

(c) Direct all account debtors to make payment of all such Borrower' s accounts directly to Bank and forward invoices directly to such account debtors;

(d) Take control in any manner of any cash or non-cash items of payment or proceeds of such accounts;

(e) Notify the United States Postal Service to change the address for delivery of mail addressed to such Borrower to such address as Bank may designate;

(f) Have access to any lockbox or postal boxes into which such Borrower' s mail is deposited and receive, open and dispose of all mail addressed to such Borrower (any sums received pursuant to the exercise of the rights provided in **Sections 13.4(a) through (f)** may, at Bank' s option, be deposited in the cash collateral account provided for herein);

(g) Take control in any manner of any rejected, returned, stopped in transit or repossessed goods relating to any accounts;

(h) After the occurrence of an Event of Default, enforce payment of and collect any accounts, by legal proceedings or otherwise, and for such purpose Bank may:

(i) Demand payment of any accounts or direct any account debtors to make payment of accounts directly to Bank;

(j) Receive and collect all monies due or to become due to such Borrower;

(k) Exercise all of such Borrower' s rights and remedies with respect to the collection of accounts;

(l) Settle, adjust, compromise, extend, renew, discharge or release the accounts;

(m) Sell or assign the accounts on such terms, for such amount and at such times as Bank deems advisable;

(n) Prepare, file and sign such Borrower' s name or names on any Proof of Claim or similar document in any proceeding filed under federal or state bankruptcy, insolvency, reorganization or other similar law as to any account debtor;

(o) [Reserved];

(p) Endorse the name of such Borrower upon any chattel papers, documents, instruments, invoices, freight bills, bills of lading or similar documents or agreements relating to the accounts or goods pertaining thereto or upon any checks or other media of payment or evidences of a security interest that may come into Bank' s possession;

(q) Sign the name of such Borrower to verifications of accounts and notices thereof sent by account debtors to such Borrower; or

(r) Take all other actions necessary or desirable to protect such Borrower' s or Bank' s interest in the accounts.

Each Borrower ratifies and approves all acts of said attorneys after an Event of Default and agrees that said attorneys shall not be liable for any acts of commission or omission, nor for any error of judgment or mistake of fact or law, except gross negligence or willful misconduct. This power, being coupled with an interest, is irrevocable. Each Borrower agrees to assist the Bank in the collection and enforcement of its accounts and not to hinder, delay or impede the Bank in its collection or enforcement of said accounts.

13.5 **Set-Off**. Without limiting the rights of Bank under Applicable Laws, Bank has and may exercise a right of set-off, a lien against and a security interest in all property of any Borrower now or at any time in Bank' s possession in any capacity whatsoever, including but not limited to any balance of any deposit, trust or agency account, or any other bank account with Bank, but only as permitted under Applicable Laws, as security for all Bank Indebtedness. At any time and from time to time following the occurrence of an Event of Default, Bank may without notice or demand, set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by Bank to or for the credit of Borrowers against any or all of the Bank Indebtedness and Borrowers' obligations under the Loan Documents.

13.6 **Reserved**.

13.7 **Delay or Omission Not Waiver**. Neither the failure nor any delay on the part of Bank to exercise any right, remedy, power or privilege under the Loan Documents upon the occurrence of any Event of Default or otherwise shall operate as a waiver thereof or impair any such right, remedy, power or privilege. No waiver of any Event of Default shall affect any later Event of Default or shall impair any

rights of Bank. No single, partial or full exercise of any rights, remedies, powers and privileges by the Bank shall preclude further or other exercise thereof. No course of dealing between Bank and Borrowers (or any of them) shall operate as or be deemed to constitute a waiver of Bank' s rights under the Loan Documents or affect the duties or obligations of Borrowers.

13.8 **Remedies Cumulative; Consents**. The rights, remedies, powers and privileges provided for herein shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other rights, remedies, powers and privileges in Bank' s favor at law or in equity. Whenever Bank' s consent or approval is required, such consent or approval shall be at the sole and absolute discretion of Bank.

13.9 **Certain Fees, Costs, Expenses, Expenditures and Indemnification**. Borrowers agree to pay on demand all costs and expenses of Bank, including without limitation:

(a) all costs and expenses in connection with the preparation, review, negotiation, execution, delivery and administration of the Loan Documents, and the other documents to be delivered in connection therewith, or any amendments, extensions and increases to any of the foregoing (including, without limitation, reasonable attorney' s fees (but not including fees of inhouse counsel for Bank) and expenses, and the cost of appraisals and reappraisals of Collateral), and the cost of periodic lien searches and tax clearance certificates, as Bank deems advisable;

(b) all losses, costs and expenses in connection with the enforcement, protection and preservation of the Bank' s rights or remedies under the Loan Documents, or any other agreement relating to any Bank Indebtedness, or in connection with legal advice relating to the rights or responsibilities of Bank (including without limitation court costs, attorneys' fees and expenses of accountants and appraisers but not including fees of in-house counsel for Bank); and

(c) any and all stamp and other taxes payable or determined to be payable in connection with the execution and delivery of the Loan Documents, and all liabilities to which Bank shall become subject as the result of delay in paying or omission to pay such taxes.

In the event any Borrower shall fail to pay taxes, insurance, assessments, costs or expenses which it is required to pay hereunder, or fails to keep the Collateral free from security interests or liens (except as expressly permitted herein), or fails to maintain or repair the Collateral as required hereby, or otherwise breaches any obligations under the Loan Documents, Bank in its discretion and subject to the terms hereof, including prior notice to Borrowers where applicable, may make expenditures for such purposes and the amount so expended (including attorney' s fees and expenses, filing fees and other charges) shall be payable by Borrowers on demand and shall constitute part of the Bank Indebtedness.

With respect to any amount required to be paid by Borrowers under this Section, in the event Borrowers fail to pay such amount within five (5) Business Days after demand therefor, Borrowers shall also pay to Bank interest thereon at the Default Rate.

Each Borrower agrees to indemnify and hold harmless the Indemnitees, from and against any and all claims, liabilities, losses, damages, costs and expenses (whether or not such Person is a party to any litigation), including reasonable attorney' s fees and costs and costs of investigation, document production, attendance at depositions or other discovery with respect to or arising out of this Agreement or any of the other Loan Documents, the use of any proceeds advanced hereunder, the transactions contemplated hereunder, or any claim, demand, action or cause of action being asserted against such Borrower or any of its Affiliates, except to the extent the same is finally determined by a court of competent jurisdiction to arise from the gross negligence or willful misconduct of any Indemnitee.

Borrowers' obligations under this Section shall survive termination of this Agreement and repayment of the Bank Indebtedness.

13.10 **Time is of the Essence**. Time is of the essence in Borrowers' performance of its obligations under the Loan Documents.

13.11 **Acknowledgement of Confession of Judgment Provisions**. EACH BORROWER ACKNOWLEDGES AND AGREES THAT THE NOTES AND THE LOAN DOCUMENTS CONTAIN PROVISIONS WHEREBY BANK MAY ENTER JUDGMENT BY CONFESSION AGAINST SUCH BORROWER. BEING FULLY AWARE OF ITS RIGHTS TO PRIOR NOTICE AND HEARING ON THE QUESTION OF THE VALIDITY OF ANY CLAIMS THAT MAY BE ASSERTED AGAINST IT BY BANK UNDER THE NOTES AND LOAN DOCUMENTS BEFORE JUDGMENT CAN BE ENTERED AND TO THE EXTENT PERMITTED UNDER APPLICABLE LAWS, SUCH BORROWER HEREBY WAIVES THESE RIGHTS AND AGREES AND CONSENTS TO BANK ENTERING JUDGMENT AGAINST SUCH BORROWER BY CONFESSION. ANY PROVISION IN A CONFESSION OF JUDGMENT IN ANY OF THE LOAN DOCUMENTS FOR AN ATTORNEY' S COLLECTION COMMISSION SHALL IN NO WAY LIMIT SUCH BORROWER' S LIABILITY TO REIMBURSE BANK FOR ALL LEGAL FEES ACTUALLY INCURRED BY BANK, INCLUDING, WITHOUT LIMITATION, FEES INCURRED POST-JUDGMENT EVEN IF SUCH FEES ARE IN EXCESS OF THE ATTORNEY' S COLLECTION COMMISSION PROVIDED FOR IN SUCH CONFESSION OF JUDGMENT.

14. **COMMUNICATIONS AND NOTICES**.

14.1 **Communications and Notices**. All notices, requests and other communications made or given in connection with the Loan Documents shall be in writing and, unless receipt is stated herein to be required, shall be deemed to have been validly given if delivered personally to the individual or division or department to whose attention notices to a party are to be addressed, or by private carrier, or registered or certified mail, return receipt requested, or by telecopy with the original forwarded by first-class mail, in all cases, with charges prepaid, addressed as follows, until some other address (or individual or division or department for attention) shall have been designated by notice given by one party to the other:

To Borrowers:

Azzur Group, LLC
330 South Warminster Road, Suite 341
Hatboro, PA 19040
Attention: Ilya Vasserman
Telecopy No.: _____

With a copy to:

Fox Rothschild LLP
10 Sentry Parkway, Suite 200
P.O. Box 3001
Blue Bell, PA 19422
Attention: Robert Walper, Esq.
Telecopy No.: (610) 397-0450

To Bank:

Manufacturers and Traders Trust Company

2003 S. Easton Road
Suite 204
Doylestown, PA 18901
Attention: Andrew Zielinski
Telecopy No.: _____

With a copy to:

M&T Bank
One M&T Plaza
Buffalo, NY 14203
Attention: Office of the General Counsel

With a copy to:

Stradley Ronon Stevens & Young, LLP
1650 Arch Street, 22nd Floor
Philadelphia, PA 19103-2087
Attention: Christopher W. Rosenbleeth, Esq.
Telecopy Number: (215) 564-8120

15. **WAIVERS**.

15.1 **Waivers**. In connection with any proceedings under the Loan Documents, including without limitation any action by Bank in replevin, foreclosure or other court process or in connection with any other action related to the Loan Documents or the transactions contemplated hereunder, each Borrower waives to the extent permitted by Applicable Laws:

(a) all errors, defects and imperfections in such proceedings;

(b) all benefits under any present or future laws exempting any property, real or personal, or any part of any proceeds thereof from attachment, levy or sale under execution, or providing for any stay of execution to be issued on any judgment recovered under any of the Loan Documents or in any replevin or foreclosure proceeding, or otherwise providing for any valuation, appraisal or exemption;

(c) presentment for payment, demand, notice of demand, notice of non-payment, protest and notice of protest of any of the Loan Documents, including the Notes and the Equipment Line Documents;

(d) any requirement for bonds, security or sureties required by statute, court rule or otherwise;

(e) any demand for possession of Collateral prior to commencement of any suit; and

**(f)** all rights to claim or recover attorney' s fees and costs in the event that such Borrower is successful in any action to remove, suspend or prevent the enforcement of a judgment entered by confession.

15.2 **Forbearance**. Bank may release, compromise, forbear with respect to, waive, suspend, extend or renew any of the terms of the Loan Documents, without notice to Borrowers.

15.3 **Limitation on Liability**. Borrowers shall be responsible for and Bank is hereby released from any claim or liability in connection with:

(a) Safekeeping any Collateral;

(b) Any loss or damage to any Collateral;

(c) Any diminution in value of the Collateral; or

(d) Any act or default of another Person.

Bank shall only be liable for any act or omission on its part constituting gross negligence or willful misconduct. In the event that Bank breaches its required standard of conduct, Borrowers agrees that Bank' s liability shall be only for direct damages suffered and shall not extend to consequential or incidental damages. In the event any Borrower brings suit against Bank in connection with the transactions contemplated hereunder and Bank is found not to be liable, Borrowers shall indemnify and hold Bank harmless from all costs and expenses, including attorney' s fees, including, without limitation, attorney' s fees incurred post-judgment incurred by Bank in connection with such suit. This Agreement is not intended to obligate Bank to take any action with respect to the Collateral or to incur expenses or perform any obligation or duty of Borrowers.

16. **SUBMISSION TO JURISDICTION**.

16.1 **Submission to Jurisdiction**. Each Borrower hereby consents to the exclusive jurisdiction of any state or federal court located within Montgomery County, Pennsylvania, or the Eastern District of Pennsylvania, and irrevocably agrees that, subject to the Bank's election, all actions or proceedings relating to the Loan Documents or the transactions contemplated hereunder shall be litigated in such courts, and each Borrower waives any objection which it may have based on lack of personal jurisdiction, improper venue or forum non conveniens to the conduct of any proceeding in any such court and waives personal service of any and all process upon it, and consents that all such service of process be made by mail or messenger directed to it at the address set forth in **Section 14.1**. Nothing contained in this **Section 16.1** shall affect the right of Bank to serve legal process in any other manner permitted by law or affect the right of Bank to bring any action or proceeding against any Borrower or its property in the courts of any other jurisdiction.

17. **USA Patriot Act Provisions**.

17.1 **USA Patriot Act Notice**. Bank hereby notifies Borrowers that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the **"Patriot Act"**), it is required to obtain, verify and record information that identifies each Borrower, which information includes the name and address of such Borrower and other information that will allow Bank to identify such Borrower in accordance with the Patriot Act.

17.2 **Collateral Provisions**.

(a) Without in any way limiting the generality of **Section 6**, no (i) account, instrument, chattel paper or other obligation or property of any kind due from, owed by, or belonging to, a Sanctioned Person or (ii) lease in which the lessee is a Sanctioned Person, shall be Collateral.

(b) Bank may reject or refuse to accept any Collateral for credit toward payment of the Bank Indebtedness that is an account, instrument, chattel paper, lease, or other obligation or property of any kind due from, owed by, or belonging to, a Sanctioned Person.

17.3 **OFAC Compliance**. No Borrower, Subsidiary of any Borrower or Affiliate of any Borrower (i) is a Sanctioned Person, (ii) has more than 15% of its assets in Sanctioned Countries, or (iii) derives more than 15% of its operating income from investments in, or transactions with Sanctioned Persons or Sanctioned Countries. The proceeds of the Loans will not be used and have not been used to fund any operations in, finance any investments or activities in or make any payments to, a Sanctioned Person or a Sanctioned Country.

18. **BORROWING AGENCY PROVISIONS**.

18.1 **Appointment of Borrowing Agent**. Each Borrower hereby irrevocably designates Borrowing Agent to be its attorney and agent and in such capacity to borrow, sign and endorse notes, and execute and deliver all instruments, documents, writings and further assurances now or hereafter required hereunder, on behalf of such Borrower, and hereby authorizes Bank to pay over or credit all loan proceeds hereunder in accordance with the request of Borrowing Agent.

18.2 **Indemnification**. The handling of this credit facility as a co-borrowing facility with a borrowing agent in the manner set forth in this Agreement is solely as an accommodation to Borrowers and at their request. Bank shall incur no liability to Borrowers as a result thereof. To induce Bank to do so and in consideration thereof, each Borrower hereby indemnifies Bank and holds Bank harmless from and against any and all liabilities, expenses, losses, damages and claims of damage or injury asserted against Bank by any Person arising from or incurred by reason of the handling of the financing arrangements of Borrowers as provided herein, reliance by Bank on any request or instruction from Borrowing Agent or any other action taken by Bank with respect to this Section 17 except due to willful misconduct or gross negligence by the indemnified party.

18.3 **Obligations Joint and Several**. All agreements, covenants, conditions and provisions of this Agreement shall be the joint and several obligation of each Borrower, and each Borrower shall make payment upon the maturity of the Bank Indebtedness by acceleration or otherwise, and such obligation and liability on the part of each Borrower shall in no way be affected by any extensions, renewals and forbearance granted by Bank to any Borrower, failure of Bank to give any Borrower notice of borrowing or any other notice, any failure of Bank to pursue or preserve its rights against any Borrower, the release by Bank of any Collateral now or hereafter acquired from any Borrower, and such agreement by each Borrower to pay upon any notice issued pursuant hereto is unconditional and unaffected by prior recourse by Bank to the other Borrowers or any Collateral for such Borrower' s Bank Indebtedness or the lack thereof. Each Borrower waives all suretyship defenses.

19. **MISCELLANEOUS**.

19.1 **Brokers**. The transaction contemplated hereunder was brought about and entered into by Bank and Borrowers acting as principals and without any brokers, agents or finders being the effective procuring cause hereof. Borrowers represent to Bank that no Borrower has committed Bank to the payment of any brokerage fee or commission in connection with this transaction. If any such claim is made against Bank by any broker, finder or agent or any other Person, Borrowers agree to indemnify, defend and hold Bank harmless against any such claim, at Borrowers' own cost and expense, including Bank' s attorneys' fees. Borrowers further agree that until any such claim or demand is adjudicated in Bank' s favor, the amount claimed and/or demanded shall be deemed part of the Bank Indebtedness secured by the Collateral.

19.2 **Use of Bank' s Name**. No Borrower shall use Bank' s name or the name of any of Bank' s Affiliates in connection with any of its business or activities except as may otherwise be required by the rules and regulations of the Securities and Exchange Commission or any like regulatory body and except as may be required in its dealings with any governmental agency.

19.3 **No Joint Venture**. Nothing contained herein is intended to permit or authorize any Borrower to make any contract on behalf of Bank, nor shall this Agreement be construed as creating a partnership, joint venture or making Bank an investor in any Borrower.

19.4 **Survival**. All covenants, agreements, representations and warranties made by Borrowers in the Loan Documents or made by or on its behalf in connection with the transactions contemplated herein shall be true at all times this Agreement is in effect and shall survive the execution and delivery of the Loan Documents, any investigation at any time made by Bank or on its behalf and the making by Bank of the loans or advances to Borrowers. All statements contained in any certificate, statement or other document delivered by or on behalf of Borrower pursuant hereto or in connection with the transactions contemplated hereunder shall be deemed representations and warranties by Borrowers.

19.5 **No Assignment by Borrowers**. No Borrower may assign any of its rights hereunder without the prior written consent of Bank and any such assignment shall be void and of no force or effect. Bank shall not be required to lend hereunder except to each Borrower as it presently exists.

19.6 **Assignment or Sale by Bank**. Bank may sell, assign or participate all or a portion of its interest in the Loan Documents and in connection therewith may make available to any prospective purchaser, assignee or participant any information relative to Borrowers in its possession with such information subject to confidentiality requirements substantially similar to the requirements of Bank of its own information.

19.7 **Binding Effect**. This Agreement and all rights and powers granted hereby will bind and inure to the benefit of the parties hereto and their respective permitted successors and assigns.

19.8 **Severability**. The provisions of this Agreement and all other Loan Documents are deemed to be severable, and the invalidity or unenforceability of any provision shall not affect or impair the remaining provisions which shall continue in full force and effect.

19.9 **No Third Party Beneficiaries**. The rights and benefits of this Agreement and the Loan Documents shall not inure to the benefit of any third party.

19.10 **Modifications**. No modification of this Agreement or any of the Loan Documents shall be binding or enforceable unless in writing and signed by or on behalf of the party against whom enforcement is sought.

19.11 **Holidays**. If the day provided herein for the payment of any amount or the taking of any action falls on a Saturday, Sunday or public holiday at the place for payment or action, then the due date for such payment or action will be the next succeeding Business Day.

19.12 **Law Governing**. This Agreement has been made, executed and delivered in the Commonwealth of Pennsylvania and will be construed in accordance with and governed by the laws of such State without regard to conflict of law principles.

19.13 **Integration**. The Loan Documents shall be construed as integrated and complementary of each other, and as augmenting and not restricting Bank' s rights, powers, remedies and

security. The Loan Documents contain the entire understanding of the parties thereto with respect to the matters contained therein and supersede all prior agreements and understandings between the parties with respect to the subject matter thereof and do not require parol or extrinsic evidence in order to reflect the intent of the parties. In the event of any inconsistency between the terms of this Agreement and the terms of the other Loan Documents, the terms of this Agreement shall prevail.

19.14 **Exhibits and Schedules**. All exhibits and schedules attached hereto are hereby made a part of this Agreement.

19.15 **Headings**. The headings of the Articles, Sections, paragraphs and clauses of this Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Agreement.

19.16 **Counterparts**. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and any of the parties hereto may execute this Agreement by signing any such counterpart.

19.17 **Waiver of Right to Trial by Jury**. **EACH BORROWER AND BANK WAIVE ANY RIGHT TO TRIAL BY JURY ON ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (a) ARISING UNDER ANY OF THE LOAN DOCUMENTS OR (b) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF SUCH BORROWER OR BANK WITH RESPECT TO ANY OF THE LOAN DOCUMENTS OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE. BORROWER AND BANK AGREE AND CONSENT THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF SUCH BORROWER AND BANK TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. EACH BORROWER ACKNOWLEDGES THAT IT HAS HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL REGARDING THIS SECTION, THAT IT FULLY UNDERSTANDS ITS TERMS, CONTENT AND EFFECT, AND THAT IT VOLUNTARILY AND KNOWINGLY AGREES TO THE TERMS OF THIS SECTION.**

19.18 **Marketing Release**. Each Borrower hereby consents to the publication and other advertisement by Bank in various media of the transactions occurring under this Agreement, provided that Borrower shall first be provided an opportunity to review such publications and advertisements.

19.19 **Credit Inquiries**. Each Borrower hereby consents to Bank responding from time to time to credit inquiries regarding such Borrower.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

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

# Exhibit B

## Proposed Interim Order

**IN THE UNITED STATES BANKRUPTCY COURT**
**FOR THE DISTRICT OF DELAWARE**

| | |
|---|---|
| In re: | Chapter 11 |
| AZZUR GROUP HOLDINGS LLC, *et al.*,[1] | Case No. 25-10342 (KBO) |
| Debtors. | (Jointly Administered) |
| | **Related D.I.**: _____ |

**INTERIM ORDER (I) AUTHORIZING DEBTORS AND DEBTORS IN POSSESSION TO (A) OBTAIN POSTPETITION FINANCING, (B) GRANT LIENS AND SUPER-PRIORITY CLAIMS, AND (C) GRANT ADEQUATE PROTECTION; (II) MODIFYING THE AUTOMATIC STAY; (III) SCHEDULING A FINAL HEARING; AND (IV) GRANTING RELATED RELIEF**

Upon the motion (the "Motion")[2] of the above-captioned debtors and debtors in possession (collectively, the "Debtors") pursuant to sections 105, 361, 362, 363, 364(c)(1), 364(c)(2) and 364(c)(3), 364(d), 503, 506, 507 and 552 of 11 U.S.C. § 101 *et seq.* (the "Bankruptcy Code"), Rules 2002, 4001, 9013 and 9014 of the Federal Rules of Bankruptcy Procedure (as amended, the "Bankruptcy Rules"), and Rules 2002-1, 4001-1, 4001-2 and 9013-1 of the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), seeking, among other things:

(1) authorization for the Debtors to enter into (a) the *Ratification and Amendment Agreement*, as may be amended, supplemented or otherwise modified from time to time in accordance with the terms and conditions set forth therein, dated of even date herewith, by and among Manufacturers and Traders Trust Company (the "DIP Lender") and the Debtors (the "DIP

[1] A list of the Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, may be obtained on the website of the Debtors' claims and noticing agent at https://cases.stretto.com/Azzur. The Debtors' headquarters and the mailing address for the Debtors is 330 South Warminster Road, Suite 341, Hatboro, PA 19040.

[2] Capitalized terms used but not defined in this Interim Order shall have the same meanings ascribed to such terms in the Motion or the DIP Credit Agreement (as defined herein), as applicable.

Credit Agreement"), substantially in the form annexed hereto as **Exhibit A**, and (b) the Loan Documents (as defined in the DIP Credit Agreement and, together with the DIP Credit Agreement, referred to herein as the "DIP Loan Documents");

(2) authorization for Debtors to obtain, on a joint and several basis, post-petition loans, advances, and other financial accommodations in accordance with the terms and conditions set forth in the DIP Credit Agreement, by and among the Debtors and the "DIP Lender, and the other Loan Documents (as defined in the DIP Credit Agreement and referred herein as the DIP Loan Documents, and in accordance with this order ("Interim Order"), secured by perfected senior priority security interests in and liens on the Collateral (as defined below) pursuant to sections 364(c)(2) and 364(c)(3) of the Bankruptcy Code (subject and subordinate only to the Carve-Out and the Permitted Liens (each as defined below));

(3) authorization for the Debtors to remit all collections, asset proceeds and payments, (i) first to the Manufacturers and Traders Trust Company, as lender to the Pre-Petition Loan Agreement (as defined below) (the "Pre-Petition Lender"), for application, or deemed application to all Pre-Petition Obligations (as defined below) until such obligations are fully repaid in accordance with the Pre-Petition Loan Agreement (as defined below) and other Pre-Petition Loan Documents (as defined below), and (ii) then to the DIP Lender for application and repayment of all Obligations in accordance with the DIP Credit Agreement and the other DIP Loan Documents, and to convert or deem all Pre-Petition Obligations with respect to Letters of Credit issued or provided, as applicable, under the Pre-Petition Loan Agreement to have been issued or provided, as applicable, under the DIP Credit Agreement and the other DIP Loan Documents;

(4) authorization for the Debtors to grant superpriority administrative claim status, pursuant to section 364(c)(1) of the Bankruptcy Code, to the DIP Lender in respect of all Obligations (subject and subordinate to the Carve-Out (as defined below));

(5) as set forth below, approval of certain stipulations by the Debtors as set forth in this Interim Order in connection with the Pre-Petition Loan Agreement and the Pre-Petition Loan Documents;

(6) as set forth below, authorization to provide adequate protection to the Pre-Petition Lender;

(7) authorization, with Pre-Petition Lender and the DIP Lender consent, to use the Cash Collateral (as defined in section 363 of the Bankruptcy Code) subject to the terms of this Interim Order;

(8) effective only upon entry of a Final Order (as defined below), (a) the roll up and conversion of any remaining Pre-Petition Obligations other than the Remaining Pre-Petition Obligation (as defined below) into DIP Obligations (as defined below); and (b) the waiver of the Debtors' right to assert claims to surcharge against the Collateral (as defined below) pursuant to sections 506(c) and 552(b) of the Bankruptcy Code;

(9) the modification of the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of this Interim Order to the extent hereinafter set forth;

(10) the scheduling of a final hearing on the Motion ("Final Hearing") to consider entry of a final order (the "Final Order") authorizing, among other things, the borrowing under the DIP Loan Documents on a final basis, as set forth in the Motion and the DIP Credit Agreement; and

(11) related relief.

The initial hearing on the Motion having been held by this Court on [March 4], 2025 (the "Interim Hearing"), and upon the record made by the Debtors at the Interim Hearing, including the Motion, the *Declaration of M. Benjamin Jones, Chief Restructuring Officer of the Debtors, in Support of the Debtors' Chapter 11 Petitions and First Day Pleadings* (the "First Day Declaration"), and the filings and pleadings in the above-captioned chapter 11 cases (the "Chapter 11 Cases"), the Court having found that the relief requested in the Motion is in the best interests of Debtors, their estates (as defined under section 541 of the Bankruptcy Code, the "Estates"), their creditors and other parties in interest and is necessary to avoid immediate and irreparable harm to the Debtors and their Estates pending a Final Hearing; and appropriate notice of the Motion, the relief requested therein, and the Interim Hearing (the "Notice") was due and proper under the circumstances; and the Notice having been served by the Debtors in accordance with Bankruptcy Rule 4001 on (i) counsel to the Pre-Petition Lender and DIP Lender; (ii) the office of the United States Trustee for Region 3 (the "U.S. Trustee"), (iii) the holders of the thirty (30) largest unsecured claims, on a consolidated basis, against the Debtors' Estates (the "30 Largest Unsecured Creditors"), (iv) the Internal Revenue Service and applicable state taxing authorities, (v) any party that has asserted or may assert a lien on the Debtors' assets; (vi) the Debtors' landlords, and (vii) all parties who have filed a notice of appearance and request for service of papers pursuant to Bankruptcy Rule 2002 (collectively, the "Noticed Parties") and the opportunity for a hearing on the Motion was appropriate and no other notice need be provided; and after due deliberation sufficient cause appearing therefor;

**BASED UPON THE RECORD ESTABLISHED AT THE INTERIM HEARING BY THE DEBTORS, INCLUDING THE SUBMISSIONS OF THE DECLARATIONS, AND**

**THE REPRESENTATIONS OF COUNSEL, THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW**:

A. Petition Date. On March 2, 2025 (the "Petition Date"), each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Code for the District of Delaware (the "Court") thereby commencing these Chapter 11 Cases.

B. Debtors in Possession. The Debtors continue to manage and operate their businesses and properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these Chapter 11 Cases.

C. Disposition. The Motion is hereby granted on an interim basis in accordance with and to the extent set forth in this Interim Order. Any objections to the Motion with respect to the entry of this Interim Order that have not been withdrawn, waived, resolved, or settled are hereby denied and overruled.

D. Jurisdiction and Venue. The Court has core jurisdiction over the Chapter 11 Cases, the Motion, and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334, as well as the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012. Venue of these Chapter 11 Cases and the proceedings on the Motion in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The bases for relief sought in the Motion are sections 105, 361, 362, 363, 364, 503, 506, 507 and 552 of the Bankruptcy Code, Bankruptcy Rules 2002, 4001, 6003, 6004 and 9014, and Local Rule 4001-2.

E. Committee Formation. As of the date hereof, the U.S. Trustee has not appointed any official committee (any such committee, the "Committee").

F. Notice. Proper, timely, adequate, and sufficient notice of the Motion and the Interim Hearing have been provided in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, and no other or further notice of the Motion with respect to the relief requested at the Interim Hearing or the entry of this Interim Order shall be required. No further notice of, or hearing regarding, the entry of this Interim Order and the relief set forth herein is necessary or required. The interim relief granted herein is necessary to avoid immediate and irreparable harm to the Debtors and their estates pending a Final Hearing.

G. Acknowledgments and Agreements of Debtors. After consultation with their attorneys and financial advisors, and without prejudice to the rights of any Committee appointed in these Chapter 11 Cases or other parties in interest as and to the extent set forth in Section 4.1 of this Interim Order, the Debtors, on their behalf and on behalf of their Estates, admit, stipulate, acknowledge and agree that (collectively, the "Stipulations"):

(i) Pre-Petition Loan Documents. Prior to the Petition Date, the Pre-Petition Lender made loans and advances and provided other financial accommodations to Debtors pursuant to the terms and conditions set forth in (1) the Pre-Petition Loan Agreement (as defined in the DIP Credit Agreement and referred to herein as the "Pre-Petition Loan Agreement"); and (2) all other agreements, documents and instruments executed and/or delivered with, to, or in favor of the Pre-Petition Lender in connection with the Pre-Petition Loan Agreement, including, without limitation, all security agreements, notes, guarantees, mortgages, Uniform Commercial Code financing statements and all other related agreements, documents and instruments executed and/or delivered in connection therewith or related thereto (all of the foregoing, together with the Pre-Petition Loan Agreement, as all of the same have heretofore been amended, supplemented, modified, extended, renewed, restated and/or replaced at any time prior to the Petition Date,

collectively, the "Pre-Petition Loan Documents"). Copies of the operative Pre-Petition Loan Documents are on file with counsel to the Debtors and available to the Court, the U.S. Trustee, and any other parties in interest in these Chapter 11 Cases upon reasonable request.

(ii) Pre-Petition Loan Obligations. As of the Petition Date, the Debtors were indebted to the Pre-Petition Lender under the Pre-Petition Loan Documents in respect of Advances under the Line, Letters of Credit, Advances under the Loan Limit Line, Supplemental Line Advances, and other Obligations (each as defined in the Pre-Petition Loan Agreement) in an aggregate outstanding principal amount of not less than $62,219,048.81, plus interest accrued and accruing thereon, together with all costs, fees, expenses (including attorneys' fees and legal expenses) and other charges accrued, accruing or chargeable with respect thereto, each in accordance with the terms of the Pre-Petition Loan Agreement (collectively, the "Pre-Petition Obligations", as such term is further defined in the DIP Credit Agreement). As of the Petition Date, the Pre-Petition Obligations include Letters of Credit in the aggregate amount of approximately $1,335,507.66 issued and outstanding under the Pre-Petition Credit Agreement. The Pre-Petition Obligations constitute allowed, legal, valid, binding, enforceable and non-avoidable obligations of the Debtors, and are not subject to any offset, defense, counterclaim, avoidance, recharacterization or subordination pursuant to the Bankruptcy Code or any other applicable law or otherwise. The Debtors do not possess, shall not assert, hereby forever release, and are forever barred from bringing any claim, counterclaim, setoff or defense of any kind, nature or description, arising out of, connected with, or relating to any and all acts, omissions or events occurring prior to the entry of this Interim Order, which would in any way affect the validity, enforceability and non-avoidability of any of the Pre-Petition Obligations or liens and security interest securing the same described in clause (F)(iv) below.

(iii) Pre-Petition Lender. As of the Petition Date, no claims, objections, challenges, counterclaims, causes of action and/or choses in action, defenses or setoff rights of any Debtor exist against the Pre-Petition Lender under the Pre-Petition Loan Agreement and other Pre-Petition Loan Documents and the Pre-Petition Obligations under any contract or tort (including, without limitation, lender liability) theories of recovery, whether arising at law or in equity, including any recharacterization, subordination, avoidance or other claim arising under or pursuant to Section 105 or Chapter 5 (including, without limitation, Sections 510, 544, 547, 548, 549 or 550) of the Bankruptcy Code or under any other similar provisions of applicable state or federal law, and to the extent any claims, objections, challenges, counterclaims, causes of action and/or choses in action, defense or setoff rights are deemed to have existed as to any of the foregoing, the Debtors hereby forever waive, discharge and release any right they may have to challenge any of the Pre-Petition Obligations, and to assert any setoff rights, defenses, claims, objections, challenges, counterclaims, causes of action and/or choses of action whether arising under the Bankruptcy Code or applicable non-bankruptcy law, against the Pre-Petition Lender and its affiliates, subsidiaries, agents, officers, directors, employees, attorneys and advisors, in each case in connection with any matter related to the Pre-Petition Obligations and the Pre-Petition Loan Documents, or the financing and transactions contemplated thereby, or the Pre-Petition Collateral (as defined below).

(iv) Pre-Petition Collateral. As of the Petition Date, the Pre-Petition Obligations were secured pursuant to the Pre-Petition Loan Documents by valid, perfected, enforceable and non-avoidable first-priority security interests and liens granted by the Debtors to the Pre-Petition Lender under the Pre-Petition Loan Documents, upon all of the Pre-Petition Collateral (as defined in the DIP Credit Agreement and hereinafter referred to as the "Pre-

Petition Collateral"), subject only to the liens (as defined in the Pre-Petition Loan Agreement) specifically permitted under Section 7.9 of the Pre-Petition Loan Agreement to the extent that such security interests, liens or encumbrances are (1) valid, perfected, and unavoidable senior priority liens and security interests existing as of the Petition Date securing valid, binding and unavoidable debt permitted under the Pre-Petition Loan Documents, and (2) senior to and have not been and are not (nor will be) subject to being subordinated to the Pre-Petition Lender's liens on and security interests in the Pre-Petition Collateral under the Pre-Petition Loan Documents or otherwise avoided, and, in each instance, only for so long as and to the extent that such encumbrances are and remain senior (hereinafter referred to as the "Permitted Liens"). As of the date hereof, none of the Debtors possess (or will assert) any claim, counterclaim, setoff or defense of any kind, nature or description which would in any way affect the validity, enforceability and non-avoidability of any of the Pre-Petition Lender's liens, claims or security interests in the Pre-Petition Collateral.

(v) Proof of Claim. The acknowledgment by the Debtors of the Pre-Petition Obligations and the liens, rights, priorities and protections granted to or in favor of the Pre-Petition Lender in respect of the Pre-Petition Collateral as set forth herein and in the Pre-Petition Loan Documents shall be deemed a timely filed proof of claim on behalf of the Pre-Petition Lender in each of these Chapter 11 Cases.

H. Findings Regarding the Post-Petition Financing and Use of Cash Collateral.

(i) Request for Post-Petition Financing and Use of Cash Collateral. The Debtors seek authority to (a) enter into the DIP Loan Documents on the terms described in the Motion, this Interim Order, and in the DIP Loan Documents, and (b) use Cash Collateral on the terms described in this Interim Order to administer these Chapter 11 Cases and

fund their operations in accordance with the DIP Budget (as defined herein) and the DIP Loan Documents.

(ii) Need for Post-Petition Financing and Use of Cash Collateral. The Debtors do not have sufficient available sources of working capital, including Cash Collateral, to operate their businesses in the ordinary course of business and fund these Chapter 11 Cases without access to the financing provided under the DIP Credit Agreement as requested in the Motion and the authority to use Cash Collateral pursuant to the terms of this Interim Order. The Debtors' ability to maintain business relationships with their vendors, suppliers and customers, to pay their employees, and to otherwise fund their operations and these Chapter 11 Cases is essential to the Debtors' continued viability as the Debtors seek to maximize the value of the assets of the Estates for the benefit of all creditors of the Debtors. The ability of the Debtors to obtain sufficient working capital and liquidity through the proposed post-petition financing arrangements with the DIP Lender as set forth in this Interim Order, the DIP Credit Agreement, and other DIP Loan Documents, as applicable, is vital to the preservation and maintenance of the going concern value of each Debtor. Immediate and irreparable harm will result to the Debtors and their Estates if immediate financing is not obtained and permission to use Cash Collateral is not granted. The extensions of credit under the DIP Credit Facility are fair and reasonable, and the Debtors' entry into the DIP Credit Facility reflects the sound exercise of the Debtors' business judgment and is supported by reasonably equivalent value and fair consideration. Accordingly, the Debtors have an immediate need to obtain the post-petition financing in order to, among other things, permit the orderly continuation of the operation of their businesses, minimize the disruption of their business operations, and preserve and maximize the value of the assets of the Debtors' bankruptcy Estates.

(iii) Consent. Absent an order of this Court and the provisions of adequate protection set forth herein, consent by the Pre-Petition Lender is required for the Debtors' use of Cash Collateral and other Pre-Petition Collateral. The Pre-Petition Lender has consented to the Debtors' use of Cash Collateral and the other Prepetition Collateral, and the Debtors' entry into the DIP Credit Facility in accordance with and subject to the terms and conditions of this Interim Order.

(iv) No Credit Available on More Favorable Terms. The DIP Facility is the best source of debtor in possession financing available to the Debtors. Given their current financial condition, financing arrangements, and capital structure, and the circumstances of these Chapter 11 Cases, the Debtors are unable to procure financing in the form of unsecured credit allowable as an administrative expense under sections 364(a), 364(b), or 503(b)(1) of the Bankruptcy Code or in exchange for the grant of a superpriority administrative expense, junior liens on encumbered property of the Estates, or liens on property of the Estates not subject to a lien pursuant to sections 364(c)(1), 364(c)(2) or 364(c)(3) of the Bankruptcy Code. The Debtors have been unable to procure the necessary financing on terms more favorable, taken as a whole, than the financing offered by the DIP Lender pursuant to the DIP Loan Documents.

(v) DIP Budget. The Debtors have prepared and delivered to DIP Lender an initial 13-week budget (the "Initial Budget"). As of the date of determination, the Initial Budget or any updated budget that becomes the "DIP Budget" in accordance with and as defined in the DIP Credit Agreement and used herein, the "DIP Budget", a copy of which is attached to this Interim Order as **Exhibit B**. Such DIP Budget has been thoroughly reviewed by the Debtors and their management and sets forth, among other things, the projected cash receipts and disbursements of the Debtors for the periods covered thereby. The Debtors represent that the

DIP Budget is achievable, in accordance with the terms of the DIP Loan Documents and this Interim Order, and will allow the Debtors to operate during these Chapter 11 Cases. The DIP Lender is relying upon the Debtors' agreement to comply with the DIP Budget, subject to permitted variances as provided for in the DIP Credit Agreement. Other than as expressly set forth in this Interim Order, the consent of the DIP Lender to the DIP Budget shall not be construed as consent to the use of any cash after the occurrence of an Event of Default (as defined in the applicable DIP Loan Documents), regardless of whether the aggregate funds shown on the DIP Budget have been expended.

(vi) Application of Proceeds of DIP Collateral; Integrated Transaction. As a condition to entry into the DIP Loan Documents, the extension of credit under the DIP Credit Facility, and the authorization to use Cash Collateral, the Debtors and the DIP Lender have agreed that the proceeds of Collateral, including without limitation, all cash received at the closing of any sale(s) of all or substantially all of the Debtors' assets, shall be applied in accordance with Section 1.5 of this Interim Order. The extension of the DIP Credit Facility and the repayment of the Pre-Petition Obligations are part of an integrated transaction.

(vii) Business Judgment and Good Faith Pursuant to Section 364(e). Based on the Motion, the First Day Declaration, and the record presented to the Court at the Interim Hearing, (a) the terms of the DIP Credit Agreement and the other DIP Loan Documents and this Interim Order, including the fees, expenses, and other charges paid and to be paid thereunder and in connection thereunder, (b) the adequate protection authorized by the Interim Order and DIP Loan Documents, and (c) the terms on which the Debtors may continue to use the Collateral (including Cash Collateral), in each case pursuant to this Interim Order and the DIP Loan Documents, are fair, just and reasonable under the circumstances, are ordinary and

appropriate for secured financing to debtors in possession, reflect the Debtors' exercise of their business judgment consistent with their fiduciary duties, are supported by reasonably equivalent value and fair consideration, and represent the best financing and terms available under the circumstances. The terms and conditions of the use of Cash Collateral, the DIP Credit Agreement and the other DIP Loan Documents and this Interim Order have been negotiated in good faith and at arm's-length by and among the Debtors and DIP Lender with all parties being represented by counsel. Any credit extended under the terms of this Interim Order shall be deemed to have been extended in good faith by the DIP Lender, as that term is used in section 364(e) of the Bankruptcy Code.

(viii) Good Cause. Good cause has been shown for immediate entry of this Interim Order, and the entry of this Interim Order is in the best interests of the Debtors, their creditors, and their Estates. Immediate entry of this Interim Order will, among other things, provide the Debtors with the necessary liquidity to (1) minimize disruption to the Debtors' businesses, employees, and on-going operations, (2) preserve and maximize the value of the Debtors' Estates for the benefit of all the Debtors' creditors, and (3) avoid immediate and irreparable harm to the Debtors, their creditors, their businesses, their employees, and their assets.

(ix) Immediate Entry. Sufficient cause exists for immediate entry of this Interim Order pursuant to Bankruptcy Rule 4001(c)(2). No party appearing in the Chapter 11 Cases has filed or made an objection to the relief sought in the Motion or the entry of this Interim Order, or any objections that were made (to the extent such objections have not been withdrawn, waived, resolved, or settled) are hereby overruled.

Based upon the foregoing findings of fact, the Motion, and the record before the Court with respect to the Motion, and after due consideration and good and sufficient cause appearing therefor;

**IT IS HEREBY ORDERED THAT**:

Section 1. Authorization and Conditions to Financing.

1.1 Motion Granted. The Motion is GRANTED on an interim basis in accordance with Bankruptcy Rule 4001(c)(2) to the extent provided in this Interim Order. Any objection to the entry of this Interim Order that has not been withdrawn, waived, resolved or settled, is hereby denied and overruled on the merits.

1.2 Authorization to Borrow and Use Loan Proceeds. The Debtors are hereby authorized and empowered on an interim basis to immediately borrow and obtain (i) Supplemental DIP Line Advances up to the principal amount of $4,250,000 and (ii) other revolving Advances up to the principal amount of $7,500,000 (including in respect of Letters of Credit up to the principal amount of $1,335,507.660), for a total principal amount of up to $11,750,000 (in each case plus applicable interest, premiums, fees (including attorneys' fees and legal expenses), costs, expenses, charges and other amounts payable hereunder and under the DIP Loan Documents) all pursuant to the terms and conditions of this Interim Order, the DIP Credit Agreement, the other DIP Loan Documents during the period commencing on the date of this Interim Order through and including the date that is the earlier of (a) thirty (30) days following the entry of this Interim Order and (b) the date of the Final Hearing as set forth in Section 6 of this Interim Order (the "Interim Financing Period"), as may be made available to Debtors by DIP Lender in accordance with the Initial Budget and the terms and conditions set forth in the DIP Credit Agreement, the other DIP Loan Documents and this Interim Order. Subject to the terms and conditions contained in this Interim Order and the DIP Loan Documents, the Debtors shall use the proceeds of the Revolving

Loans and letters of credit (if any) and other credit and financial accommodations provided by DIP Lender under the DIP Credit Agreement and the other DIP Loan Documents solely for payment of expenses or as set forth in the DIP Budget and for amounts owing to DIP Lender in accordance with the terms and conditions of the DIP Loan Documents and this Interim Order.

1.3 Financing Documents.

(a) Authorization. The Debtors are hereby authorized to enter into, execute, deliver, perform, and comply with all of the terms, conditions and covenants of the DIP Credit Agreement and the other DIP Loan Documents, pursuant to which, subject to Section 4.1 below, *inter alia*, each Debtor ratifies, reaffirms, extends, assumes, adopts, amends, and restates the Pre-Petition Loan Agreement and the other Pre-Petition Loan Documents to which it is a party, and the Pre-Petition Obligations, which include, without limitation, all Pre-Petition (i) Advances under the Line, (ii) Letters of Credit, (iii) Advances under the Loan Limit Line, (iv) Advances under the Supplemental Line, and (v) all other financial accommodations provided to Debtors by the Lenders, pursuant to the Pre-Petition Loan Documents (each term as defined in the Pre-Petition Loan Documents), will, as funds are borrowed and repaid, subject to Section 4.1, be gradually rolled into, and deemed for all purposes a part of, the DIP Obligations and shall be deemed to have been incurred under the DIP Credit Agreement; provided, that subject to Section 4.1, (i) upon entry of this Interim Order, all Letters of Credit issued under the Pre-Petition Credit Agreement shall be automatically deemed to have been issued under the DIP Credit Agreement and constitute DIP Obligations; and (ii) subject to the entry of the Final Order, all remaining Pre-Petition Obligations other than the Remaining Pre-Petition Obligation shall, to the extent not having already been rolled up and converted into DIP Obligations in accordance with this Interim Order, shall be automatically rolled up and converted into DIP Obligations. Upon execution and delivery of the

DIP Credit Agreement and the other DIP Loan Documents, such agreements and documents shall constitute valid and binding obligations of the Debtors, enforceable against each Debtor in accordance with the terms of such agreements, documents and this Interim Order. No obligation, payment, transfer or grant of security under the DIP Credit Agreement, the other DIP Loan Documents or this Interim Order shall be stayed, restrained, voidable, or recoverable under the Bankruptcy Code or under any applicable state, federal or foreign law (including, without limitation, under chapter 5 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or foreign law) or be subject to any defense, reduction, setoff, counterclaim, recoupment, offset, recharacterization, subordination (whether equitable, contractual or otherwise), cross-claims or any other challenge under the Bankruptcy Code or any applicable law, rule or regulation by any person or entity.

(b) Approval; Evidence of Borrowing Arrangements. All terms, conditions and covenants set forth in the DIP Loan Documents (including, without limitation, the DIP Credit Agreement) are approved. All such terms, conditions and covenants shall be sufficient and conclusive evidence of (a) the borrowing arrangements by and among the Debtors and DIP Lender, and (b) each Debtor's agreement to all of the terms, conditions, and covenants of the DIP Credit Agreement and the other DIP Loan Documents for all purposes, including, without limitation, to the extent applicable, the payment of all DIP Obligations arising thereunder, including, without limitation, all principal, interest, fees and other expenses, including, without limitation, all of DIP Lender's consultant fees, professional fees, attorney fees and legal expenses, as more fully set forth in the DIP Loan Documents and Section 5.12 of this Interim Order.

(c) Amendment. Subject to the terms and conditions of the DIP Credit Agreement and the other DIP Loan Documents, Debtors and DIP Lender may amend, modify,

supplement or waive any provision of the DIP Loan Documents (a "DIP Loan Amendment") without further approval or order of the Court, so long as (a) such DIP Loan Amendment is not material (for purposes hereof, a "material" DIP Loan Amendment shall mean any DIP Loan Amendment that operates to increase the interest rate other than as currently provided in the DIP Loan Documents, increase the Maximum Credit (as defined in the DIP Credit Agreement), increase or add an additional early termination fee, prepayment or repayment premium, add specific new events of default or enlarge the nature and extent of default remedies available to DIP Lender following an event of default) and is undertaken in good faith by the DIP Lender and the Debtors (each, a "Material DIP Loan Amendment"); (b) the Debtors provide prior written notice of the DIP Loan Amendment (the "DIP Loan Amendment Notice") to (i) the U.S. Trustee and (ii) counsel to any Committee, or in the event no such Committee is appointed at the time of such DIP Loan Amendment, the 30 Largest Unsecured Creditors; (c) the Debtors file the DIP Loan Amendment Notice with the Court; and (d) no objection to the DIP Loan Amendment is filed with the Court within five (5) business days from the date the DIP Loan Amendment Notice is filed with the Court in accordance with this Section. Any Material DIP Loan Amendment to the DIP Loan Documents must be approved by the Court to be effective.

1.4 Payment of Pre-Petition Debt. The Debtors are authorized to repay all Pre-Petition Obligations in accordance with the Pre-Petition Loan Agreement, the DIP Credit Agreement, the other DIP Loan Documents and this Interim Order, including, without limitation, Sections 1.5 and 1.6 of this Interim Order.

1.5 Application of Payments and Collateral Proceeds; Roll-Up.

(a) The Debtors are authorized to make all payments and transfers of Estate property to the Pre-Petition Lender and DIP Lender as provided for, permitted and/or

required under the Pre-Petition Loan Agreement, DIP Credit Agreement and the other DIP Loan Documents, and any such payments and transfers shall not be avoidable or recoverable from the Pre-Petition Lender or DIP Lender under sections 547, 548, 550, 553 or any other section of the Bankruptcy Code, or by reason of any other claim, charge, assessment, or other liability, whether by application of the Bankruptcy Code, other law or otherwise. All proceeds of the Collateral, including without limitation, all cash proceeds generated from the sale of Collateral, received by Pre-Petition Lender or DIP Lender, and any other amounts or payments received from any Debtor by Pre-Petition Lender or DIP Lender in respect of the DIP Obligations, may be applied or deemed to be applied as and when received by the Pre-Petition Lender and DIP-Lender, first to the repayment in full of the Pre-Petition Obligations other than a portion of such Pre-Petition Obligations in the amount of $1 million (such portion, the "Remaining Pre-Petition Obligation"), and then to the repayment of the remaining DIP Obligations, all in accordance with the Pre-Petition Loan Agreement, DIP Credit Agreement, the other DIP Loan Documents, and this Interim Order; provided that, for the avoidance of doubt, the repayment of any Pre-Petition Obligations pursuant to this Section 1.5(a) shall, in all respects be subject to Section 4.1(b).

(b) Upon entry of the Final Order and subject to Section 4.1(b), (i) all Pre-Petition Obligations other than the Remaining Pre-Petition Obligation, including, without limitation, all Pre-Petition Obligations arising in respect of Advances under the Line, Letters of Credit, Advances under the Loan Limit Line, Advances under the Supplemental Line, and other Obligations (each as defined in the Pre-Petition Loan Agreement) together with all accrued and unpaid interest, fees, costs, and other changes accrued and accruing thereon, shall be substituted and exchanged automatically for (and repaid by) the DIP Loans (as defined in the DIP Credit Agreement) extended under and pursuant to the DIP Credit Facility without any further action by

the Debtors, the Court or any other party, and shall constitute and be deemed to be Obligations (as defined in the DIP Credit Agreement) under the DIP Credit Facility as of such date; and (ii) all Letters of Credit issued or provided, as applicable, under the Pre-Petition Loan Agreement shall be deemed to have been issued or provided, as applicable, under the DIP Credit Agreement and the other DIP Loan Documents.

(c) Without limiting the generality of Sections 1.5(a) and 1.5(b), the Debtors are authorized without further order of this Court to pay or reimburse the DIP Lender for all costs and expenses, including, without limitation, all professional fees, consultant fees and legal fees and expenses paid or incurred by the DIP Lender in connection with the financing transactions as provided in this Interim Order and the DIP Loan Documents, all of which shall be and are included as part of the principal amount of the Obligations and secured by the Collateral (as defined herein); provided that any such legal fees shall be paid only in accordance with the procedures set forth in Section 5.12 of this Interim Order.

1.6 Continuation of Pre-Petition Procedures. Except to the extent expressly set forth in the DIP Loan Documents, all pre-petition practices and procedures for the payment and collection of proceeds of the Collateral, the turnover of cash, the delivery of property to the Pre-Petition Lender, and any lockbox or blocked depository bank account arrangements, are hereby approved, ratified and shall continue without interruption after the commencement of the Chapter 11 Cases and are further approved and deemed applicable for the payment and collection of proceeds of the Collateral, the turnover of cash, and the delivery of property to the DIP Lender.

Section 2. Post-Petition Lien; Superpriority Administrative Claim Status.

2.1 Post-Petition Lien.

(a) Post-Petition Lien Granting. To secure the prompt payment and performance of any and all Obligations (as defined in the DIP Credit Agreement) of the Debtors

to the DIP Lender of whatever kind, nature or description, absolute or contingent, now existing or hereafter arising, DIP Lender shall have and is hereby granted, effective as of the Petition Date, valid and perfected first-priority security interests and liens, superior to all other liens, claims or security interests that any creditor of any of the Debtors' Estates may have (but subject and subordinate to the Carve-Out (as defined below) and the Permitted Liens), in and upon all of the Collateral (as defined in the DIP Credit Agreement and referred to herein as the "Collateral"); provided however, the Collateral shall not include (i) any of the Debtors' unexpired real property leases to the extent that such unexpired leases prohibit the non-consensual grant of security interests or liens in such unexpired leases (in which case, the Collateral shall include the proceeds of such unexpired leases) and (ii) prior to the entry of the Final Order, any property recovered as a result of transfers or obligations avoided or actions maintained or taken pursuant to sections 542, 544, 545, 547, 548, 549, 550, 551, 553(b) or 724(a) of the Bankruptcy Code ("Avoidance Actions"). In accordance with Sections 552(b) and 361 of the Bankruptcy Code, the value, if any, in any of the Collateral, in excess of the amount of DIP Obligations secured by such Collateral after satisfaction of the DIP Obligations of Debtors to DIP Lender, shall (subject to the Permitted Liens and Claims) constitute additional security for the repayment of the Pre-Petition Obligations and adequate protection for the use by Debtors, and the Diminution in Value (as defined herein), of the Collateral existing on the Petition Date.

(b) Lien Priority in Collateral. The liens and security interests of DIP Lender granted under the DIP Loan Documents and this Interim Order in the Collateral securing all Obligations shall be first and senior in priority to all other interests and liens of every kind, nature and description, whether created consensually, by an order of the Court or otherwise, including, without limitation, liens or interests granted in favor of third parties in conjunction with

sections 363, 364 or any other section of the Bankruptcy Code or other applicable law; provided, however, that DIP Lender's liens on and security interests in the Collateral shall be subject and subordinate only to (a) the Carve-Out, and (b) Permitted Liens.

(c) Right of Repayment. The right to repayment of DIP Lender granted under the DIP Loan Documents and this Interim Order from the sale or other disposition of the Collateral or any proceeds thereof shall be first and senior in priority to all other rights of repayment of every kind, nature and description, subject and subordinate only to (a) the Carve-Out (as defined herein), and (b) Permitted Liens.

(d) Post-Petition Lien Perfection. This Interim Order shall be sufficient and conclusive notice and evidence of the priority, perfection and validity of the post-petition liens and security interests granted herein, effective as of the Petition Date, without any further act and without regard to any other federal, state or local requirements or law requiring notice, filing, registration, recording, control or possession of the Collateral, or other act to validate or perfect such security interest or lien, including without limitation, control agreements with any financial institution(s) party to a Control Agreement with respect to any Deposit Account or Securities Account (each as defined in the DIP Credit Agreement) held by such financial institution(s) or other depository account consisting of a "Perfection Act". Notwithstanding the foregoing, if DIP Lender, shall, in its sole discretion, elect for any reason to file, record or otherwise effectuate any Perfection Act, then DIP Lender is authorized to perform such act, and the Debtors are authorized to perform such act to the extent necessary or required by DIP Lender, which act or acts shall be deemed to have been accomplished as of the Petition Date, and in such event, the subject filing or recording office is authorized to accept, file or record any document in regard to such act in accordance with applicable law. DIP Lender may choose to file, record or present a certified copy

of this Interim Order in the same manner as a Perfection Act, which shall be tantamount to a Perfection Act, and, in such event, the subject filing or recording office is authorized to accept, file or record such certified copy of this Interim Order in accordance with applicable law. Should DIP Lender so choose and attempt to file, record or perform a Perfection Act, no defect or failure in connection with such attempt shall in any way limit, waive or alter the validity, enforceability, attachment, or perfection of the post-petition liens and security interests granted herein by virtue of the entry of this Interim Order.

(e) Nullifying Pre-Petition Restrictions to Post-Petition Financing. Notwithstanding anything to the contrary contained in any pre-petition agreement, contract, lease, document, note or instrument to which any Debtor is a party or under which any Debtor is obligated, except as otherwise permitted under the DIP Loan Documents, any provision that restricts, limits or impairs in any way any Debtor from granting DIP Lender security interests in or liens upon any of the Debtors' assets or properties (including, among other things, any anti-lien granting or anti-assignment clauses in any leases or other contractual arrangements to which any Debtor is a party) under the DIP Loan Documents or this Interim Order, as applicable, or otherwise entering into and complying with all of the terms, conditions and provisions hereof or of the DIP Loan Documents, shall not (a) be effective and/or enforceable against any such Debtor(s) or DIP Lender, as applicable, or (b) adversely affect the validity, priority or enforceability of the liens, security interests, claims, rights, priorities and/or protections granted to DIP Lender pursuant to this Interim Order or the DIP Loan Documents, in each case, to the maximum extent permitted under the Bankruptcy Code and other applicable law that would not render any unexpired lease or executory contract non-assumable or non-assignable pursuant to section 365 of the Bankruptcy Code.

2.2 Superpriority Administrative Expenses.

(a) DIP Loans. For all DIP Obligations (including, without limitation, subject to Section 4.1, the Pre-Petition Obligations rolled into the DIP Obligations in accordance with the terms hereof) now existing or hereafter arising pursuant to this Interim Order, the DIP Loan Documents or otherwise, DIP Lender is granted an allowed superpriority administrative claim pursuant to section 364(c)(1) of the Bankruptcy Code, having priority in right of payment over any and all other obligations, liabilities and indebtedness of Debtors (other than the Carve-Out), whether now in existence or hereafter incurred by Debtors, and over any and all administrative expenses or priority claims of the kind specified in, or ordered pursuant to, inter alia, sections 105, 326, 328, 330, 331, 364(c)(1), 503(b), 506(c) (subject to entry of the Final Order), 507(a), 507(b), 546(c), 726, 1113 or 1114 of the Bankruptcy Code (other than the Carve-Out), whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed superpriority administrative claim shall be payable from and have recourse to all prepetition and postpetition property of the Debtors and all proceeds thereof (the "DIP Loan Superpriority Claim").

2.3 Carve-Out.

(a) As used in this Interim Order, the "Carve-Out" means the sum of:

(i) all fees required to be paid to the Clerk of the Court and to the Office of the United States Trustee under 28 U.S.C § 1930(a);

(ii) all reasonable fees and expenses up to $25,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (the fees and expenses set forth in Sections 2.3(a)(i) and (ii) are defined as the "Carve-Out Expenses");

(iii) subject to the terms and conditions of this Interim Order, Allowed Professional Fees (as defined below) incurred during the period commencing on the Petition Date and ending on the Trigger Date (as defined below) (the "Pre-Trigger Date Period") by attorneys, accountants and other professionals retained by the Debtors and any Committee(s) under Section 327 or 1103(a) of the Bankruptcy Code (collectively, the "Professionals"), *provided* that the aggregate amount of such Allowed Professional Fees included in the Carve-Out pursuant to this clause (iii) shall not exceed the line item amounts for Professionals as set forth in the DIP Budget covering the Pre-Trigger Date Period, less the sum of (A) all Allowed Professional Fees incurred during the Pre-Trigger Date Period and paid at any time, and (B) any retainers held by any Professional (the "Pre-Trigger Date Professional Fee Carve-Out"); and

(iv) subject to the terms and conditions contained in this Interim Order, Allowed Professional Fees incurred by Professionals incurred beginning on the first business day after the Trigger Date in an aggregate amount not to exceed $500,000 (the "Post-Trigger Date Professional Fee Carve-Out"; and together with the Pre-Trigger Date Professional Fee Carve-Out, collectively, the "Professional Fee Carve-Out"). For the avoidance of doubt and notwithstanding anything to the contrary in this Interim Order or the DIP Loan Documents: (x) the Carve-Out shall be senior to all liens and claims securing the DIP Obligations, the Replacement Liens, the DIP Loan Superpriority Claim, the Superpriority Claim, and any and all other forms of adequate protection, liens, or claims securing the DIP Obligations or the Pre-Petition Obligations; and (y) nothing herein shall be construed to impair the ability of any party to object to the fees, expenses, reimbursement or compensation described herein, and nothing herein shall be construed to limit the ability of Professionals from obtaining payment of allowed fees and expenses from property of the Estates.

(b) For purposes of this Interim Order, (a) the term "Allowed Professional Fees" shall mean the unpaid and outstanding fees and expenses of Professionals (i) actually incurred on or after the Petition Date, and (ii) allowed and payable at any time by any order of the Court pursuant to sections 326, 328, 330 or 331 of the Bankruptcy Code (but excluding any transaction, restructuring, completion, success or similar fees); and (b) the term "Trigger Date" shall mean the date upon which DIP Lender provides written notice to the Debtors, the Committee, and the U.S. Trustee following the occurrence and during the continuation of an Event of Default, acceleration of the DIP Obligations, and election to fund the Post-Trigger Date Professional Fee Carve-Out. In the event that the Trigger Date occurs prior to the end of any week set forth in the DIP Budget, then for purposes of calculating the portion of the Pre-Trigger Date Professional Fee Carve-Out available for such week, the amount of the "professional fee" line item in the DIP Budget for such week shall be multiplied by a fraction, the numerator of which shall be the number of days in such week prior to the Trigger Date, and the denominator of which shall be 7.

For the avoidance of doubt, (i) so long as a Carve-Out Trigger Notice has not been issued, the Debtors shall be permitted to pay fees to estate professionals and reimburse expenses incurred by estate professionals that are allowed Court order and payable under sections 328, 330 and 331 of the Bankruptcy Code including any administrative order concerning payment of interim fees and expenses as the same may be due and payable to the extent set forth in the DIP Budget and in accordance with the DIP Credit Agreement and this Interim Order; and (ii) nothing herein shall be construed to impair the ability of any party to object to the fees, expenses, reimbursement or compensation described herein.

(c) Excluded Professional Fees. Notwithstanding anything to the contrary in this Interim Order, neither the Carve-Out nor the proceeds of Collateral or any DIP

Loans, Letters of Credit or any other credit or financial accommodations provided under or in connection with the DIP Loan Documents shall be used to pay any Allowed Professional Fees or any other fees or expenses incurred by any party, including any Debtor, any Committee, or any Professional in connection with any of the following:

(i) an assertion or joinder in any claim, counter-claim, action, proceeding, application, motion, objection, defense or other contested matter seeking any order, judgment, determination or similar relief: (A) challenging the legality, validity, priority, perfection, or enforceability of (1) the Pre-Petition Obligations or Pre-Petition Lender's liens on and security interests in the Pre-Petition Collateral or (2) the Obligations or DIP Lender's liens on and security interests in the Collateral; (B) invalidating, setting aside, avoiding or subordinating, in whole or in part, (1) the Pre-Petition Obligations or Pre-Petition Lender's liens on and security interests in the Pre-Petition Collateral or (2) the Obligations or DIP Lender's liens on and security interests in the Collateral; or (3) preventing, hindering or delaying DIP Lender's assertion or enforcement of any lien, claim, right or security interest or realization upon any Collateral in accordance with the terms and conditions of the DIP Credit Agreement, the DIP Loan Documents, and this Interim Order;

(ii) a request to use Cash Collateral (as such term is defined in section 363 of the Bankruptcy Code), without the prior written consent of DIP Lender in accordance with the terms and conditions of this Interim Order;

(iii) a request, without the prior written consent of the DIP Lender, for authorization to obtain debtor in possession financing or other financial accommodations pursuant to sections 364(c) or (d) of the Bankruptcy Code that does not provide for the Payment in Full of all the Pre-Petition Obligations and the Obligations on terms and

conditions acceptable to the DIP Lender (other than as specifically provided herein) on the date any such financing or financial accommodation is approved by this Court; [3]

(iv) the commencement or prosecution of any action or proceeding of any claims, causes of action or defenses against DIP Lender or any of its respective officers, directors, employees, agents, attorneys, affiliates, predecessors, successors or assigns, including, without limitation, any attempt to recover or avoid any claim or interest from DIP Lender under chapter 5 of the Bankruptcy Code;

(v) the cost of investigation into any claims against Pre-Petition Lender arising under or in connection with the Pre-Petition Loan Documents in excess of $25,000;

(vi) seeking relief under the Bankruptcy Code, including, without limitation, in each case under Section 105 of the Bankruptcy Code, to the extent such relief

[3] All references to "payment in full" or "Payment in Full" or "paid in full" or "Paid in Full" with respect to the Pre-Petition Obligations or DIP Obligations, as the case may be, means the indefeasible repayment in full in cash of all such obligations (including principal, interest, fees, expenses, and indemnities), except that for contingent obligations it shall include arrangements and amounts reasonably satisfactory to the applicable Lender, whether in the form of cash collateral or a backstop letter of credit, and including in any event in addition to such arrangements as to letters of credit and similar instruments, treasury and cash management obligations, hedging obligations and other bank product obligations, the pledge of cash collateral in such amounts as the applicable agent, lender or issuing bank may reasonably require to secure any reimbursement, indemnification or similar continuing obligations of the Debtors in favor of the applicable Lenders, in each case, in accordance with the terms of the applicable Pre-Petition Loan Document or DIP Loan Document (it being understood that the reference to cash collateral herein under the Pre-Petition Loan Agreement or the DIP Credit Agreement means the pledge and deposit with and delivery to such respective Lender, as the case may be, as collateral for the obligations specified above in such amounts as Pre-Petition Lender or DIP Lender, as the case may be, determines pursuant to documentation in form and substance reasonably satisfactory to such Lender and that Pre-Petition Lender, or DIP Lender, as the case may be, shall receive a release from each Debtor and any Committee of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defenses, rights of set-off, demands and liabilities (including, without limitation any obligations or liabilities of any kind related to the Carve-Out upon payment in full of the Pre-Petition Obligations or DIP Obligations) in form and substance acceptable to Pre-Petition Lender or DIP Lender, as applicable or in the case of the Committee, instead of such release, (A) if the Challenge Period (as defined in this Interim Order) has not elapsed, a written notice or other confirmation that no Challenge or any other claims of any kind (including with respect to the Carve-Out upon payment in full of the Pre-Petition Obligations or DIP Obligations) will be asserted or (B) if the Challenge Period has elapsed, then no Challenge or any other claim has been asserted or any Challenge or other claim asserted has been dismissed pursuant to a final, non-appealable order of a court of competent jurisdiction and a written notice or other confirmation that no claim of any kind with respect to the Carve-Out will be asserted.

would restrict or impair the rights and remedies of any secured party as set forth in this Interim Order, the DIP Loan Documents, or the Final Order; or

(vii) any act which has or could directly, materially and adversely modify or compromise the rights and remedies of DIP Lender under this Interim Order, or which directly results in the occurrence of an Event of Default under any DIP Loan Documents, or this Interim Order.

(d) Carve-Out Reserve. DIP Lender at its discretion, may at any time and in any increment, establish a reserve (the "Reserve") against the amount of DIP Loans, Letters of Credit or other credit accommodations, as applicable, that would otherwise be made available to Debtors pursuant to the DIP Budget in respect of the Carve-Out set forth in Section 2.3; provided, that the DIP Lender shall not establish or maintain a reserve in respect of Carve-Out that have been funded into the Professional Fee Escrow Account (as defined below).

(e) Funding the Professional Fee Carve-Out. Prior to the Trigger Date and subject to the terms and conditions contained in this Interim Order, the Debtors shall be authorized to utilize a portion of the DIP Loans and Cash Collateral made available to the Debtors in accordance with the DIP Budget and terms and conditions of the DIP Loan Documents and this Interim Order to fund the amounts of the Professional Fees set forth in the line items of the DIP Budget entitled "Professional Fees" through the week of any such funding into an escrow account that shall be used exclusively to hold such Professional Fee Carve-Out deposits and pay Allowed Professional Fees subject to the terms of this Interim Order (such escrow account, the "Professional Fee Escrow Account"). DIP Lender shall not be responsible to ensure that Debtors make such deposits into the Professional Fee Escrow Account. The Debtors shall not be permitted to deposit any funds into the Professional Fee Escrow Account in excess of the aggregate amount set forth

in the line item of the DIP Budget under the category of "Professional Fees" through the week in which such deposit is made.

(f) Payment of Allowed Professional Fees on or After the Trigger Date. Upon the earlier of (i) the Trigger Date and (ii) the closing of the sale or sales of substantially all of the Debtors' assets and properties in accordance with the terms of the DIP Loan Documents (such date, the "Pre-Trigger Professional Fee Carve-Out Determination Date"), the Debtors shall not be permitted to fund or deposit any more funds into the Professional Fee Escrow Account, unless otherwise agreed by the DIP Lender. Within five (5) business days immediately following the Pre-Trigger Professional Fee Carve-Out Determination Date, each Professional shall deliver one statement (the "Final Statement") setting forth the actual fees and expenses incurred by such Professional during the Pre-Trigger Carve-Out Period. To the extent that the amount in the Professional Fee Escrow Account exceeds the sum of (a) the total of the Final Statements delivered by each Professional plus (b) the Post-Trigger Date Professional Fee Carve-Out, the excess amount shall be returned in equal portions to DIP Lender. Within five (5) Business Days following the closing of the sale or sales of substantially all of the Debtors' assets, each Professional shall deliver one statement setting forth the actual fees and expenses incurred by such Professional during the period from the Petition Date to the last such sale closing (the "Sale Closing Fee Statement"). To the extent that the amount in the Professional Fee Escrow Account exceeds the Sale Closing Fee Statement on a Professional by Professional basis the Sale Closing Fee Statement for such Professional (or, to the extent aggregated among several Professionals in the DIP Budget, the aggregate Sale Closing Fee Statements for such aggregated Professionals), the excess amount shall be returned in equal portions to DIP Lender. The funds in the Professional Fee Escrow Account shall be held by the Debtors in trust to pay the Allowed Professional Fees subject to, and in

accordance with, the terms and conditions contained in this Interim Order. The DIP Lender shall retain a lien, junior and subordinate only to the Professional Fee Carve-Out, on the Professional Fee Escrow Account and the funds deposited therein, and shall be entitled to any remaining funds after payment of the Professional Fee Carve-Out. DIP Agent shall have no obligations to fund or otherwise arrange for the funding of any Allowed Professional Fees other than as set forth in this Interim Order. For the avoidance of doubt, DIP Lender may at any time after the occurrence of an Event of Default and/or in connection with Payment in Full of the DIP Loans, deposit funds in an amount equal to (i) the unfunded amount of the Pre-Trigger Date Professional Fee Carve-Out, plus (ii) the Post-Trigger Date Professional Fee Carve-Out into the Professional Fee Escrow Account plus the amount of any Carve-Out Expenses that are due as of such time, at which time DIP Lender shall be automatically released and forever discharged from any obligations in connection with the Carve-Out and the liens, claims and rights to payment of the DIP Lender shall cease to be subordinate to the Carve-Out. No funds in the Professional Fee Escrow Account shall be used for any purpose other than for the payment of Allowed Professional Fees to the extent provided in this Interim Order, and the amount of such funds so used shall nevertheless permanently reduce the amount of the Carve Out on a dollar for dollar basis. The Professional Fee Escrow Account shall be free and clear of all claims, liens, and encumbrances other than the Professionals' first priority interest in the Professional Fee Escrow Account and the Bank's subordinate residual interest, to the extent the Professional Fee Escrow Account is overfunded.

2.4 Payment of Carve-Out Expenses.

(a) Prior to the Trigger Date, the Debtors shall be permitted to pay Allowed Professional Fees up to the amounts set forth in the DIP Budget and subject to the terms and conditions contained in this Interim Order. Any such amounts paid prior to the Trigger Date

shall permanently reduce the Pre-Trigger Date Professional Fee Carve-Out on a dollar-for-dollar basis.

(b) Any payment or reimbursement made either directly by the DIP Lender at any time, or by or on behalf of the Debtors on or after the Trigger Date in respect of any Allowed Professional Fees prior to or after the Trigger Date shall permanently reduce the Professional Fee Carve-Out on a dollar-for-dollar basis. Any funding by DIP Lender of the Professional Fee Carve-Out or any other Carve-Out Expenses shall be added to and made a part of the DIP Obligations, secured by the Collateral, and entitle DIP Lender to all of the rights, claims, liens, priorities and protections under this Interim Order, the applicable DIP Loan Documents, the Bankruptcy Code or applicable law. Payment of Professional Fee Carve-Out or any other Carve-Out Expenses, whether by or on behalf of DIP Lender, shall not and shall not be deemed to reduce the DIP Obligations, and shall not and shall not be deemed to subordinate DIP Lender's liens and security interests in the Collateral or their Superpriority Claim to any junior pre- or post-petition lien, interest or claim in favor of any other party.

(c) The DIP Lender shall not, under any circumstance, be responsible for the direct payment or reimbursement of any fees or disbursements of any Professionals incurred in connection with the Chapter 11 Cases under any chapter of the Bankruptcy Code, and nothing in Sections 2.3 or 2.4 of this Interim Order shall be construed to obligate DIP Lender in any way, to pay compensation to or to reimburse expenses directly to any Professional, or to ensure that the Debtors have sufficient funds to pay such compensation or reimbursement in an aggregate amount that exceeds the DIP Commitments.

2.5 Limited Use of Cash Collateral; Adequate Protection.

(a) Authorization to Use Cash Collateral. Subject to the terms and conditions of this Interim Order, the DIP Credit Agreement, the DIP Loan Documents, and in accordance with the DIP Budget, Debtors shall be and are hereby authorized to use Cash Collateral for the period commencing on the date of this Interim Order and terminating upon the earlier of (i) the date that is the final day of the Interim Financing Period; and (ii) the date on which the DIP Lender delivers an Enforcement Notice (as defined below) to counsel for the Debtors, counsel for the Committee (if appointed), and the U.S. Trustee, subject to the liens and security interests granted to the DIP Lender. Nothing in this Interim Order shall authorize the disposition of any assets of the Debtors or their Estates outside the ordinary course of business, or any Debtors' use of Cash Collateral or other proceeds resulting therefrom, except as expressly permitted in this Interim Order, the DIP Loan Documents and in accordance with the DIP Budget.

(b) Replacement Liens. As adequate protection for the diminution in value of its interests in the Pre-Petition Collateral (including Cash Collateral) on account of the Debtors' use of such Collateral (including Cash Collateral), the imposition of the automatic stay and the subordination to the Carve-Out on a dollar-for-dollar basis (collectively, the "Diminution in Value"), the Pre-Petition Lender is hereby granted, pursuant to sections 361 and 363 of the Bankruptcy Code, and solely to the extent of the Diminution in Value, valid, binding, enforceable and perfected replacement liens upon and security interests in all Collateral (the "Replacement Lien"), which security interests and liens shall be subject and subordinate to the Carve-Out. The Replacement Lien shall be junior and subordinate only to (A) the Carve-Out, (B) the Permitted Liens, and (C) DIP Lender's liens on the Collateral to secure the Obligations, and shall otherwise be senior to all other security interests in, liens on, or claims against any of the Collateral.

(c) Section 507(b) Priority Claims. As adequate protection for the Diminution in Value, the Pre-Petition Lender is hereby granted as and to the extent provided by section 507(b) of the Bankruptcy Code, and solely to the extent of the Diminution in Value, an allowed superpriority administrative expense claim in each of the Chapter 11 Cases and any successor bankruptcy cases (the "Superpriority Claim"). The Superpriority Claim shall be junior only to (A) the Carve-Out and (B) the DIP Loan Superpriority Claim, and shall otherwise have priority over all administrative expense claims, including administrative expenses of the kinds specified in or ordered pursuant to sections 503(b) and 507(b) of the Bankruptcy Code, and unsecured claims against Debtors and their Estates now existing or hereafter arising, of any kind or nature whatsoever.

(d) Fees and Expenses. As further adequate protection, the Debtors are authorized to pay, without further Court order, documented legal fees and expenses, whether incurred before or after the Petition Date, of counsel to the Pre-Petition Lender (in its capacity under the Pre-Petition Loan Documents), *provided*, that (a) the Debtors, the U.S. Trustee, and the Committee (if any) shall have ten (10) days from receipt of invoices to review the summary legal invoices of such counsel, and (b) in the event the Debtors, the U.S. Trustee, or Committee (if any) files with this Court an objection to any such legal invoice within ten (10) days of its receipt thereof, the undisputed portion of such legal invoice shall be paid without further order of the Court whereas the portion of such legal invoice subject to such objection shall not be paid until resolution of such objection or entry of an order by this Court, and (c) in the event neither the Debtors, U.S. Trustee nor the Committee shall file with this Court an objection to any such legal invoice within ten (10) days of its receipt thereof, such legal invoice shall be paid without further order of the Court and shall not be subject to any further review, challenge or disgorgement.

(e) Information Rights. The Debtors shall promptly provide the DIP Lender with all required financial reporting and other periodic reporting that is required to be provided to the DIP Lender under the DIP Loan Documents.

Section 3. Default; Rights and Remedies; Relief from Stay.

3.1 Events of Default. Unless waived by the DIP Lender in writing in accordance with the terms of the DIP Credit Agreement or the DIP Loan Documents, the occurrence of any of the following events shall constitute an "Event of Default" under this Interim Order: (a) any Debtor's failure to perform, in any material (as determined by the DIP Lender in its sole discretion) respect, any of its obligations under this Interim Order; or (b) an "Event of Default" under the DIP Credit Agreement or any of the other DIP Loan Documents.

3.2 Rights and Remedies upon Event of Default. Upon the DIP Lender's service of a notice of occurrence of and during the continuance of an Event of Default, (a) the Debtors shall be bound by all restrictions, prohibitions and other terms as provided in this Interim Order, the DIP Credit Agreement and the other DIP Loan Documents, and (b) the DIP Lender shall be entitled to take any act or exercise any right or remedy (subject to Section 3.4 below) as provided in this Interim Order or any DIP Loan Document, as applicable, including, without limitation, declaring all Obligations then outstanding immediately due and payable, accelerating the Obligations, ceasing to extend DIP Loans or provide or arrange for Letters of Credit on behalf of any Debtor, setting off any Obligations with Collateral or proceeds in DIP Lender's possession, and enforcing any and all rights with respect to the Collateral. Except as expressly set forth in Section 2.5, DIP Lender shall have no obligation to lend or advance any additional funds to or on behalf of Debtors, or provide any other financial accommodations to Debtors, immediately upon or after the occurrence of an Event of Default or upon the occurrence of any act, event, or condition that, with the giving of notice or the passage of time, or both, would constitute an Event of Default.

3.3 Expiration of Loan Commitment. Upon the earlier of (a) expiration of Debtors' authority to borrow and obtain other financial accommodations from DIP Lender pursuant to the terms of this Interim Order and the DIP Loan Documents (except if such authority shall be extended with the prior written consent of DIP Lender, which consent shall not be implied or construed from any action, inaction or acquiescence by DIP Lender), and (b) the delivery by the DIP Lender of an Enforcement Notice upon the occurrence of an Event of Default declaring that the Obligations shall immediately become due and payable, in either case DIP Lender shall have no obligation whatsoever to make or extend any loans, advances, provide any financial or credit accommodations to Debtors or permit the use of Cash Collateral.

3.4 Modification of Automatic Stay. The automatic stay provisions of section 362 of the Bankruptcy Code and any other restrictions imposed by an order of the Court or applicable law are hereby modified without further notice, application or order of the Court to the extent necessary to permit the DIP Lender to perform, immediately upon entry of this Interim Order and at any time thereafter, any act authorized or permitted under or by virtue of this Interim Order or the DIP Loan Documents, as applicable, including, without limitation, (a) to implement the post-petition financing arrangements authorized by this Interim Order and pursuant to the terms of the DIP Loan Documents, (b) to take any act to create, validate, evidence, attach or perfect any lien, security interest, right or claim in the Collateral, and (c) to assess, charge, collect, advance, deduct and receive payments with respect to the Pre-Petition Obligations or the Obligations, as applicable, including, without limitation, all interest, fees, costs and expenses permitted under the DIP Loan Documents (subject to Section 5.12 of this Interim Order) and apply such payments to the Pre-Petition Obligations or Obligations pursuant to the DIP Loan Documents and this Interim Order, as applicable. Without limiting the foregoing, upon the occurrence of an Event of Default

and the DIP Lender providing five (5) business days (the "Default Notice Period") prior written notice (the "Enforcement Notice") to (i) counsel for the Debtors, (ii) counsel for the Committee (if appointed), and (iii) the U.S. Trustee, the DIP Lender shall be entitled without further notice, application or order of the Court to take any action and exercise all other rights and remedies provided to it by this Interim Order, the DIP Loan Documents or applicable law that DIP Lender may deem appropriate in its sole discretion to proceed against and realize upon the Collateral or any other assets or properties of Debtors' Estates upon which the DIP Lender has been or may hereafter be granted liens or security interests to obtain the indefeasible repayment in full of all Obligations. Notwithstanding anything to the contrary, any action that DIP Lender is otherwise permitted to take pursuant to this Interim Order to (i) terminate the commitments under the DIP Loan Documents, accelerate the DIP Loans, (iii) send blocking notices or activation notices pursuant to the terms of any Blocked Account Agreement, (iv) repay any amounts owing in respect of the Obligations (including, without limitation, fees, indemnities and expense reimbursements) and (v) cash collateralize Letters of Credit issued pursuant to the DIP Loan Documents, in each case, shall not require any advance notice to the Debtors. During the Default Notice Period, the Debtors, the U.S. Trustee, and the Committee (if appointed) shall be entitled to seek an emergency hearing, and the DIP Lender shall consent to such emergency hearing within the Default Notice Period; *provided* that if a request for such hearing is made prior to the end of the Default Notice Period, then the Notice Period shall be continued until the Court hears and rules with respect thereto. During the Default Notice Period, the Debtors shall continue to have the right to use Cash Collateral in accordance with the terms of this Interim Order, solely to pay necessary expenses set forth in the DIP Budget which have been approved by the DIP Lender (except as otherwise specifically provided in Section 2.3 and Section 2.4 of this Interim Order), and the DIP Lender

shall have the rights set forth in this paragraph, without the necessity of seeking relief from the automatic stay.

Section 4. Representations; Covenants; and Waivers.

4.1 Effect of Stipulations on Third Parties.

(a) Subject to Section 4.1(b) hereof, each stipulation, admission, and agreement contained in this Interim Order including, without limitation, the Stipulations, shall be binding upon the Debtors, their Estates and any successor thereto (including, without limitation, any chapter 7 or chapter 11 trustee appointed or elected for any of the Debtors) under all circumstances and for all purposes, and the Debtors are deemed to have irrevocably waived and relinquished all Challenges (as defined herein) as of the date of the Petition Date.

(b) Nothing in this Interim Order shall prejudice the rights of any Committee or any other party in interest, if granted standing by the Court, to seek, solely in accordance with the provisions of this Section 4.1, to assert claims against the Pre-Petition Lender on behalf of the Debtors or the Debtors' creditors or to otherwise challenge the Stipulations, including, but not limited to those in relation to (i) the validity, extent, priority, or perfection of the security interests, and liens of the Pre-Petition Lender, (ii) the validity, allowance, priority, or amount of the Pre-Petition Obligations, or (iii) any liability of the Pre-Petition Lender with respect to anything arising from the Pre-Petition Loan Documents. Notwithstanding the immediately preceding sentence, any Committee or any other party in interest must, after obtaining standing approved by the Court, commence a contested matter or adversary proceeding raising such claim, objection, or challenge, including, without limitation, any claim or cause of action against the Pre-Petition Lender (each, a "Challenge") no later than the date that is seventy-five (75) calendar days after the entry of this Interim Order, and (ii) subject to entry of the Final Order, the date that is five (5) business days prior to the closing of one or more sales of substantially all of the Debtors' assets

(collectively, the "Challenge Period"), provided however, with respect to any chapter 11 trustee appointed in the Chapter 11 Cases, or any chapter 7 trustee appointed in any successor case (each, a "Successor Case"), prior to the expiration of the Challenge Period, the Challenge Period for such trustee shall be extended to a date that is no later than fourteen (14) days after the appointment of such trustee. The Challenge Period, including the Challenge Period for such trustee, may only be extended with the written consent of the Pre-Petition Lender, prior to the expiration of such Challenge Period. Only those parties in interest who commence a Challenge within the Challenge Period may prosecute such Challenge. As to (x) any parties in interest, including any Committee, who fail to file a Challenge within the Challenge Period, or if any such Challenge is filed and overruled or otherwise finally resolved or adjudicated in favor of the Pre-Petition Lender or (y) any and all matters that are not expressly the subject of a timely Challenge: (1) any and all such Challenges by any party (including, without limitation, any Committee, any chapter 11 trustee, any examiner or any other estate representative appointed in the Debtors' Chapter 11 Cases, or any chapter 7 trustee, any examiner or any other estate representative appointed in any Successor Case), shall be deemed to be forever waived and barred, (2) all of the findings, Stipulations, waivers, releases, affirmations, and other stipulations shall be of full force and effect and forever binding upon the Debtors' bankruptcy estates and all creditors, interest holders, and other parties in interest in the Chapter 11 Cases and any Successor Cases, and (3) any and all claims or causes of action against the Pre-Petition Lender shall be released by the Debtors' estates, all creditors, interest holders, and other parties in interest in the Chapter 11 Cases and any Successor Cases.

(c) Nothing in this Interim Order vests or confers on any person (as defined in the Bankruptcy Code), including any Committee, standing or authority to pursue any

cause of action belonging to the Debtors or their Estates, including, without limitation, any Challenge.

4.2 Debtors' Waivers. At all times during the Chapter 11 Cases, and whether or not an Event of Default has occurred, the Debtors irrevocably waive any right that they may have to seek further authority (a) to use Cash Collateral of DIP Lender or Pre-Petition Lender under section 363 of the Bankruptcy Code, (b) to obtain post-petition loans or other financial accommodations pursuant to section 364(c) or 364(d) of the Bankruptcy Code that does not provide for the indefeasible repayment in full of all Pre-Petition Obligations and Obligations in cash at the time any such post-petition loans or financial accommodations are provided, extended or otherwise made available to Debtors, (c) to challenge, contest or otherwise seek to impair or object to the validity, extent, enforceability or priority of DIP Lender's post-petition liens and claims, (d) to challenge the application of any payments authorized by this Interim Order as pursuant to section 506(b) of the Bankruptcy Code, or to assert that the value of the Pre-Petition Collateral is less than the Pre-Petition Obligations, (e) to propose, support or have a plan of reorganization or liquidation that does not provide for the indefeasible payment in cash in full and satisfaction of all Obligations on the effective date of such plan in accordance with the terms and conditions set forth in the DIP Credit Agreement, except as otherwise agreed by the Pre-Petition Lender and the DIP Lender, (f) subject to entry of the Final Order providing for a waiver, to surcharge the Collateral pursuant to section 506(c) of the Bankruptcy Code, or (g) to seek relief under the Bankruptcy Code, including without limitation, under section 105 of the Bankruptcy Code, to the extent any such relief would in any way restrict or impair the rights and remedies of DIP Lender as provided in this Interim Order and the DIP Loan Documents or DIP Lender's exercise of such rights or remedies (other than to object to the exercise of the rights and remedies

within the Default Notice Period on the grounds set forth in Section 3.4 of this Interim Order); provided, however, that DIP Lender may otherwise consent in writing, but no such consent shall be implied from any other action, inaction, or acquiescence by DIP Lender; provided further, however, that nothing herein shall prohibit the Debtors from obtaining post-petition loans or other financial accommodations pursuant to section 364(c) or 364(d) of the Bankruptcy Code if the proceeds of such financing are used to indefeasibly pay (i) all Pre-Petition Obligations and the Pre-Petition Obligations are satisfied in full in accordance with the terms of the Pre-Petition Loan Agreement and the other Pre-Petition Loan Documents, and (ii) all Obligations are satisfied in full in accordance with the terms of the DIP Credit Agreement and the other DIP Loan Documents.

4.3 Section 506(c) Claims. Subject to entry of the Final Order granting such relief, no costs or expenses of administration which have or may be incurred in the Chapter 11 Cases shall be charged against DIP Lender or Pre-Petition Lender, or their respective claims or the Collateral pursuant to section 506(c) of the Bankruptcy Code without the prior written consent of such Lender, and no such consent shall be implied from any other action, inaction or acquiescence by DIP Lender or Pre-Petition Lender.

4.4 Collateral Rights. Until all Obligations shall have been indefeasibly paid and satisfied in full in accordance with the terms of the DIP Credit Agreement and the other DIP Loan Documents:

(a) no party other than DIP Lender shall foreclose or otherwise seek to enforce any junior lien or claim in Collateral; and

(b) upon and after the declaration of the occurrence of an Event of Default, and subject to the expiration of the Default Notice Period, in connection with a liquidation of any of the Collateral or the DIP Lender's exercise of remedies in respect of

the Collateral, DIP Lender (or any of its employees, agents, consultants, contractors or other professionals) shall have the right, at the sole cost and expense of the Debtors, to: (i) enter upon, occupy and use any real or personal property, fixtures, equipment, leasehold interests or warehouse arrangements owned or leased by Debtors, and (ii) use any and all trademarks, trade names, copyrights, licenses, patents or any other similar assets of Debtors, which are owned by or subject to a lien of any third party and which are used by Debtors in their businesses. DIP Lender will be responsible for the payment of any applicable fees, rentals, royalties or other amounts due such lessor, licensor or owner of such property for the period of time that DIP Lender actually uses the equipment or the intellectual property (but in no event for any accrued and unpaid fees, rentals or other amounts due for any period prior to the date that DIP Lender actually occupies or uses such assets or properties or for any fees, rentals or other amounts that may become due following the end of DIP Lender's occupation or use).

4.5 Releases.

Upon the earlier of (a) the entry of the Final Order or (b) the entry of an order extending the Interim Financing Period beyond thirty (30) calendar days after the date of this Interim Order, and in each instance, subject to Section 4.1 above, each Debtor, on behalf of itself and its successors and assigns (collectively, the "Releasors"), shall, forever release, discharge and acquit Pre-Petition Lender and each of its respective, successors and assigns, present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees and other representatives in their respective capacities as such (collectively, the "Pre-Petition Releasees") of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, of every kind, nature and description

other than fraud or willful misconduct, including, without limitation, any so-called "lender liability" claims or defenses, that Releasors had, have or hereafter can or may have against Pre-Petition Releasees, or any of them, as of the date hereof, in respect of events that occurred on or prior to the date hereof with respect to the Debtors, the Pre-Petition Obligations, the Pre-Petition Loan Documents and any Advances under the Line, Letters of Credit, Advances under the Loan Limit Line, or other financial accommodations made by any Pre-Petition Releasee to any Debtor. In addition, notwithstanding anything to the contrary set forth herein, upon the repayment of all Obligations (as defined in the DIP Credit Agreement) owed to the DIP Lender by Debtors and termination of the rights and obligations arising under the DIP Loan Documents (which payment and termination shall be on terms and conditions acceptable to the DIP Lender), the DIP Lender shall be released from any and all obligations, liabilities, actions, duties, responsibilities and causes of action arising or occurring, on or prior to the date of such repayment and termination, in connection with or related to the Debtors, DIP Loan Documents, this Interim Order or the Final Order (including without limitation any obligation or responsibility whether direct or indirect, absolute or contingent, due or not due, primary or secondary, liquidated or unliquidated to pay or otherwise fund the Carve-Out and/or the Professional Fee Carve-Out).

Section 5. Other Rights and Post-Petition Obligations.

5.1 No Modification or Stay of This Interim Order. Notwithstanding (a) any stay, modification, amendment, supplement, vacating, revocation or reversal of this Interim Order, the DIP Loan Documents or any term hereunder or thereunder, (b) the failure to obtain a Final Order pursuant to Bankruptcy Rule 4001(c)(2), or (c) the dismissal or conversion of one or more of the Chapter 11 Cases (each, a "Subject Event"), (x) the acts taken by the DIP Lender in accordance with this Interim Order, and (y) the Obligations incurred or arising prior to DIP Lender's actual receipt of written notice from Debtors expressly describing the occurrence of such

Subject Event shall, in each instance, be governed in all respects by the original provisions of this Interim Order, and the acts taken by DIP Lender in accordance with this Interim Order, and the liens granted to DIP Lender in the Collateral, and all other rights, remedies, privileges, and benefits in favor of DIP Lender pursuant to this Interim Order and the DIP Loan Documents shall remain valid and in full force and effect pursuant to section 364(e) of the Bankruptcy Code. For purposes of this Interim Order, the term "appeal", as used in section 364(e) of the Bankruptcy Code, shall be construed to mean any proceeding for reconsideration, amending, rehearing, or re-evaluating this Interim Order by this Court or any other tribunal.

5.2 Power to Waive Rights; Duties to Third Parties. DIP Lender shall have the right to waive any of the terms, rights and remedies provided or acknowledged in this Interim Order that are in favor of DIP Lender (the "DIP Lender Rights") and shall have no obligation or duty to any other party with respect to the exercise or enforcement, or failure to exercise or enforce, any DIP Lender Right(s). Any waiver by DIP Lender of any DIP Lender Rights shall not be or constitute a continuing waiver unless expressly specified in writing by the DIP Lender. Any delay in or failure to exercise or enforce any DIP Lender Right shall neither constitute a waiver of such DIP Lender Right, subject DIP Lender to any liability to any other party, nor cause or enable any party other than the Debtors to rely upon or in any way seek to assert as a defense to any obligation owed by the Debtors to DIP Lender.

5.3 Disposition of Collateral. Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the Collateral outside the ordinary course, other than pursuant to the terms of the DIP Loan Documents or Court order, without the prior written consent of DIP Lender (and no such consent shall be implied, from any other action, inaction or acquiescence by the DIP Lender). All cash proceeds generated from the sale of the Collateral shall

be paid to the DIP Lender in accordance with the DIP Credit Agreement upon the closing of such sale for permanent application to the Obligations owing by Debtors to the Pre-Petition Lender and the DIP Lender, as applicable in accordance with the terms and conditions of (a) this Interim Order and (b) the DIP Credit Agreement and other DIP Loan Documents until such time as all such Obligations are Paid in Full.

5.4 Inventory. Debtors shall not, without the consent of the DIP Lender, (a) enter into any agreement to return any inventory to any of their creditors for application against any pre-petition indebtedness under any applicable provision of section 546 of the Bankruptcy Code, or (b) consent to any creditor taking any setoff against any of its pre-petition indebtedness based upon any such return pursuant to section 553(b)(1) of the Bankruptcy Code or otherwise.

5.5 Reservation of Rights. The terms, conditions and provisions of this Interim Order are in addition to and without prejudice to the rights of DIP Lender to pursue any and all rights and remedies under the Bankruptcy Code, the DIP Loan Documents or any other applicable agreement or law, including, without limitation, rights to seek adequate protection and/or additional or different adequate protection, to seek relief from the automatic stay, to seek an injunction, to oppose any request for use of cash collateral or granting of any interest in the Collateral, as applicable, or priority in favor of any other party, to object to any sale of assets, and to object to applications for allowance and/or payment of compensation of Professionals or other parties seeking compensation or reimbursement from the Estates.

5.6 Binding Effect.

(a) The provisions of this Interim Order and the DIP Loan Documents, the Obligations, the Superpriority Claim, the DIP Loan Superpriority Claim and any and all rights, remedies, privileges and benefits in favor of the DIP Lender provided or acknowledged in this

Interim Order, and any actions taken pursuant thereto, shall be effective immediately upon entry of this Interim Order notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h) and 7062, shall continue in full force and effect, and shall survive entry of any such other order, including without limitation any order which may be entered confirming any plan of reorganization, converting one or more of the Chapter 11 Cases to any other chapter under the Bankruptcy Code, or dismissing one or more of the Chapter 11 Cases.

(b) Any order dismissing one or more of the Chapter 11 Cases under section 1112 of the Bankruptcy Code or otherwise shall be deemed to provide (in accordance with sections 105 and 349 of the Bankruptcy Code) that (a) the DIP Loan Superpriority Claim and DIP Lender's liens on and security interests in the Collateral and all other claims, liens, adequate protections and other rights granted pursuant to the terms of this Interim Order shall continue in full force and effect notwithstanding such dismissal until the Obligations are indefeasibly paid and satisfied in full, and (b) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing all such claims, liens, protections and rights.

(c) In the event this Court modifies any of the provisions of this Interim Order or the DIP Loan Documents following a Final Hearing, such modifications shall not affect the rights or priorities of DIP Lender or its interests in the Collateral authorized by or otherwise set forth in this Interim Order with respect to the Collateral or any portion of the Obligations arising or incurred by the Debtors prior to such modification, and this Interim Order shall otherwise remain in full force and effect to such extent.

(d) This Interim Order shall be binding upon Debtors, all parties in interest in the Chapter 11 Cases and their respective successors and assigns, including any trustee or other fiduciary appointed in the Chapter 11 Cases or any subsequently converted bankruptcy

case(s) of any Debtor. This Interim Order shall also inure to the benefit of Debtors and DIP Lender and each of their respective successors and assigns.

5.7 Restrictions on Cash Collateral Use, Additional Financing, Plan Treatment. All post-petition advances and other financial accommodations under the DIP Credit Agreement and the other DIP Loan Documents are made in reliance on this Interim Order and there shall not at any time be entered in the Chapter 11 Cases, or in any subsequently converted case under chapter 7 of the Bankruptcy Code, any order (other than the Final Order) which (i) authorizes the use of cash collateral of Debtors in which DIP Lender has an interest, or the sale, lease, or other disposition of property of any Debtor's Estate in which DIP Lender has a lien or security interest, except as expressly permitted hereunder or in the DIP Loan Documents, or (ii) authorizes under section 364 of the Bankruptcy Code the obtaining of credit or the incurring of indebtedness secured by a lien or security interest which is equal or senior to a lien or security interest in property in which DIP Lender holds a lien or security interest, or which is entitled to priority administrative claim status which is equal or superior to that granted to DIP Lender herein; unless, in each instance (x) DIP Lender shall have given its express prior written consent with respect thereto, no such consent being implied from any other action, inaction or acquiescence by DIP Lender, or (y) such other order requires that all Obligations shall first be indefeasibly paid and satisfied in full in accordance with the terms of the DIP Credit Agreement and the other DIP Loan Documents (other than unmatured indemnity obligations for which claims have not been asserted by the DIP Lender), including, without limitation, all debts and obligations of Debtors to DIP Lender which arise or result from the obligations, loans, security interests and liens authorized herein, on terms and conditions acceptable to DIP Lender. The security interests and liens granted to or for the benefit of DIP Lender hereunder and the rights of DIP Lender pursuant to this Interim Order and the DIP

Loan Documents with respect to the Obligations, Collateral, and claims against the DIP Loan Parties are cumulative and shall not be altered, modified, extended, impaired, or affected by any plan of reorganization or liquidation of Debtors and shall continue after confirmation and consummation of any such plan unless (i) all Obligations indefeasibly paid in full prior to such time, or (ii) DIP Lender expressly consents in writing to different treatment.

5.8 No Owner/Operator Liability. Subject to the entry of the Final Order granting such relief, the DIP Lender shall not be deemed to be in control of the operations of the Debtors or to be acting as a "responsible person" or "owner or operator" with respect to the operation or management of the Debtors (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 29 U.S.C. §§ 9601 et seq., as amended, or any similar federal or state statute).

5.9 Marshalling. Subject to entry of the Final Order granting such relief, in no event shall DIP Lender be subject to the equitable doctrine of "marshalling" or any similar doctrine with respect to the Collateral. DIP Lender shall be entitled to all of the rights and benefits of section 552(b) of the Bankruptcy Code, and, subject to entry of the Final Order granting such relief, the "equities of the case" exception under section 552(b) of the Bankruptcy Code shall not apply to the Pre-Petition Lender with respect to proceeds, products, offspring or profits of any of the Collateral, as applicable.

5.10 Right of Setoff. To the extent any funds were on deposit with Pre-Petition Lender as of the Petition Date, including, without limitation, all funds deposited in, or credited to, an account of any Debtor with Pre-Petition Lender immediately prior to the filing of the Chapter 11 Cases (regardless of whether, as of the Petition Date, such funds had been collected or made available for withdrawal by any such Debtor), such funds (the "Deposited Funds") are subject to

rights of setoff. By virtue of such setoff rights, the Deposited Funds are subject to a lien in favor of Pre-Petition Lender pursuant to sections 506(a) and 553 of the Bankruptcy Code.

5.11 Right to Credit Bid. The DIP Lender shall have the right, subject to section 363(k) of the Bankruptcy Code, to "credit bid" the amount of its claims that are Obligations and secured by liens arising under the terms of the DIP Loan Documents, during any sale of all or substantially all of the Debtors' assets, including without limitation, sales occurring pursuant to section 363 of the Bankruptcy Code or included as part of any restructuring plan subject to confirmation under section 1129(b)(2)(A)(ii)-(iii) of the Bankruptcy Code.

5.12 Payment and Review of Lender Fees and Expenses. Each Debtor shall pay all fees, that may be reasonably required or necessary for the Debtors' performance of their obligations under the DIP Credit Agreement, including, without limitation, the non-refundable payment to the (i) Pre-Petition Lender of the documented fees and expenses set forth in the Pre-Petition Loan Documents, including, without limitation, all fees, costs, disbursements and expenses of Otterbourg P.C., as legal counsel, and Richards, Layton & Finger, P.A., as local counsel and (ii) DIP Lender of the documented fees and expenses set forth in the DIP Loan Documents including, without limitation the fees, costs, disbursements and expenses of Otterbourg P.C., as legal counsel, and Richards, Layton & Finger, P.A., as local counsel, in each case whether incurred before or after the Petition Date; provided, that Debtors shall pay all such documented fees and expenses within ten (10) business days of delivery of a statement or invoice for such documented fees and expenses (it being understood that such statements or invoices shall not be required to be maintained in accordance with the U.S. Trustee Guidelines, nor shall any such counsel or other professional be required to file any interim or final fee applications with the Court or otherwise seek Court's approval of any such payments) to the Debtors, the U.S. Trustee and the

Committee (if any), unless, within such ten (10) business day period, the Debtors, the U.S. Trustee, or the Committee (if any) serves a written objection upon the requesting party detailing the specific fees or expenses to which such party objects along with an explanation for the basis of such objection, in which case, the Debtors shall immediately pay only such amounts that are not the subject of any objection and only pay the balance of such statements or invoices at such time and in such amount as subsequently agreed to by the requesting party and any objecting party or as otherwise ordered by the Court to be paid.

5.13 No Superior Rights of Reclamation. Based on the findings and rulings herein concerning the integrated nature of the DIP Credit Facility and the Pre-Petition Loan Documents, in no event shall any alleged right of reclamation or return (whether asserted under section 546(c) of the Bankruptcy Code or otherwise) be deemed to have priority over the liens held by the DIP Lender.

5.14 Term; Termination. Notwithstanding any provision of this Interim Order to the contrary, the term of the financing arrangements among Debtors and the DIP Lender authorized by this Interim Order may be terminated pursuant to the terms of the DIP Credit Agreement and this Interim Order.

5.15 Interim Order Controls. In the event of any conflict or inconsistency between or among the terms or provisions of this Interim Order and any of the DIP Loan Documents, unless such term or provision in this Interim Order is phrased in terms of "defined in" or "as set forth in" the DIP Credit Agreement or DIP Loan Documents, the terms and provisions of this Interim Order shall govern and control.

5.16 Joint and Several Liability. Nothing in this Interim Order shall be construed to constitute or authorize a substantive consolidation of any of the Debtors' estates, it being

understood, however, that the Debtors shall be jointly and severally liable for the Obligations hereunder and in accordance with the terms of this Interim Order.

5.17 No Stay of Effect. This Interim Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect and be enforceable immediately upon entry thereof. Notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h), 6006(d), 7062 or 9014 of the Bankruptcy Rules, any applicable Local Bankruptcy Rules, or Rule 62(a) of the Federal Rules of Civil Procedure, this Interim Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Interim Order.

5.18 Necessary Action. The Debtors are authorized to take any and all such actions as are necessary, required or appropriate to implement and effectuate the terms of this Interim Order, the DIP Loan Documents and the transactions contemplated hereunder and thereunder.

5.19 Retention of Jurisdiction. The Court retains jurisdiction and power with respect to all matters arising from or related to the implementation or interpretation of this Interim Order, the DIP Credit Agreement, and the other DIP Loan Documents.

5.20 Headings. All paragraph headings used in this Interim Order are for ease of reference only and are not to affect the construction hereof or to be taken into consideration in the interpretation hereof.

5.21 Final Hearing and Response Dates. The final hearing (the "Final Hearing") on the motion shall be held on **_____, 2025 at ___:___ __.m. (prevailing Eastern Time)**. Any objections or responses to entry of a final order on the motion (each, an "Objection") shall be filed on or before **4:00 p.m**. (prevailing Eastern Time) on **_____,**

**2025**, and served on the following parties: (a) proposed counsel for the Debtors, DLA Piper LLP (US), (i) 1201 North Market Street, Suite 2100, Wilmington, Delaware 19801 (Attn.: Stuart M. Brown [stuart.brown@us.dlapiper.com] and (ii) 444 West Lake Street, Suite 900, Chicago, Illinois 60606 (Attn.: W. Benjamin Winger [benjamin.winger@us.dlapiper.com]); (b) the Office of the United States Trustee for Region 3, J. Caleb Boggs Federal Building, 844 King St., Lockbox 35, Wilmington, DE 19801 (Attn.: Jonathan Lipshie [jon.lipshie@usdoj.gov]); (c) counsel to the DIP Lender and Pre-Petition Lender, (i) Richards, Layton & Finger, PA, 920 North King Street, Wilmington, Delaware, 19801 (Attn.: John H. Knight [knight @rlf.com]) and (ii) Otterbourg P.C., 230 Park Avenue, New York, New York 10169 (Attn.: Andrew M. Kramer [akramer@otterbourg.com] and James V. Drew [jdrew@otterbourg.com]); and (d) counsel to any official committee of unsecured creditors appointed in these chapter 11 cases. In the event no Objections to entry of a final order on the motion are timely received, this Court may enter such final order without a Final Hearing.

# EXHIBIT A

## DIP Credit Agreement

RATIFICATION AND AMENDMENT AGREEMENT

This RATIFICATION AND AMENDMENT AGREEMENT (this "**Ratification Agreement**"), dated as of March __, 2025, is by and among AZZUR GROUP HOLDINGS LLC, a Delaware limited liability company ("**Azzur Holdings**"), AZZUR GROUP, LLC, a Pennsylvania limited liability company ("**Azzur Group**"), AZZUR OF CA, LLC, a California limited liability company ("**ACA**"), AZZUR CLEANROOMS-ON-DEMAND-BOSTON LLC, a Massachusetts limited liability company ("**Azzur Boston**"), AZZUR OF NE LLC, a Massachusetts limited liability company ("**ANE**"), AZZUR NORTH CAROLINA, LLC, a Pennsylvania limited liability company ("**ANC**"), AZZUR PRINCETON LLC, a Pennsylvania limited liability company ("**Azzur Princeton**"), AZZUR SAN DIEGO LLC, a Pennsylvania limited liability company ("**Azzur San Diego**"), AZZUR SAN FRANCISCO LLC, a Pennsylvania limited liability company ("**Azzur SF**"), AZZUR SOLUTIONS LLC, a Pennsylvania limited liability company ("**Solutions**"), AZZUR IT LLC, a Pennsylvania limited liability company ("**AIT**"), AZZUR TECHNICAL SERVICES – BOSTON LLC, a Massachusetts limited liability company ("**ATS Boston**"), AZZUR WASHINGTON DC LLC, a Pennsylvania limited liability company ("**Azzur DC**"), AZZUR WORCESTER LLC, a Pennsylvania limited liability company ("**Azzur Worcester**"), COBALT LLC, a Pennsylvania limited liability company ("**Cobalt**"), AZZUR LABS, LLC, a Pennsylvania limited liability company ("**Azzur Labs**"), AZZUR LABS NC, LLC, a North Carolina limited liability company ("**Labs NC**"), AZZUR LABS – BOSTON LLC, a Pennsylvania limited liability company ("**Labs Boston**"), AZZUR LABS – SAN FRANCISCO LLC, a Pennsylvania limited liability company ("**Labs SF**"), AZZUR AUSTIN LLC, a Pennsylvania limited liability company ("**Azzur Austin**"), AZZUR CHICAGO LLC, a Pennsylvania limited liability company ("**Azzur Chicago**"), AZZUR CLEANROOMS-ON-DEMAND BURLINGTON LLC, a Massachusetts limited liability company ("**Azzur COD Burlington**"), AZZUR CLEANROOMS-ON-DEMAND SAN DIEGO LLC, a California limited liability company ("**Azzur COD San Diego**"), AZZUR DENVER LLC, a Pennsylvania limited liability company ("**Azzur Denver**"), AZZUR LABS – CHICAGO LLC, a Pennsylvania limited liability company ("**Labs Chicago**"), AZZUR LABS – DALLAS LLC, a Pennsylvania limited liability company ("**Labs Dallas**"), AZZUR LABS – SAN DIEGO LLC, a Pennsylvania limited liability company ("**Labs San Diego**") and AZZUR TRAINING CENTER – RALEIGH LLC, a Pennsylvania limited liability company ("**ATC Raleigh**"), AZZUR CLEANROOMS-ON-DEMAND – DEVENS LLC, a Massachusetts limited liability company ("**Azzur COD Devens**"), AZZUR CLEANROOMS-ON-DEMAND – SAN FRANCISCO LLC, a California limited liability company ("**Azzur COD San Francisco**"), AZZUR CLEANROOMS-ON-DEMAND – SERVICES LLC, a Pennsylvania limited liability company ("**Azzur COD Services**"), AZZUR CLEANROOMS-ON-DEMAND-RALEIGH LLC, a North Carolina limited liability company ("**Azzur COD Raleigh**") and AZZUR CONSULTING LLC, a Pennsylvania limited liability company ("**Azzur Consulting**"; and, together with Azzur Holdings, Azzur Group, ACA, Azzur Boston, ANE, ANC, Azzur Princeton, Azzur San Diego, Azzur SF, Solutions, AIT, ATS Boston, Azzur DC, Azzur Worcester, Cobalt, Azzur Labs, Labs NC, Labs Boston, Labs SF, Azzur Austin, Azzur Chicago, Azzur COD Burlington, Azzur COD San Diego, Azzur Denver, Labs Chicago, Labs Dallas and Labs San Diego, ATC Raleigh, Azzur COD Devens, Azzur COD San Francisco, Azzur COD Services and Azzur COD Raleigh, each, a "**Borrower**" and, collectively, "**Borrowers**" and each a "**Debtor**" and collectively "**Debtors**"), and MANUFACTURERS AND TRADERS TRUST COMPANY ("**Bank**") and ("**M&T Bank**").

W I T N E S S E T H:

WHEREAS, Borrowers have commenced cases under Chapter 11 of the Bankruptcy Code (as hereinafter defined) in the United States Bankruptcy Court for the District of Delaware and each Borrower has retained possession of its assets and is authorized under the Bankruptcy Code to continue the operation of its businesses as debtor-in-possession;

WHEREAS, prior to the commencement of the Chapter 11 Cases (as hereinafter defined), Bank made loans and advances and provided other financial or credit accommodations to Borrowers secured by substantially all assets and properties of Borrowers as set forth in the Pre-Petition Loan Documents (as hereinafter defined);

WHEREAS, Borrowers are requesting that the Bankruptcy Court (as hereinafter defined) enter a Financing Order (as hereinafter defined) pursuant to which Bank may make post-petition loans and advances, and provide other financial accommodations, to Borrowers secured by substantially all the assets and properties of Borrowers as set forth in the Financing Order and the Loan Documents (as hereinafter defined);

WHEREAS, Borrowers have requested that Bank make post-petition loans and advances and provide other financial or credit accommodations to Borrowers and make certain amendments to the Pre-Petition Loan Agreement (as hereinafter defined) and the other Pre-Petition Loan Documents, and Bank is willing to do so, subject to the terms and conditions contained herein; and

WHEREAS, Borrowers desire to reaffirm their obligations to Bank pursuant to the Pre-Petition Loan Documents and acknowledge their continuing liabilities to Bank thereunder in order to induce Bank to make such post-petition loans and advances, and provide other financial accommodations, to Borrowers secured by substantially all the assets and properties of Borrowers as set forth in the Financing Order;

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Bank and Debtors mutually covenant, warrant and agree as follows:

**1. DEFINITIONS.**

1.1 Additional Definitions. As used herein, the following terms shall have the respective meanings given to them below and the Pre-Petition Loan Agreement and the other Pre-Petition Loan Documents shall be deemed and are hereby amended to include, in addition and not in limitation, each of the following definitions:

(a) "Adequate Protection Liens" means, collectively, the adequate protection liens as each is defined in the Financing Order.

(b) "Auction" has the meaning set forth in Section 5.4(g) of the Ratification Agreement.

(c) "Bankruptcy Court" means the United States Bankruptcy Court or the United States District Court for the District of Delaware.

(d) "Bankruptcy Events" means the commencement of the Chapter 11 Cases, the events and conditions leading up to the commencement of the Chapter 11 Cases, and the occurrence and existence of any defaults under agreements that have no effect under the terms of the Bankruptcy Code as a result of the commencement thereof.

(e) "Bidding Procedures" means the bidding procedures governing the Consulting Business Sale Transaction, as approved by the Bankruptcy Court pursuant to the Bidding Procedures Order and any other order of the Bankruptcy Court affecting the Consulting Business Sale Transaction, which shall be in form and substance satisfactory to Bank in its Permitted Discretion.

(f) "Bidding Procedures Order" means an order of the Bankruptcy Court approving the Bidding Procedures for the Consulting Business Sale Transaction, scheduling the date for an auction for the Consulting Business Sale Transaction, scheduling a hearing to consider approval of the Consulting Business Sale Transaction, establishing related objection and other deadlines, and approving related notices and forms, in each case in form and substance satisfactory to Bank in its Permitted Discretion.

(g) "Carve Out Expenses" shall have the meaning set forth in the Financing Order.

(h) "Carve Out Trigger Notice" means a written notice delivered by email (or other electronic means) by Bank to the Debtors, Debtors' lead counsel in the Chapter 11 Cases, counsel to any Committee and the U.S. Trustee following the occurrence and during the continuation of an Event of Default, stating that the Post-Trigger Date Carve Out has been invoked.

(i) "Cash Management Order" means a cash management order amending and ratifying the cash management arrangements of Borrowers, in form and substance satisfactory to Bank in its sole discretion, and approved as a First Day Order by the Bankruptcy Court.

(j) "Chapter 11 Cases" means the cases under Chapter 11 of the Bankruptcy Code commenced by Debtors which are being jointly administered under the Bankruptcy Code and are pending in the Bankruptcy Court.

(k) "Chief Restructuring Officer" means M. Benjamin Jones or such other chief restructuring advisor selected by Borrowers and acceptable to Bank.

(l) "Committee" means any official committee of unsecured creditors in the Chapter 11 Cases pursuant to Section 1102 of the Bankruptcy Code.

(m) "Consulting Business" means the assets and liabilities of the business and operations of Borrowers consisting of the consulting services to provide GxP-compliant solutions to support pharmaceutical, biotechnology, medical device and supply chain

companies, including information technology, advisory, project management, validation, quality assurance and training services.

(n) "Consulting Business Purchase Agreement" means the Asset Purchase Agreement, dated on or about the date hereof, by and among Azzur Group, as sellers, and Eloquent or one of its Affiliates, as purchaser (including the schedules and exhibits thereto), which agreement shall be in form and substance acceptable to Bank in its Permitted Discretion.

(o) "Consulting Business Purchase Documents" means (a) the Consulting Business Purchase Agreement and (b) all material agreements, documents and instruments, including all schedules and exhibits thereto, at any time executed and/or delivered in connection therewith, all of which agreements, documents and instruments shall be in form and substance acceptable to Bank in its Permitted Discretion.

(p) "Consulting Business Sale Order" means an order entered by the Bankruptcy Court approving the Consulting Business Sale Transaction which order shall be in form and substance satisfactory to Bank in its Permitted Discretion, and shall provide for, among other things, the receipt by Bank of all net cash proceeds and other proceeds from the Consulting Business Sale Transaction to be applied to the payment in full of all Obligations in accordance with the Ratification Agreement and in such manner as Bank shall determine in accordance with the Loan Documents.

(q) "Consulting Business Sale Transaction" means a sale of all or substantially all of the Consulting Business pursuant to Section 363 of the Bankruptcy Code on terms and conditions acceptable to Bank in its Permitted Discretion.

(r) "COD Business" means the means the assets and liabilities of the businesses and operations of Borrowers consisting of the turnkey facilities cleanrooms with equipment and laboratory testing services to facilitate the development, testing and manufacturing of pharmaceuticals and other products for the pharmaceutical industry.

(s) "COD Business Sale Order" means an order entered by the Bankruptcy Court approving the COD Business Sale Transaction which order shall be in form and substance satisfactory to Bank in its Permitted Discretion, and shall provide for, among other things, the receipt by Bank of all net cash proceeds and other proceeds from the Consulting Business Sale Transaction to be applied to the payment in full of all Obligations in accordance with the Ratification Agreement and in such manner as Bank shall determine in its Permitted Discretion in accordance with the Loan Documents.

(t) "COD Business Sale Transaction" means a sale of all or substantially all of the Consulting Business pursuant to Section 363 of the Bankruptcy Code on terms and conditions acceptable to Bank in its Permitted Discretion.

(u) "DIP Budget" means the initial thirteen (13) week cash flow budget prepared by Borrowers and the Chief Restructuring Officer, the summary of which is set forth on Exhibit A hereto, setting forth on a weekly basis for the periods covered thereby, (a) the projected cash flow showing cash receipts and cash expenditures of Borrowers, (b) the projected net Revolver Availability, showing the average Borrowing Base Amount and the average outstanding

amount of Loans and letters of credit, and (c) the projected net cash available of Borrowers, including the anticipated uses of the DIP Credit Facility for such period, together with any subsequent or amended budgets thereto delivered to Bank, in form and substance satisfactory to Bank (each such subsequent budget, referred to as the "Budget"), in accordance with the terms and conditions of the Ratification Agreement.

(v) "DIP Budget Compliance Report" has the meaning set forth in Section 5.3(b) of the Ratification Agreement.

(w) "DIP Credit Facility" means the senior secured credit facility provided by Bank to Borrowers as debtors and debtors-in-possession during the Chapter 11 Cases as set forth in the Ratification Agreement.

(x) "DIP Liquidity" means, from the Ratification Effective Date and at all times thereafter, as of any date of determination during such period, the sum of (i) Unrestricted Cash on such date plus (ii) the amount of Advances available under the Supplemental DIP Line on such date.

(y) "DIP Budget Measurement Period" has the meaning set forth in Section 5.3(b) of the Ratification Agreement.

(z) "DIP Reserve" means an amount or amounts determined by Bank in its discretion to account for (i) the Carve Out, (ii) any unpaid administrative expense claims of the Borrowers or other priority claims in the Chapter 11 Cases that, in Bank's determination, may require payment prior to the payment in full of all Obligations, and (iii) the amount of any liens or claims in or against the Collateral that are pari passu with or senior to any liens and claims of Bank, each of the forgoing in an amount as determined by Bank in its discretion. Bank shall provide the Borrowers notice prior to the implementation and extent of any new DIP Reserve following the Ratification Effective Date or any change in the methodology on the calculation of an existing DIP Reserve (provided, however, that failure to provide such notice shall not preclude the effectiveness of such DIP Reserve).

(aa) "Final Financing Order" means the order of the Bankruptcy Court entered in the Chapter 11 Cases after a final hearing of the Bankruptcy Court, which order shall be in form and substance satisfactory to the Bank in its sole discretion and from which no appeal or motion to reconsider has been filed, together with all extensions, modifications and amendments thereto, consented to by the Bank, which among other matters, but not by way of limitation, authorizing the Borrowers to obtain credit, incur the Post-Petition Obligations, and grant security interests and liens therefor and granting superpriority expense claims to Bank with respect to all obligations due Bank, subject to no priority claim or administrative expenses of the Chapter 11 Cases or any other entity (other than as specifically set forth in the Financing Order).

(bb) "Financing Order" means the Interim Financing Order, the Final Financing Order and such other orders relating thereto or authorizing the granting of credit by Bank to Borrowers on an emergency, interim or permanent basis pursuant to Section 364 of the Bankruptcy Code as may be issued or entered by the Bankruptcy Court in the Chapter 11 Cases.

(cc) "First Day Orders" means the orders entered by the Bankruptcy Court, other than any Financing Order, in respect of first day motions and applications to be filed by the Debtors in respect of the Chapter 11 Cases.

(dd) "Independent Director" means Gary Knight or such other independent director selected by Borrowers and acceptable to Bank.

(ee) "Interim Financing Order" means the order of the Bankruptcy Court entered in the Chapter 11 Cases after an interim hearing in form and substance satisfactory to the Bank in its sole discretion, together with all extension, modifications, and amendments thereto consented to by the Bank, which, among other matters but not by way of limitation, authorizing, on an interim basis, the Borrowers to execute and perform under the terms of the Pre-Petition Loan Documents, as amended and supplemented by the terms and conditions of the Ratification Agreement.

(ff) "Investment Banker" means Brown Gibbons Lang & Co Securities, LLC or such other investment banking firm acceptable to Bank selected and retained by such other Borrowers pursuant to the Investment Banking Agreement.

(gg) "Investment Banking Agreement" means the Addendum, dated September 3, 2024, between Brown Gibbons Lang & Co. Securities, LLC, and Azzur Group Holdings LLC, as may be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms of the Ratification Agreement.

(hh) "Loan Agreement" means the Pre-Petition Loan Agreement as ratified, amended, supplemented and otherwise modified by the Ratification Agreement, as the same now exists or may hereafter be amended from time to time.

(ii) "Material DIP Budget Deviation" has the meaning set forth in Section 5.3(b) of the Ratification Agreement.

(jj) "Obligations" means, collectively, all Pre-Petition Obligations and all Post-Petition Obligations.

(kk) "Petition Date" means the date of the commencement of the Chapter 11 Cases.

(ll) "Post-Petition Collateral" means, collectively, all existing and after-acquired property of each Borrower of any nature including, without limitation:

(i) All present and future accounts, contract rights, chattel paper, instruments and documents and all other rights to the payment of money whether or not yet earned, for services rendered or goods sold, consigned, leased or furnished by such Borrower or otherwise, together with (i) all goods (including any returned, rejected, repossessed or consigned goods), the sale, consignment, lease or other furnishing of which shall be given or may give rise to any of the foregoing, (ii) all of such Borrower' s rights as a consignor, consignee, unpaid vendor or other lienor in connection therewith, including stoppage in transit, set-off, detinue, replevin and reclamation, (iii) all general intangibles related thereto, (iv) all guaranties, mortgages, security

interests, assignments, and other encumbrances on real or personal property, leases and other agreements or property securing or relating to any accounts, (v) choses-in-action, claims and judgments, and (vi) any returned or unearned premiums, which may be due upon cancellation of any insurance policies;

(ii) All present and future inventory of such Borrower (including but not limited to goods held for sale or lease or furnished or to be furnished under contracts for service, raw materials, work-in-process, finished goods and goods used or consumed in such Borrower' s business) whether owned, consigned or held on consignment, together with all merchandise, component materials, supplies, packing, packaging and shipping materials, and all returned, rejected or repossessed goods sold, consigned, leased or otherwise furnished by such Borrower and all embedded software related thereto;

(iii) All present and future general intangibles (including but not limited to payment intangibles, tax refunds and rebates, manufacturing and processing rights, designs, patents, patent rights and applications therefor, trademarks and registration or applications therefor, tradenames, brand names, logos, inventions, copyrights and all applications and registrations therefor), licenses, permits, approvals, software and computer programs, license rights, royalties, trade secrets, methods, processes, know-how, formulas, drawings, specifications, descriptions, label designs, plans, blueprints, patterns and all memoranda, notes and records with respect to any research and development;

(iv) All present and future machinery, equipment, furniture, fixtures, motor vehicles, tools, dies, jigs, molds and other articles of tangible personal property of every type together with all parts, substitutions, accretions, accessions, attachments, accessories, additions, components and replacements thereof, and all manuals of operation, maintenance or repair, and all embedded software related thereto;

(v) All present and future general ledger sheets, files, books and records, customer lists, books of account, invoices, bills, certificates or documents of ownership, bills of sale, business papers, correspondence, credit files, tapes, cards, computer runs and all other data and data storage systems whether in the possession of such Borrower or any service bureau;

(vi) All present and future letter of credit rights and supporting obligations, including without limitation, all letters of credit and letter of credit rights now existing or hereafter issued naming such Borrower as a beneficiary or assigned to such Borrower, including the right to receive payment thereunder, and all documents and records associated therewith;

(vii) All present and future deposit accounts of such Borrower;

(viii) All present and future financial assets and investment property of such Borrower;

(ix) All of such Borrower' s commercial tort claims from time to time listed on **Schedule 5.1(i)** of the Pre-Petition Loan Agreement. Each amendment adding commercial tort claims to such **Schedule 5.1(i)** pursuant to the provisions of **Section 7.30** of the Pre-Petition Loan Agreement shall constitute a contemporaneous grant by such Borrower of a security interest in all of such Borrower' s rights and interests in such commercial tort claims;

(x) All funds, instruments, documents, policies and evidence and certificates of insurance and rights thereunder, securities, chattel paper and other assets of such Borrower or in which such Borrower has an interest and all proceeds thereof, now or at any time hereafter on deposit with or in the possession or control of Bank or owing by Bank to such Borrower or in transit by mail or carrier to Bank or in the possession of any other Person acting on Bank's behalf or at any other depository or other institution from or on account of any Borrower, without regard to whether Bank received the same in pledge, for safekeeping, as agent for collection or otherwise, or whether Bank has conditionally released the same, and in all assets of such Borrower in which Bank now has or may at any time hereafter obtain a lien, mortgage, or security interest for any reason;

(xi) effective upon entry of a Final Financing Order, all proceeds of claims, rights, interests, assets and properties recovered by or on behalf of any Borrower or any trustee of any Borrower (whether in the Chapter 11 Cases or any subsequent case to which any Chapter 11 Case is converted), including, without limitation, all property recovered as a result of transfers or obligations avoided or actions maintained or taken pursuant to (among others) Sections 542, 544, 545, 547, 548, 549, 550, 551, 552 and 553 of the Bankruptcy Code; and

(xii) to the extent not covered by the foregoing clauses, all proceeds and products in whatever form of all or any part of the other Collateral, including all rents, profits, income and benefits and all proceeds of insurance and all condemnation awards and all other compensation for any event of loss with respect to all or any part of the other Collateral (together with all rights to recover and proceed with respect to the same), and all accessions to, substitutions for and replacements of all or any part of the other Collateral.

(mm) "Post-Petition Obligations" means all Bank Indebtedness (as defined in the Pre-Petition Loan Agreement ) of Debtors arising from, related to or in connection with any Loans (including all Supplemental DIP Line Advances), letters of credit or other advances on and after the Petition Date together with all other Obligations due and owing to Bank and whether arising on or after the conversion or dismissal of the Chapter 11 Cases, and whether arising under or related to the Ratification Agreement, the Loan Agreement, the other Loan Documents, a Financing Order, by operation of law or otherwise, and whether incurred by any Debtor as principal, surety, endorser, guarantor or otherwise and including, without limitation, all principal, interest, financing charges, letter of credit fees, unused line fees, servicing fees, line increase fees, debtor-in-possession facility fees, early termination fees, other fees, commissions, costs, expenses and attorneys', accountants' and consultants' fees and expenses incurred in connection with any of the foregoing. For the avoidance of doubt, the Post-Petition Obligations shall include that portion of the outstanding Pre-Petition Obligations owed to Bank in connection with or related to the Loans, which have been "rolled-up" from time to time as provided in the Financing Order.

(nn) "Pre-Petition Collateral" means, collectively, (i) all "Collateral" as such term is defined in the Pre-Petition Loan Agreement as in effect immediately prior to the Petition Date, and (ii) all other security for the Pre-Petition Obligations as provided in the Pre-Petition Loan Agreement and the other Pre-Petition Loan Documents immediately prior to the Petition Date.

(oo) "Pre-Petition Loan Agreement" means the Loan and Security Agreement, dated as of April 7, 2020, by and among Debtors and Bank, as amended by that certain First Amendment and Modification to Loan and Security Agreement, dated as of January 21, 2021, that certain Second Amendment and Modification to Loan and Security Agreement, dated as of April 16, 2021, that certain Third Amendment and Modification to Loan and Security Agreement, dated as of August 20, 2021, that certain Fourth Amendment and Modification to Loan and Security Agreement, dated as of January 5, 2023, that certain Fifth Amendment and Modification to Loan and Security Agreement, dated as of May 3, 2023, that certain Forbearance Agreement and Sixth Amendment to Loan and Security Agreement, dated as of February 26, 2024, that certain Amendment No. 1 to Forbearance Agreement and Seventh Amendment to Loan and Security Agreement, dated as of August 13, 2024, that certain Amendment No. 2 to Forbearance Agreement and Eighth Amendment to Loan and Security Agreement, dated as of August 23, 2024, that certain Amendment No. 3 to Forbearance Agreement and Ninth Amendment to Loan and Security Agreement, dated as of August 30, 2024, that certain Amendment No. 4 to Forbearance Agreement and Tenth Amendment to Loan and Security Agreement, dated as of January 6, 2025, as in effect immediately prior to the Petition Date.

(pp) "Pre-Petition Loan Documents" means the Pre-Petition Loan Agreement and the other Loan Documents (as defined in the Pre-Petition Loan Agreement ), as in effect immediately prior to the Petition Date.

(qq) "Pre-Petition Obligations" means all Bank Indebtedness (as such term is defined in the Pre-Petition Loan Agreement ) arising at any time before the Petition Date.

(rr) "Professionals" means the Debtors' and any Committee's professionals, retained by either of them by final order of the Bankruptcy Court (which order has not been reversed, vacated or stayed unless such stay is no longer effective) under Sections 327, 328 or 1103(a) of the Bankruptcy Code.

(ss) "Ratification Agreement" means the Ratification and Amendment Agreement, dated as of March __, 2025, by and among Borrowers and Bank, as the same may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

(tt) "Ratification Effective Date" means the date on which all of the conditions precedent in Section 9 of the Ratification Agreement have been satisfied (or waived) by Bank in its discretion.

(uu) "Remaining Pre-Petition Obligation" shall have the meaning set forth in the Interim Financing Order.

(vv) "Second Day Orders" means the orders entered by the Bankruptcy Court in respect of second day motions and applications to be filed by the Debtors in respect of the Chapter 11 Cases.

(ww) "Supplemental DIP Line" shall have the meaning given such term in Section 2.9 of the Loan Agreement.

(xx) "Supplemental DIP Line Advances" means all Advances made by Bank under the Supplemental DIP Line.

(yy) "Supplemental DIP Line Limit" means $8,500,000.

(zz) "Winning Bid" has the meaning set forth in Section 5.4(h) of the Ratification Agreement.

1.2 Amendments to Definitions.

(a) Advances. The definition of "Advances" in the Pre-Petition Loan Agreement is hereby amended to include, without limitation, any all references to the term "Advances" in the Loan Agreement and the other Loans Documents shall be deemed and each such reference is hereby amended to include, in addition and not in limitation, the Supplemental DIP Line Advances.

(b) Borrower and Debtor. All references to the terms "Borrower", "Pledgor", "Grantor" or "Debtor" in the Loan Agreement or the other Loan Documents shall be deemed, and each such reference is hereby amended, to mean and include the Debtors, as defined herein, and their successors and assigns (including any trustee or other fiduciary hereafter appointed as any Debtor's legal representative, as applicable, or with respect to any Debtor or the property of the estate of any Debtor whether under Chapter 11 of the Bankruptcy Code or any subsequent Chapter 7 case and its successor upon conclusion of the Chapter 11 Case of such Debtor, as the case may be).

(c) Collateral. All references to the term "Collateral" in the Loan Agreement or the other Loan Documents, or any other term referring to the security for the Pre-Petition Obligations, shall be deemed, and each such reference is hereby amended to mean, collectively, the Pre-Petition Collateral and the Post-Petition Collateral.

(d) Contract Period. The definition of "Contract Period" in the Pre-Petition Loan Agreement is hereby replaced with the following:

> "Contract Period" means the earliest to occur of (a) the date that is 90 days after the commencement of the Chapter 11 Cases, (b) 35 days after the entry of the Interim Financing Order if the Final Financing Order has not been entered prior to the expiration of such 35-day period, (c) the date of the substantial consummation (as defined in Section 1101 of the Bankruptcy Code and which for purposes hereof shall be no later than the "effective date") of a plan of reorganization filed in the Chapter 11 Case that is confirmed pursuant to an order entered by the Bankruptcy Court, in each case, in form and substance satisfactory to Bank in its Permitted Discretion, and (d) the sale of all or a portion of the Collateral, the proceeds of which are sufficient to Pay in Full all Obligations under the DIP Credit Facility (including all the Bank Indebtedness under the Pre-Petition Loan Documents).

(e) CRO Engagement Agreement. The definition of "CRO Engagement Agreement" in the Pre-Petition Loan Agreement is hereby replaced with the following:

"CRO Engagement Agreement" means the letter agreement, dated May 11, 2024, between Azzur Group and Ankura Consulting Group, LLC, as amended and modified by the letter agreement, dated January 28, 2025, between Azzur Group and Ankura Consulting Group, LLC regarding the Chief Restructuring Officer and advisory services provided to Borrowers in the Chapter 11 Cases, as may thereafter be amended, modified, supplemented, extended, renewed, restated or replaced in accordance with the terms of the Ratification Agreement.

(f) Existing Events of Default. All references to "Existing Events of Default" in Amendment No. 4 to Forbearance Agreement are hereby amended to mean, collectively, (i) the Existing Events of Default as set forth on Exhibit A to the Forbearance Agreement, (ii) the Events of Default as set forth in Section 1.2(b) of Amendment No. 1 to Forbearance Agreement, (iii) the Events of Default as set forth on Exhibit A to Amendment No. 2 to Forbearance Agreement, and (iv) certain other Defaults and Events of Default that have occurred and are continuing under the Pre-Petition Loan Agreement and the other Pre-Petition Loan Documents, including but not limited to, as a result of the commencement of the Chapter 11 Cases, in each case as the context requires.

(g) Letter of Credit Sublimit. The definition of "Letter of Credit Sublimit" in the Pre-Petition Loan Agreement is hereby replaced with the following:

"Letter of Credit Sublimit" means an amount up to $1,335,507.66.

(h) Loan Agreement. All references to the term "Agreement" in the Pre-Petition Loan Agreement or the term "Loan Agreement" in the other Loan Documents shall be deemed, and each such reference is hereby amended, to mean the Loan Agreement (as defined in the Ratification Agreement), and as ratified, assumed and adopted by Borrowers pursuant to the terms hereof and the Financing Order.

(i) Loan Documents. All references to the term "Loan Documents" in the Loan Agreement or the other Loan Documents shall be deemed, and each such reference is hereby amended, to include, in addition and not in limitation, the Ratification Agreement and all of the Pre-Petition Loan Documents, as ratified, assumed and adopted by Borrowers pursuant to the terms of the Ratification Agreement, as amended and supplemented thereby, and the Financing Order, as each of the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

(j) Material Adverse Effect. All references to the term "Material Adverse Effect," "material adverse effect" or "material adverse change" in the Loan Agreement, the Ratification Agreement or the other Loan Documents shall be deemed, and each such reference is hereby amended, to add at the end thereof: "; provided, that, the Bankruptcy Events shall not, individually or collectively, constitute a Material Adverse Effect".

(k) Maximum Line Amount. The definition of "Maximum Line Amount" in the Pre-Petition Loan Agreement is hereby replaced with the following:

"Maximum Line Amount" means the outstanding principal amount not to exceed the sum of (a) the Interim Line Advance Amount plus (b) the Supplemental Line Limit, plus (c) the Supplemental DIP Line Limit. For the avoidance of doubt, as of the Ratification Effective Date, the "Maximum Line Amount" means $23,500,000.

(l) Obligations. All references to the term "Obligations" in the Loan Agreement, the Ratification Agreement or the other Loan Documents shall be deemed, and each such reference is hereby amended, to mean both the Pre-Petition Obligations and the Post-Petition Obligations.

1.3 Interpretation.

(a) For purposes of the Ratification Agreement, unless otherwise defined or amended herein, including, but not limited to, those terms used or defined in the recitals hereto, all terms used herein shall have the respective meanings assigned to such terms in the Pre-Petition Loan Agreement, as amended, supplemented or otherwise modified by the Ratification Agreement.

(b) All references to any term in the singular shall include the plural and all references to any term in the plural shall include the singular unless the context of such usage requires otherwise.

(c) All terms not specifically defined herein which are defined in the Uniform Commercial Code, as in effect in the Commonwealth of Pennsylvania as of the date hereof, shall have the meaning set forth therein, except that the term "Lien" or "lien" shall have the meaning set forth in § 101(37) of the Bankruptcy Code.

## 2. ACKNOWLEDGMENTS.

2.1 Pre-Petition Obligations. The Borrowers hereby acknowledge, confirm and agree that as of February 28, 2025, Borrowers are indebted to Bank under the Loan Agreement and the other Loan Documents in the aggregate principal amount of $62,219,048.81 in respect of the Bank Indebtedness arising under the Loan Agreement and the other Loan Documents, which amount consists of (a) Advances under the Line of the following: (i) Line Advances pursuant to Section 2.1 of the Loan Agreement in the aggregate principal amount of $13,000,000 (ii) Supplemental Line Advances pursuant to Section 2.2 of the Loan Agreement in the aggregate principal amount of $2,000,000 and (iii) the amount of undrawn letters of credit under the Line in the outstanding amount of $1,335,507.66, and (b) Loan Limit Line Advances in the aggregate principal amount of $45,883,541.15, all of which amounts, together with all interest accrued and accruing thereon, and all costs, fees, expenses and other charges now or hereafter payable by Borrowers to Bank, are unconditionally owing by Borrowers to Bank, without offset, defense or counterclaim of any kind, nature or description whatsoever.

2.2 Acknowledgment of Security Interests. Borrowers hereby acknowledge, confirm and agree that as of the date hereof after giving effect to this Ratification Agreement Bank has and shall continue to have (a) valid, enforceable and perfected first priority and senior security interests in and liens upon all Pre-Petition Collateral heretofore granted to Bank pursuant to the

Pre-Petition Loan Documents as in effect immediately prior to the Petition Date to secure all of the Pre-Petition Obligations, and (b) valid and enforceable first priority and senior security interests in and liens upon all Post-Petition Collateral granted to Bank, under the Financing Order or hereunder or under any of the other Loan Documents or otherwise granted to or held by Bank, subject only to the Permitted Liens (as defined in the Financing Order) and the Carve Out Expenses.

2.3 Binding Effect of Documents. Borrowers hereby acknowledge, confirm and agree that: (a) each of the Pre-Petition Loan Documents to which they are party prior to the Petition Date was duly executed and delivered to Bank by Borrowers and each is in full force and effect as of the date hereof, (b) the agreements and obligations of Borrowers contained in the Pre-Petition Loan Documents constitute the legal, valid and binding obligations of Borrowers enforceable against them in accordance with the terms thereof, and Borrowers have no valid defense, offset or counterclaim to the enforcement of such obligations, and (c) Bank is and shall be entitled to all of the rights, remedies and benefits provided for in (i) the Loan Documents (subject to the entry and terms of the Financing Order) and (ii) the Financing Order.

## 3. ADOPTION AND RATIFICATION.

3.1. Borrowers (a) ratify, assume, adopt and agree to be bound by all of the Pre-Petition Loan Documents to which they are party and (b) agree to pay all of the Pre-Petition Obligations in accordance with the terms of such Pre-Petition Loan Documents, as supplemented and amended by the Ratification Agreement, and in accordance with the Financing Order. All of the Pre-Petition Loan Documents are hereby incorporated herein by reference and hereby are and shall be deemed adopted and assumed in full by Borrowers, as Debtors and Debtors-in-Possession and considered as agreements between Borrowers, on the one hand, and Bank, on the other hand. Borrowers hereby ratify, restate, affirm and confirm all of the terms and conditions of the Pre-Petition Loan Documents, as amended and supplemented pursuant hereto and the Financing Order, and Borrowers, as Debtors and Debtors-in-Possession, agree to be fully bound by the terms of the Loan Documents.

3.2. Notwithstanding anything in Section 3.1 of the Ratification Agreement to the contrary, Bank acknowledges that the Existing Events of Default have occurred and are continuing immediately prior to the Petition Date. From and after the Ratification Effective Date, for purposes of determining whether any Default or Event of Default has occurred under the Loan Agreement or any other Loan Document, Bank hereby agrees that all Existing Events of Default shall be excluded from any determination of whether a Default or Event of Default exists or has occurred and only Defaults and Events of Default (as provided in the Loan Agreement) occurring from and after the Ratification Effective Date shall constitute Defaults and Events of Default under the Loan Agreement. For the avoidance of doubt, none of the Existing Events of Defaults shall give any right to Bank to exercise or enforce any of its rights or remedies under the Loan Agreement or the other Loan Documents on the basis of the occurrence and/or existence of any one or more of the Existing Events of Default.

**4. GRANT OF SECURITY INTEREST.**

As additional collateral security for the prompt performance, observance and payment in full of all of the Obligations, Borrowers, as Debtors and Debtors-in-Possession, hereby grant, pledge and collaterally assign to Bank, and also confirm, reaffirm and restate the prior grant to Bank of, continuing senior priority security interests in and liens upon, and rights of setoff against, all of the Collateral.

**5. ADDITIONAL REPRESENTATIONS, WARRANTIES AND COVENANTS.**

In addition to the representations, warranties and covenants made by Borrowers to Bank under the Loan Agreement and the other Loan Documents (in each case, for the avoidance of doubt, as amended by or provided in the Ratification Agreement), Borrowers hereby represent, warrant and covenant to Bank the following (which shall survive the execution and delivery of the Ratification Agreement), the truth and accuracy of which, or compliance with, to the extent such compliance does not violate the terms and provisions of the Bankruptcy Code, shall be a continuing condition precedent to the making of Loans by Bank:

5.1 Financing Order. Borrowers shall not seek to have any Financing Order vacated, modified, reversed on appeal, or vacated or modified by any order of the Bankruptcy Court (other than as consented to by Bank).

5.2 Use of Proceeds. All Loans and letters of credit (if any) provided by Bank to Borrowers pursuant to the Financing Order, the Loan Agreement or otherwise, shall only be used by Debtors to the extent (a) provided for in the DIP Budget or (b) permitted by the Loan Documents, and (c) as authorized by the Bankruptcy Court and consented to by Bank for (i) general working capital needs, (ii) the repayment of the Obligations and (iii) the payment of fees, expenses, and costs incurred in connection with the Ratification Agreement and the Chapter 11 Cases, including the payments of any adequate protection payments approved in the Financing Order and (iv) to the extent set forth in the DIP Budget, the payment of claims, fees, expenses, and costs incurred in connection with the First Day Orders and Second Day Orders.

5.3 DIP Budget.

(a) Borrowers and the Chief Restructuring Officer shall have prepared and delivered to Bank, in form and substance satisfactory to Bank, the initial DIP Budget covering the 13-week period commencing with the full week ending on [March 7], 2025 through and including the full week ending on [May 30], 2025. Any subsequent DIP Budgets shall be prepared by Borrowers and the Chief Restructuring Officer and delivered to Bank, in form and substance satisfactory to Bank in its sole discretion. Upon approval by Bank, such budget shall be deemed to be the DIP Budget for the next thirteen (13) week period. Borrowers shall comply strictly in accordance with each DIP Budget. Bank has relied upon the initial DIP Budget in determining to enter into the Ratification Agreement and has relied upon, and will be relying upon the DIP Budget, in providing the post-petition Advances and letters of credit (if any) in the Chapter 11 Cases. No DIP Budget shall be updated, amended or modified without the prior written consent of Bank. In the event that Bank and Borrowers are unable, while acting diligently, reasonably, and in good

faith, to agree to an updated, modified or supplemented budget, it shall constitute an Event of Default once the period covered by the most recent DIP Budget has terminated.

(b) Not later than 5:00 p.m. (Eastern time) on the Wednesday of each week commencing with the Wednesday following the first full week ending after the Petition Date, Borrower shall furnish to Bank a weekly report (the "DIP Budget Compliance Report"). The DIP Budget Compliance Report shall, among other things, set forth on a weekly basis for each individual week (each such period, respectively a "DIP Budget Measurement Period"), a comparison of the actual amount of each line item in the DIP Budget to the projected amount of such line item in the DIP Budget. The Budget Compliance Report shall include an explanation of the reason for any deviations in the DIP Budget.

(c) Each Debtor hereby confirms, acknowledges and agrees that, unless waived in writing by Bank, (i) the occurrence of a Material DIP Budget Deviation or (ii) the failure to deliver any reports with respect to any DIP Budget, in form and substance satisfactory to Bank in its sole discretion, shall constitute an Event of Default. As used herein, a "Material DIP Budget Deviation" means, with respect to any DIP Budget Measurement Period, commencing on and after the first week of the delivery of the initial DIP Budget (i.e., March 14, 2025, or such later period as may be agreed to by Bank) as set forth in the most recent weekly DIP Budget Compliance Report, if the actual "Budgeted Cumulative Net Cash Flow" compared to the projected "Budgeted Cumulative Net Cash Flow" after giving effect to the permitted variances set forth in the "Cushion to Covenant" is less than the "Budget Covenant Testing" amount. As used herein, the references to (w) projected and actual "Budgeted Cumulative Net Cash Flow" (line item 9 in the Covenant Summary), (x) the "Cushion to Covenant" (line item 10 in the Covenant Summary), and (y) the "Budget Covenant Testing" (line item 11 in the Covenant Summary) shall have the meanings as set forth in the Covenant Summary to the DIP Budget and DIP Budget Compliance Reports. As used herein, the reference to Covenant Summary shall mean the "Covenant Summary" on page 2 attached to the DIP Budget and DIP Budget Compliance Reports.

(d) Notwithstanding any approval by Bank of the DIP Budget or any subsequent or amended DIP Budget(s), Bank will not, and shall not be required to, provide any Loans or letters of credit to Borrowers pursuant to the DIP Budget, but shall only provide Loans in accordance with the terms and conditions set forth in the Loan Agreement as amended by the Ratification Agreement, the other Loan Documents and the Financing Order. Notwithstanding any projected amounts set forth in the DIP Budget relating to the costs and expenses of Bank that are reimbursable by Borrowers or any other amounts owing by Borrowers to Bank (including, without limitation, reasonable attorneys and consulting fees and expenses) in accordance with the Loan Agreement and the other Loan Documents, such projections shall not limit, impair, modify or waive the Debtors' obligation to pay the actual amounts due to Bank in respect of such costs, expenses and other amounts owing to Bank in accordance with the Loan Agreement and the other Loan Documents and the actual amounts paid in respect of such costs, expenses and other amounts shall not be subject to the Material DIP Budget Deviation.

(e) Borrowers shall deliver a revised proposed DIP Budget within five (5) Business Days after the consummation of the Consulting Business Sale Transaction, to take into account the effect of the consummation of the Consulting Business Sale Transaction. The revised DIP Budget will cover the period for the week ending on the closing date of the

consummation of the Consulting Business Sale Transaction and shall set forth the items in the DIP Budget to provide for the sale of the COD Business pursuant to an acceptable COD Business Sale Transaction and/or the liquidation of the assets of Debtors remaining after giving effect to the consummation of the Consulting Business Sale Transaction, for review and approval by Bank, together with such supporting documentation as may be requested by Bank. The revised proposed DIP Budget shall be prepared by Borrowers and Chief Restructuring Officer in good faith based upon assumptions which Borrowers and the Chief Restructuring Office believe to be reasonable at the time made. The revised proposed DIP Budget shall be in form and substance acceptable to Bank in its Permitted Discretion, and the failure to deliver such DIP Budget shall constitute an Event of Default. Upon written approval by Bank such revised proposed DIP Budget shall become the DIP Budget.

5.4 DIP Milestones. In addition to the continuing representations, warranties and covenants heretofore and hereafter made by Debtors to Bank, whether pursuant to the Loan Documents or otherwise, and not in limitation thereof, each Debtor covenants and agrees to satisfy each of the following conditions:

(a) On the Petition Date, Debtors shall file motions, each in form and substance satisfactory to the Bank, requesting approval from the Bankruptcy Court, of the First Day Orders, including the cash management of Debtors;

(b) On the Petition Date, Debtors shall file motions, each in form and substance satisfactory to Bank, requesting approval from the Bankruptcy Court, of DIP Credit Facility under the Financing Order on the terms and conditions contemplated by the Loan Agreement, granting to Bank the security interests and liens and superpriority administrative expense claim status set forth herein and in the Financing Order, modifying the automatic stay and other provisions required by Bank and its counsel;

(c) On or before March 3, 2025, Debtors shall file a motion, in form and substance satisfactory to Bank, to approve the Bidding Procedures and the Bidding Procedures Order with respect to the Consulting Business Sale Transaction, the Consulting Business Purchase Agreement, and the marketing and sale of the COD Business;

(d) On or before March 6, 2025, the Bankruptcy Court shall have entered (i) the Interim Financing Order, in form and substance satisfactory to Bank, and (ii) interim First Day Orders, each in form and substance satisfactory to Bank, approving the "first day" applications and motions of the Debtors, including the cash management of Debtors;

(e) On or before [March 28], 2025, the Bankruptcy Court shall have entered, each in form and substance acceptable to Bank (i) the Bidding Procedures Order and (ii) any interim First Day Orders not yet approved as final First Day Orders;

(f) If there is one or more "Qualified Bids" (as defined in the Bidding Procedures Order) for the Consulting Business received by the "Bid Deadline" (as defined in the Bidding Procedures Order) in accordance with the Bidding Procedures Order, on or before [April 3], 2025, an auction shall be conducted for the Consulting Business Sale Transaction (the "Auction"), as agreed to by Lender unless otherwise order by the Bankruptcy Court;

(g) On or before April 7, 2025, the Bankruptcy Court shall have entered, in form and substance acceptable to Bank the Final Financing Order;

(h) On or before April 9, 2025, a sale hearing before the Bankruptcy Court shall be conducted to approve the highest and best bid produced at the Auction and/or in accordance with the Bidding Procedures Order with respect to the Consulting Business Sale Transaction pursuant to the Consulting Business Purchase Agreement (collectively, the "Winning Bid");

(i) On or before April 12, 2025, Consulting Business Sale Order approving the Winning Bid shall be entered by the Bankruptcy Court approving the sale of the Consulting Business;

(j) On or before May 14, 2025, the Consulting Business Sale Transaction pursuant to the Consulting Business Purchase Agreement shall have been consummated on terms and conditions acceptable to Bank, with net proceeds from the closing of Consulting Business Sale Transaction to be remitted to Bank for application to the Obligations in accordance with this Ratification Agreement unless otherwise provided by the Consulting Business Sale Order.

Debtors confirm, acknowledge and agree that notwithstanding anything to the contrary contained in the Loan Agreement, any failure to comply with the requirements set forth in this Section 5.4 shall constitute an additional immediate Event of Default under the Loan Documents.

5.5 Deposit and Securities Accounts. Borrowers represent, warrant and covenant to Bank that Borrowers do not and shall not maintain any deposit account, securities accounts or accounts with financial institutions other than with M&T Bank.

5.6 ERISA. Borrowers hereby represent and warrant with, to and in favor of Bank that (a) there are no liens, security interests or encumbrances upon, in or against any assets or properties of Borrowers arising under ERISA, whether held by the Pension Benefit Guaranty Corporation (the "PBGC") or the contributing sponsor, or a member of the controlled group thereof, of any pension benefit plan of Borrowers and (b) no notice of lien has been filed by the PBGC (or any other Person) pursuant to ERISA against any assets or properties of Borrowers.

5.7 Independent Director.

(a) Debtors will ratify the existing agreement with Gary Knight to serve as the Independent Director on the board of managers of Azzur Holdings.

(b) The Independent Director shall be vested with such scope, power and authority as agreed by Bank, and shall be engaged by Azzur Holdings at all times during the pendency of the Chapter 11 Cases and until the payment in full of all Obligations.

(c) If the Independent Director resigns, becomes incapacitated, or is removed for cause (including as a result of a breach of its fiduciary duties to Azzur Holdings), the Debtors shall notify Bank in writing (at the end of the day that any Debtor learns of such resignation, incapacitation or removal). Any replacement or successor Independent Director shall

be acceptable to Bank in its Permitted Discretion, and shall be engaged within ten (10) Business Days after receipt of the notice of such resignation, incapacitation or removal. Failure to comply with the terms and conditions of this Section 5.7 shall constitute an immediate Event of Default.

5.8 Chief Restructuring Officer.

(a) Debtors shall retain, at all times during which the Obligations remain outstanding, M. Benjamin Jones of Ankura Consulting Group, LLC or such other Person(s) acceptable to Bank, as its Chief Restructuring Officer at the sole cost and expense of the Debtors, on terms and conditions acceptable to Bank pursuant to the CRO Engagement Agreement. The Chief Restructuring Officer shall (i) negotiate the terms of debtor-in-possession financing facilities for the Loan Parties and related adequate protection arrangements in respect of the Debtors' credit facilities, (ii) negotiate the terms of any plan or pre- or post-petition asset purchase agreement, and to enter into binding and definitive agreement(s) on behalf of the Debtors with respect to the foregoing, (iii) supervise the structuring and conduct a sale or plan process for the Debtors, including negotiating the terms of any competing bids, and (iv) in connection with the preceding clauses (i), (ii) and (iii), but subject to such notice and court approvals as may be required, to enter into binding agreements on behalf of the Debtors. The Debtors hereby irrevocably authorize and direct the Chief Restructuring Officer to consult with Bank and to share with Bank and its advisors, upon reasonable request therefor, all financial reports, budgets and any variances from same, other financial information, operational issues, matters related to the Collateral, all reports prepared or reviewed by the Chief Restructuring Officer, information on the sale and maintenance of the Debtors' businesses and assets and such other matters as Bank may reasonably request. The Debtors agree to provide the Chief Restructuring Officer with complete access to all of the books and records of the Debtors, all of premises of the Debtors and to all management and employees of the Debtors as and when deemed necessary by the Chief Restructuring Officer.

(b) Any amendment, modification or termination of the retention agreement with the Chief Restructuring Officer without the prior written consent of Bank shall constitute an Event of Default. The Debtors acknowledge and agree that the Debtors shall cause the Chief Restructuring Officer, as further described in clause (a) above, (i) to keep Bank fully informed of the progress of the business and operations of the Debtors and to respond to any reasonable inquiries of Bank regarding the maintenance of the Debtors' businesses and the sale of their assets, and (ii) to communicate and cooperate with Bank and share all information, as reasonably requested thereby, with Bank regarding the Debtors, and the sale and maintenance of the Debtors' businesses and assets.

(c) If the Chief Restructuring Officer resigns, the Debtors shall promptly notify Bank in writing of such resignation (but in any event by no later than the end of the day that any Debtor learns of such resignation). Any replacement or successor Chief Restructuring Officer shall be reasonably acceptable to Bank, shall be retained pursuant to a new retention agreement on terms and conditions reasonably acceptable to Bank within ten (10) Business Days immediately following the notice of resignation of the resigning Chief Restructuring Officer, and shall be approved by the Bankruptcy Court. Failure to comply with the terms and conditions of this Section 5.8 shall constitute an Event of Default.

5.9 Investment Banker.

(a) Debtors shall retain, and shall continue to retain at all times during which the Obligations remain outstanding, and at the sole cost and expense of Debtors, an Investment Banker, acceptable to Bank on terms and conditions acceptable to Bank pursuant to an Investment Banking Agreement, in each case in Bank's sole discretion. It being acknowledged that as of the date hereof Brown Gibbons Lang & Co Securities, LLC is acceptable to Bank. The Investment Banker shall work with the Chief Restructuring Officer, the Independent Director and management of Debtors to coordinate and conduct all aspects of the marketing and sale of substantially all of the assets and properties of Debtors. Each of the Debtors hereby irrevocably authorizes and directs the Investment Banker to consult with Bank and to share with Bank all information and materials produced or received in connection with (i) the sale to an acceptable purchaser of substantially all of Debtors' businesses and assets, or any portion thereof and (ii) any other restructuring or financial transaction contemplated by Debtors in the Chapter 11 Cases. Debtors shall not amend, modify or terminate the retention of the Investment Banker without the prior written consent of Bank.

(b) Each of the Debtors acknowledges and agrees that the Debtors shall cause the Investment Banker to (i) keep Bank fully informed of the progress of the marketing and sale of the assets and properties of the Borrowers and/or any other restructuring or financial transaction, including, without limitation, providing Bank with weekly telephonic updates regarding the foregoing, (ii) respond fully to any inquiries of Bank regarding such marketing and sale process and any restructuring or financial transaction, and (iii) communicate and fully cooperate with Bank and share all information requested by Bank with Bank regarding the marketing and sale of Debtors' assets and properties and/or other restructuring transaction. Failure to comply with the terms and conditions of this Section 5.9 shall constitute an Event of Default.

5.10 Limitation on Information Sharing. Notwithstanding anything to the contrary in this Ratification Agreement, Borrowers shall not be required to disclose or permit the inspection of any information, documents or materials that (a) would result in a breach of any obligation to keep such information, documents or materials confidential under any confidentiality agreement to which Borrowers are subject, unless mutually agreeable arrangements can be made with Bank to preserve such information, documents or materials as confidential (which, for the avoidance of doubt, the parties agree that the Confidentiality Agreement is such a mutually agreeable arrangement and that to the extent that any of the information, documents or materials made available to Bank constitutes "Evaluation Material" (as defined in the Confidentiality Agreement), Bank and Borrowers agree that such information, documents and materials shall be subject to the Confidentiality Agreement), or (b) is subject to attorney-client privilege or constitutes attorney work product; provided, that, each Borrower shall make available redacted versions of requested information, documents or materials or, if unable to do so consistent with the preservation of such privilege, shall disclose information, documents or materials that is responsive to the requests of Bank in a manner that will protect such privilege.

## 6. DIP FACILITY FEE.

Borrowers shall pay to Bank a debtor-in-possession financing facility fee, in the amount of $255,000, on account of the financing provided by Bank to Borrowers in the Chapter 11 Cases, which fee shall be fully earned and due and payable on the Ratification Effective Date and which may be charged directly to the loan account of Borrowers maintained by Bank or paid by the

Borrowers concurrently with the initial Loans, as provided under Section 9 of the Ratification Agreement.

**7. AMENDMENTS.**

7.1 DIP Credit Facility. Bank is providing to Borrowers a debtor-in-possession revolving credit facility pursuant to which Bank will continue to make available to Borrowers the Line Advances pursuant to Section 2.1 of the Pre-Petition Loan Agreement and the Supplemental Line Advances pursuant to Section 2.2 of the Pre-Petition Loan Agreement and the Supplemental DIP Line Advances, in each case, subject to the terms and conditions of the Loan Agreement as amended by the Ratification Agreement and the Financing Orders. Section 2 of the Pre-Petition Loan Agreement is hereby amended by adding a new Section 2.9 immediately after Section 2.8 as follows:

"2.9 Supplemental DIP Line.

(a) In addition to the Line Advances that have been made by Bank to Borrowers under the Line in accordance with Section 2.1 of the Loan Agreement, and the Supplemental Line Advances in accordance with Section 2.2 of the Loan Agreement, subject to and upon the terms and conditions contained herein and in the Ratification Agreement and the Financing Orders, commencing on the Ratification Effective Date, Bank agrees to make a revolving credit facility (the "**Supplemental DIP Line**") to Borrowers in the amounts requested by Borrowers up to the amount equal to the Supplemental DIP Line Limit in accordance with the amounts and time periods set forth in the DIP Budget. The Supplemental DIP Line is a sublimit facility within the overall Line. All Supplemental DIP Line Advances shall be made in accordance with the terms hereof and of the Ratification Agreement and the Financing Orders. Except in Bank's discretion, Bank shall have no obligation to make any Supplemental DIP Line Advances (i) in excess of the Supplemental DIP Line Limit, (ii) in excess of the amounts set forth in the DIP Budget or (iii) after the occurrence of a Default or Event of Default. The Supplemental DIP Line Advances shall be secured by all Collateral. Except in Bank's discretion, on and after the Ratification Effective Date, no Line Advances or Supplemental Line Advances shall be made available to Borrowers and any Advances to Borrowers made after the Ratification Effective Date shall be Supplemental DIP Line Advances.

(b) The Supplemental DIP Line Advances shall in no event exceed the Supplemental DIP Line Limit. In no event shall the sum of the outstanding amount of the Supplemental DIP Line Advances, the Supplemental Line Advances and the Line Advances exceed the Maximum Line Amount. In the event, (i) the amount of Supplemental DIP Line Advances at any time exceed the Supplemental DIP Line Limit, or (ii) the sum of the outstanding amount of the Supplemental DIP Line Advances, the Supplemental Line Advances and the Line Advances exceed the Maximum Line Amount, Borrowers shall immediately repay the entire amount of any such excess(es). Failure to repay such amount shall constitute an Event of Default.

(c) Borrowers agree that all outstanding and unpaid Bank Indebtedness arising pursuant to the Supplemental DIP Line Advances (including, but not limited to, principal, interest, fees, costs, expenses and other charges in respect thereof payable by Borrowers to Bank) shall automatically, without notice or demand, be absolutely and unconditionally due and payable, and Borrowers shall pay to Bank in cash or other immediately available funds all such Bank Indebtedness, on the last day of the Contract Period."

7.2 Reserves. In addition to all reserves that Bank may establish pursuant to Section 2.1, Section 4.2, Section 13.2 or elsewhere in the Loan Agreement, Bank establish DIP Reserves in its discretion in accordance with the Ratification Agreement and the Financing Orders.

7.3 Interest on the Supplemental DIP Line. Section 3 of the Pre-Petition Loan Agreement is hereby amended by adding a new Section 3.9 immediately after Section 3.8 as follows:

"3.9 Interest on the Supplemental DIP Line. Interest on the outstanding principal amount of Supplemental DIP Line Advances will accrue from the date of advance until final payment thereof at the rate per annum equal to the Base Rate plus 7.0% as further set forth in the Line Note."

7.4 No Daily Simple SOFR. Notwithstanding anything to the contrary contained in the Pre-Petition Credit Agreement, the Line Note, the Loan Limit Line Note or the other Loan Documents, effective on the Ratification Effective Date and at all times thereafter, (a) interest on the outstanding principal amount of Line Advances shall no longer accrue at the Line Variable Loan Rate and shall accrue at the rate per annum equal to 7.0% plus the Base Rate and (b) interest on the outstanding principal amount of Loan Limit Line Advances shall no longer accrue at the Loan Limit Line Variable Loan Rate and shall accrue at the rate per annum equal to 7.0% plus the Base Rate.

7.5 Letters of Credit. Section 2.7 of the Pre-Petition Loan Agreement is hereby amended by adding the following sentence immediately after the final sentence of the final paragraph thereof:

"Any issued and undrawn letters of credit under the Pre-Petition Loan Agreement will be deemed to be letters of credit under the DIP Credit Facility. For the avoidance of doubt, on and after the Ratification Effective Date, unless otherwise agreed to in Bank's sole discretion, Bank shall have no obligation to issue any new letters of credit under the Loan Agreement or the Ratification Agreement."

7.6 Repayment of Advances. Section 4 of the Pre-Petition Loan Agreement is hereby amended by adding a new Section 4.12 immediately after Section 4.11 as follows:

"4.12 Repayment of Loans. Notwithstanding anything to the contrary contained in this Agreement or any of the other Loan Documents, any such payments or proceeds shall be applied first, to the Pre-Petition Obligations until such Pre-Petition Obligations are Paid in Full and second, to the Post-Petition Obligations until such Post-Petition Obligations are Paid in Full; provided, that,

unless otherwise agreed to by Lender in its sole discretion and in accordance with the Financing Orders, upon the consummation of either the Consulting Business Sale Transaction or the COD Business Sale Transaction, the net proceeds of each such transaction shall be applied first to Pre-Petition Obligations consisting of the Loan Limit Line Advances until such Pre-Petition Obligations are Paid in Full (other than the Remaining Pre-Petition Obligation to the extent due and payable), second to the Pre-Petition Obligations consisting of Line Advances and then to the Supplemental Line Advances, until such Pre-Petition Obligations (other than the Remaining Pre-Petition Obligation to the extent due and payable) are Paid in Full, and third, to the Post-Petition Obligations consisting of Supplemental DIP Line Advances until such Post-Petition Obligations are Paid in Full."

7.7 Material Contracts. Section 6.17 of the Pre-Petition Loan Agreement is hereby amended by deleting such section in its entirety and replacing it with the following:

"6.17 Material Contracts. Schedule 6.17 contains a true, correct and complete list of all the Material Contracts of each Loan Party and each of its Subsidiaries, and all such Material Contracts are in full force and effect and no defaults currently exist thereunder. Other than the Bankruptcy Events, the Borrowers are not in breach or in default in any material respect of or under any Material Contract and has not received any notice of the intention of any other party thereto to terminate any Material Contract, except where such breach, default or termination has not had or could not reasonably be expected to have a Material Adverse Effect or would otherwise be stayed by the filing of the Chapter 11 Cases."

7.8 Indebtedness. Notwithstanding anything to the contrary contained in Section 7.3 of the Pre-Petition Loan Agreement or any other provision of the Loan Agreement or any of the other Loan Documents, the Borrowers shall not, and shall not permit any Subsidiary, after the date hereof, to, create, incur, assume, guarantee, or otherwise become directly or indirectly, liable with respect to any Indebtedness, except (a) as provided in the Financing Orders, and (b) with the express prior written consent of Bank.

7.9 Investments and Loans. Section 7.4(d) of the Pre-Petition Loan Agreement is hereby replaced with the following:

"(d) investments and loans to the extent permitted by the Ratification Agreement or the Financing Orders."

7.10 Disposition of Assets. Section 7.6 of the Pre-Petition Loan Agreement is hereby replaced with the following:

"7.6 Disposition of Assets. Such Borrower shall not sell, lease, transfer or otherwise dispose of any of its property or assets, except for (a) the Consulting Business Sale Transaction pursuant to the Bidding Procedures Order, (b) the COD Business Sale Transaction pursuant to the COD Business Sale Order, (c) sales of inventory in the ordinary course for fair consideration and (d) any assignments,

transfers or other dispositions permitted by the Ratification Agreement or the Financing Orders."

7.11 Merger; Consolidation; Business Acquisitions; Subsidiaries. Section 7.7 of the Pre-Petition Loan Agreement is hereby replaced with the following:

"7.7 Merger; Consolidation; Business Acquisitions; Subsidiaries. Except as permitted by the Ratification Agreement and the Financing Orders and/or in connection with any chapter 11 plan, such Borrower shall not, and will not permit any of its Subsidiaries to: (a) enter into any merger, consolidation, reorganization, or recapitalization, or reclassify its Equity Interests, (b) liquidate, wind up, or dissolve itself (or suffer any liquidation or dissolution), or (c) suspend or cease operating any of its or their business."

7.12 Liens. Notwithstanding anything to the contrary contained in Section 7.9 of the Pre-Petition Loan Agreement or any other provision of the Loan Agreement or any of the other Loan Documents, Borrowers shall not, and shall not permit any Subsidiary, after the date hereof, to create, incur or permit to exist any mortgage, pledge, encumbrance, lien, security interest or charge of any kind (including liens or charges upon properties acquired or to be acquired under conditional sales agreements or other title retention devices) on its property or assets, whether now owned or hereafter acquired, or upon any income, profits or proceeds therefrom, except: (a) as provided in the Financing Orders, or (b) with the express prior written consent of Bank.

7.13 Dividends. Section 7.19 of the Pre-Petition Loan Agreement is hereby replaced with the following:

"7.19 Dividends. Such Borrower shall not: (a) redeem, repurchase or otherwise make any payment, distribution, or dividend to acquire any of its Equity Interests; or (b) pay dividends or distributions on account of its Equity Interests, except as permitted by the Ratification Agreement or the Financing Orders."

7.14 Transactions with Affiliates. Section 7.20 of the Pre-Petition Loan Agreement is hereby replaced with the following:

"7.20 Transactions with Affiliates. Other than transactions in the ordinary course of business of such Borrower previously disclosed to, and approved by Bank, such Borrower will not, and will not permit any of its Subsidiaries to, directly or indirectly, enter into or permit to exist any transaction with any Affiliate of any Borrower or any of its Subsidiaries, except as permitted by the Ratification Agreement, the Financing Orders, or the Cash Management Order"

7.15 Inventory and Equipment Covenants. Section 7 of the Pre-Petition Loan Agreement is hereby amended by adding the following new Section 7.34 at the end of such Section as follows:

"7.34 Inventory and Equipment. Borrowers shall not remove any Inventory or Equipment from the locations set forth or permitted herein, without the prior written consent of the Bank, except for sales of Inventory in the ordinary

course of Borrowers' business and except to move Inventory and Equipment directly from one location set forth or permitted herein to another such location and except for Inventory and equipment shipped from the manufacturer thereof to Borrowers which is in transit to the locations set forth or permitted herein."

7.16 Financial Covenants.

(a) Minimum Liquidity. Section 8.2(e) of the Pre-Petition Loan Agreement is hereby amended as follows:

"(e) Commencing on January 10, 2025 through and including the time immediately prior to the Petition Date, times thereafter, Borrowers shall maintain Liquidity of not less than $2,000,000.

(f) Commencing on the Petition Date through and including the date immediately prior to the date of the consummation of the Consulting Business Sale Transaction, Borrowers shall maintain DIP Liquidity of not less than $2,000,000.

(g) Commencing on the date of the Consummation of the Consulting Business Sale Transaction and at all times thereafter, Borrowers shall maintain DIP Liquidity of not less than $500,000."

7.17 Capital Expenditures. Notwithstanding anything to the contrary contained in Section 8.4 or any other section of the Pre-Petition Loan Agreement, on and after the Ratification Effective Date, Borrowers shall not make any Capital Expenditures unless otherwise agreed to by Bank in its sole discretion.

7.18 Events of Default. Section 13.1 of the Pre-Petition Loan Agreement is hereby amended by deleting the word "or" after Section 13.1(t) and adding a comma and the word "or" after Section 13.1(u) and adding a new Section 13.1(v) immediately after Section 13.1(u) as follows:

"13.1 (v) Chapter 11 Defaults.

(i) the occurrence of any condition or event which permits Bank to exercise any of the remedies set forth in the Financing Order, including, without limitation, any "Event of Default" (as defined in any Financing Order);

(ii) the termination or non-renewal of the Loan Documents as provided for in any Financing Order;

(iii) any Debtor suspends or discontinues all or any material part of its business (other than the COD Business on terms and conditions approved by Bank in its sole discretion), or is enjoined by any court or governmental agency from continuing to conduct all or any material part of its business, or a trustee or examiner with expanded powers pursuant to Section 1104(a) of the Bankruptcy Code is appointed for any Debtor or any of its properties;

(iv) any act, condition or event occurring after the Petition Date that, in Bank's sole discretion, has or could reasonably expect to have a Material Adverse Effect;

(v) conversion of any Chapter 11 Case to a Chapter 7 case under the Bankruptcy Code;

(vi) dismissal of any Chapter 11 Case or any subsequent Chapter 7 case either voluntarily or involuntarily;

(vii) grant of a lien on or other interest in any property of any Debtor, other than the Carve-Out, a Permitted Lien or any other lien or encumbrance permitted by any Financing Order, which is superior to or ranks in parity with Bank's security interest in or lien upon the Collateral;

(viii) the grant of an administrative expense claim in the Chapter 11 Cases which is superior to or ranks in parity with the rights of the Bank (other than the Carve-Out and any other administrative expense claims permitted by any Financing Order or the Ratification Agreement);

(ix) the failure of Debtors to comply with any Financing Order or the Ratification Agreement, or any Financing Order shall be modified, reversed, revoked, remanded, stayed, rescinded, vacated or amended on appeal or by the Bankruptcy Court without the prior written consent of the Bank;

(x) the filing of a plan of reorganization or liquidation by or on behalf of any Debtor which does not provide for payment in full of all Obligations (other than the Remaining Pre-Petition Obligation to the extent due and payable) on the effective date thereof in accordance with the terms and conditions contained herein, unless otherwise consented to by Bank;

(xi) the confirmation of any plan of reorganization or liquidation in any of the Chapter 11 Cases of Debtors which does not provide for payment in full of all Obligations (other than the Remaining Pre-Petition Obligation to the extent due and payable) on the effective date thereof in accordance with the terms and conditions contained herein, unless otherwise consented to by the Bank;

(xii) the filing of a motion by any Debtor that is not dismissed or denied within thirty (30) days after the date of filing such motion seeking, or the entry of any order permitting, recovery from any portion of the Collateral (or from Bank directly) any costs or expenses of preserving or disposing of the Collateral under section 506(c) or section 552(b) of the Bankruptcy Code (or otherwise);

(xiii) any Material DIP Budget Deviation; or

(xiv) the written notice of the termination of the Consulting Business Purchase Agreement shall be sent by or on behalf of the purchaser or the sellers thereunder, unless otherwise consented to by the Bank."

7.19 Governing Law. Section 19.12 of the Pre-Petition Loan Agreement is hereby amended by deleting the first sentence thereof in its entirety and replacing it with the following:

> "All questions concerning the construction, validity, enforcement and interpretation of this Agreement and the other Loan Documents (unless expressly provided to the contrary in another Loan Document in respect of such other Loan Document) shall be governed by (i) the laws of the Commonwealth of Pennsylvania and (ii) to the extent applicable, the Bankruptcy Code."

7.20 Jurisdiction. Section 16.1 of the Pre-Petition Loan Agreement is hereby amended by deleting the first sentence thereof in its entirety and replacing it with the following:

> "Borrowers and Bank irrevocably consents and submits to the non-exclusive jurisdiction of the Bankruptcy Court and the United States District Court for the District of Delaware, and any appellate court from any thereof."

**8. RELEASE.**

8.1 Release of Pre-Petition Claims.

(a) Upon the earlier of (i) the entry of the Final Financing Order or (ii) the entry of an Order extending the term of the Interim Financing Order beyond thirty-five (35) calendar days after the date of the Interim Financing Order, in consideration of the agreements of Bank contained herein and the making of any Loans by Bank, Borrowers, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, on behalf of themselves and their respective successors, assigns, and other legal representatives, hereby absolutely, unconditionally and irrevocably release, remise and forever discharge Bank and its respective successors and assigns, and their present and former shareholders (solely in their capacity as such), affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees and other representatives (Bank and all such other parties being hereinafter referred to collectively as the "Releasees" and individually as a "Releasee"), of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defenses, rights of set-off, demands and liabilities whatsoever but, for the avoidance of doubt, excluding any claims or causes of action for gross negligence or willful misconduct (individually, a "Pre-Petition Released Claim" and collectively, "Pre-Petition Released Claims") of every name and nature, known or unknown, suspected or unsuspected, both at law and in equity, which Borrowers, or any of their successors, assigns, or other legal representatives may now or hereafter own, hold, have or claim to have against the Releasees or any of them for, upon, or by reason of any nature, cause or thing whatsoever which arises at any time on or prior to the Ratification Effective Date, including, without limitation, for or on account of, or in relation to, or in any way in connection with the Pre-Petition Loan Agreement, as amended and supplemented through the date hereof, and the other Loan Documents.

(b) Upon the earlier of (i) the entry of the Final Financing Order or (ii) the entry of an Order extending the term of the Interim Financing Order beyond thirty-five (35)

calendar days after the date of the Interim Financing Order, Borrowers, on behalf of themselves and their successors, assigns, and other legal representatives, hereby absolutely, unconditionally and irrevocably, covenant and agree with each Releasee that each such Borrower will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Pre-Petition Released Claim released, remised and discharged by Borrowers pursuant to this Section 8.1. If any Borrower violates the foregoing covenant, Borrowers agree to jointly and severally pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys' fees and costs incurred by any Releasee as a result of such violation.

8.2 Release of Post-Petition Claims. Upon the payment in full of all of the Obligations (other than the Remaining Pre-Petition Obligation to the extent due and payable), in consideration of the agreements of Bank contained herein and the making of any Loans by Bank, Borrowers hereby covenant and agree to execute and deliver in favor of Bank a valid and binding termination and release agreement, in form and substance satisfactory to Bank.

8.3 Releases Generally.

(a) Borrowers understand, acknowledge and agree that the releases set forth above in Sections 8.1 and 8.2 hereof may be pleaded as a full and complete defense and may be used as a basis for an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of such releases.

(b) Borrowers agree that no fact, event, circumstance, evidence or transaction which could now be asserted or which may hereafter be discovered shall affect in any manner the final and unconditional nature of the releases set forth in Section 8.1 hereof and, when made, Section 8.2 hereof.

## 9. CONDITIONS PRECEDENT.

The amendments, representations and warranties, covenants, defaults and all other agreements and obligations contained in the Ratification Agreement shall only become effective upon the satisfaction (or waiver) of all of the following conditions precedent (the time of such satisfaction (or waiver) referred to herein):

9.1 as of the Petition Date, the Pre-Petition Loan Documents shall not have been terminated;

9.2 Debtors shall have commenced voluntary cases under Chapter 11 of the Bankruptcy Code in the Bankruptcy Court by no later than March 2, 2025. Debtors shall have complied with all notice and other requirements of the Bankruptcy Code, the Bankruptcy Rules and Local Rules of the Bankruptcy Court in a manner acceptable to Bank in its Permitted Discretion as set forth in the Interim Financing Order. All of the motions for and the forms of the First Day Orders entered by the Bankruptcy Court at the first day hearing shall be in form and substance satisfactory to Bank in its Permitted Discretion;

9.3 no trustee or examiner with expanded powers shall have been appointed or designated with respect to Borrowers, as Debtors and Debtors-in-Possession, or their respective business, properties and assets and no motion or proceeding shall be pending seeking such relief;

9.4 the Interim Financing Order, in the form and substance acceptable to Bank, has been duly entered, is valid, subsisting and continuing and has not been vacated, reversed, or modified by any order of the Bankruptcy Court (other than as consented to by Bank) and is not subject to any pending appeal or stay;

9.5 the Cash Management Order, in the form and substance acceptable to Bank, has been duly entered as a First Day Order, is valid, subsisting and continuing and has not been vacated, reversed, or modified by any order of the Bankruptcy Court (other than as consented to by Bank) and is not subject to any pending appeal or stay;

9.6 Bank shall have received this Ratification Agreement, duly executed and delivered by Borrowers;

9.7 the implementation of the terms of the Ratification Agreement and the other Loan Documents, as modified pursuant to the Ratification Agreement, all of which contains provisions, representations, warranties, covenants and Events of Default, as are satisfactory to Bank and its counsel;

9.8 receipt by Bank, each in form and substance satisfactory to Bank, of (i) the initial DIP Budget (it being understood and agreed that the DIP Budget, as approved by Bank and attached to the Ratification Agreement as Exhibit A, shall satisfy this condition), (ii) projected monthly balance sheets, income statements, statements of cash flows and availability of Borrowers for the most recent period required pursuant to the Loan Agreement, in each case as to the projections and assumptions set forth in all of such projections in form and substance satisfactory to Bank, and (iii) copies of interim unaudited financial statements for each month ended since the last audited financial statements for which financial statements are available;

9.9 other than the voluntary commencement of the Chapter 11 Cases, no material impairment of the priority of Bank's security interests in the Collateral shall have occurred since January 6, 2024;

9.10 other than the Bankruptcy Events, no Material Adverse Effect shall have occurred since January 6, 2024;

9.11 none of the materials previously furnished to Bank by Borrowers contain any material misstatements in, or omit to state, any material facts necessary to make the statements therein taken as a whole, in the light of the circumstances under which they were made, not misleading in any material respect;

9.12 Bank shall hold perfected first priority security interests in and liens upon the Collateral, subject to the terms and conditions of the Interim Financing Order, and Bank shall have received such evidence thereof, subject to entry of the Interim Financing Order, as it requires; and

9.13 other than the Existing Defaults, no Default or Event of Default shall have occurred or be existing under any of the Loan Documents, as modified pursuant hereto, and assumed by Borrowers.

## 10. ADDITIONAL CONDITIONS PRECEDENT TO ALL LOANS.

In addition to the satisfaction of the conditions precedent under Section 9 of the Ratification Agreement with respect to the effectiveness of the noted Sections of the Ratification Agreement and the satisfaction of the conditions precedent in Section 3 of the Loan Agreement with respect to all Loans and other financial accommodations available to Borrowers, the following are conditions to Bank's obligation to extend further loans, advances or other financial accommodations to Borrowers pursuant to the Loan Agreement:

10.1 with respect to further credit after expiration of the Interim Financing Order, on or before the expiration of the Interim Financing Order, the Bankruptcy Court shall have entered the Final Financing Order; Bank shall not provide any Loans (or other financial accommodations) other than those authorized under the Interim Financing Order unless, on or before the expiration of the Interim Financing Order, the Final Financing Order shall have been entered, and there shall be no appeal or other contest with respect to either the Interim Financing Order or the Final Financing Order and the time to appeal to contest such order shall have expired;

10.2 requests for further credit shall be for purposes and in amounts in accordance with the DIP Budget (subject to the variances permitted under Section 5.3(c) of the Ratification Agreement);

10.3 the representations and warranties of each Debtor contained in the Ratification Agreement and the other Loan Documents shall be true and correct in all material respects on and as of the date of any such further credit, as though made on and as of such date (except to the extent that such representations and warranties relate solely to an earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date);

10.4 subject to the Financing Order, all fees and expenses required to be paid to Bank pursuant to the Ratification Agreement and the Loan Agreement, as amended thereby, shall have been paid or shall be paid concurrently with the making of the Loans after the Ratification Effective Date; and

10.5 other than the Existing Defaults, no Default or Event of Default shall have occurred or be existing under any of the Loan Documents, as amended, supplemented or otherwise modified pursuant the Ratification Agreement and assumed by Borrowers.

## 11. MISCELLANEOUS.

11.1 Amendments and Waivers. Neither the Ratification Agreement nor any other instrument or document referred to herein or therein may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

11.2 Further Assurances. Borrowers shall, at its expense, at any time or times duly execute and deliver, or shall at the request of Bank to the extent not inconsistent with the Financing Orders cause to be duly executed and delivered, such further agreements, instruments and documents, including, without limitation, additional security agreements, collateral

assignments, UCC financing statements or amendments or continuations thereof, landlord's or mortgagee's waivers of liens and consents to the exercise by Bank of all the rights and remedies hereunder, under any of the other Loan Documents, any Financing Order or applicable law with respect to the Collateral, and do or cause to be done such further acts as may be reasonably necessary or proper and not inconsistent with the Financing Orders in Bank's opinion to evidence, perfect, maintain and enforce the security interests of Bank, and the priority thereof, in the Collateral and to otherwise effectuate the provisions or purposes of this Ratification Agreement, any of the other Loan Documents or the Financing Orders. Upon the request of Bank, at any time and from time to time, Borrowers shall, at their cost and expense, do, make, execute, deliver and record, register or file updates to the filings of Bank with respect to the Intellectual Property with the United States Patent and Trademark Office, the United States Copyright Office, the financing statements, mortgages, deeds of trust, deeds to secure debt, and other instruments, acts, pledges, assignments and transfers and will deliver to Bank such instruments evidencing items of Collateral as may be requested by Bank.

11.3 Headings. The headings used herein are for convenience only and do not constitute matters to be considered in interpreting the Ratification Agreement.

11.4 Counterparts. This Ratification Agreement, any documents executed in connection herewith and any notices delivered under this Ratification Agreement, may be executed by means of (i) an electronic signature that complies with the federal Electronic Signatures in Global and National Commerce Act, state enactments of the Uniform Electronic Transactions Act, or any other relevant and applicable electronic signatures law; (ii) an original manual signature; or (iii) a faxed, scanned, or photocopied manual signature. Each electronic signature or faxed, scanned, or photocopied manual signature shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original manual signature. Bank reserves the right, in its sole discretion, to accept, deny, or condition acceptance of any electronic signature on the Ratification Agreement or on any notice delivered to Bank under the Ratification Agreement. The Ratification Agreement and any notices delivered under the Ratification Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute only one instrument. Delivery of an executed counterpart of a signature page of the Ratification Agreement and any notices as set forth herein will be as effective as delivery of a manually executed counterpart of the Ratification Agreement or notice.

11.5 Additional Events of Default. The parties hereto acknowledge, confirm and agree that the failure of Borrowers to comply with any of the covenants, conditions and agreements contained herein or in any other agreement, document or instrument at any time executed by any Borrower in connection herewith shall constitute an Event of Default under the Loan Documents.

11.6 Costs and Expenses. Subject to the terms of the Financing Order, Borrowers shall pay to Bank on demand all costs and expenses that Bank pays or incurs in connection with the negotiation, preparation, consummation, administration, enforcement, and termination of the Ratification Agreement and the other Loan Documents and the Financing Order. Subject to the terms of the Financing Order, the foregoing shall not be construed to limit any other provisions of the Loan Documents regarding costs and expenses to be paid by Borrowers. Subject to the terms of the Financing Order, all sums provided for in this Section 11.6 shall be part of the Obligations, shall be payable on demand, and shall accrue interest after demand for payment

thereof at the highest rate of interest then payable under the Loan Documents. Bank is hereby irrevocably authorized to charge any amounts payable hereunder directly to any of the account(s) maintained by Bank with respect to Borrowers.

11.7 Effectiveness. The Ratification Agreement shall become effective upon the execution hereof by the Debtors, Bank and the entry of the Interim Financing Order.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Ratification Agreement to be duly executed as of the day and year first above written.

BORROWERS:

AZZUR GROUP HOLDINGS LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR GROUP, LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR OF CA, LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR CLEANROOMS-ON-DEMAND-BOSTON LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR OF NE, LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR NORTH CAROLINA, LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR PRINCETON LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR SAN DIEGO LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR SAN FRANCISCO LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR SOLUTIONS LLC, as Debtor and Debtor-in-Possession

By: _____

By: _____
Name:
Title:

AZZUR TECHNICAL SERVICES – BOSTON LLC, as Debtor and Debtor-in-Possession

By: _____

Name:
Title:

AZZUR WASHINGTON DC LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR WORCESTER LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

COBALT LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR LABS, LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR LABS NC, LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR LABS – BOSTON LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR LABS – SAN FRANCISCO LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR AUSTIN LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR CHICAGO LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR CLEANROOMS-ON-DEMAND BURLINGTON LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR CLEANROOMS-ON-DEMAND SAN DIEGO LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR DENVER LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR LABS – CHICAGO LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR LABS – DALLAS LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR LABS – SAN DIEGO LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR TRAINING CENTER – RALEIGH LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR CLEANROOMS-ON-DEMAND – DEVENS LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR CLEANROOMS-ON-DEMAND – SAN FRANCISCO LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR CLEANROOMS-ON-DEMAND – SERVICES LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR CLEANROOMS-ON-DEMAND-RALEIGH LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

AZZUR CONSULTING LLC, as Debtor and Debtor-in-Possession

By: _____
Name:
Title:

[Signatures Continue on the Following Page]

BANK: MANUFACTURERS AND TRADERS TRUST COMPANY

By: _____
Name:
Title:

EXHIBIT A
to
RATIFICATION AND AMENDMENT AGREEMENT

DIP Budget

(See attached)